CHAPTER 820

AN ACT to amend the Education Law, generally.

Became a law April 14, 1947, with the approval of the Governor. Passed, three-fifths being present.

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

CHAPTER 16 OF THE CONSOLIDATED LAWS

EDUCATION LAW

TITLE I

General Provisions

Article

1 Short title and definitions (§§ 1--2-d.)

2 Dignity for all students (§§ 10-18.)

2-A Jack Reid law; protect all students act (§§ 19-23).

3 Education department (§§ 101-187.)

- Part I - General provisions (§§ 101-140.)
- Part IV - Scientific and historic places (§ 174.)
- Part V - Education department optional retirement program (§§ 180-187.)

5 University of the state of New York (§§ 201-292.)

- Part I - General organization (§§ 201--239-b.)
- Part 1-A - Cody center for autism and developmental disabilities (§§ 240-243)
- Part II - Libraries (§§ 245-285.)
- Part III - Federal funds for vocational education (§§ 290-292.)

6 Enacted without article heading. (§§ 293-297.)

7 Commissioner of education (§§ 301-318.)

7-A Standardized testing (§§ 340-348.)

8 State University and state financial assistance for higher education (§§ 350-365.)

8-A State university construction fund (§§ 370-384.)

8-B State university optional retirement program (§§ 390-397.)

8-C Special annuity (§§ 398--399-A.)

9 School buildings and sites (§§ 401-420.)

10 New York city educational construction fund (§§ 450-471.)

10-B City of Yonkers educational construction fund (§§ 475-495.)

10-C Winter sports education trust fund (§ 495-a.)
10-D Regional college cooperative services board (§§ 496-500.)
11 State teachers' retirement system for public school teachers (§§ 501-539.)
12 Health and safety grants for nonpublic school children (§§ 549-553.)
12-A Arthur O. Eve Elementary and secondary education opportunity program (§§ 559-563.)
13 Higher education student financial aid programs (§§ 601-609.)
13-A Liberty scholarships (§§ 610-612.)
13-B Student lending accountability, transparency and enforcement act (§§ 620-632.)
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14 New York state higher education services corporation (§§ 651-689.)
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14-A New York state college choice tuition savings program (§§ 695--695-g.)
15 Text-books (§§ 701-705.)
15-A School library materials (§§ 711-712.)
15-B Higher education textbooks (§ 715.)
15-C Textbook access act (§§ 720-724.)
16 Computer technology (§§ 751-755.)
17 Instruction in certain subjects (§§ 801-818.)
19 Medical and health service (§§ 901-924.)
21 Vocational rehabilitation (§§ 1001-1009.)
23 Career education in counties (§§ 1101-1116.)

Part I - Vocational education and extension boards (§§ 1101-1107.)
Part II - County commission for special education in Westchester County (§§ 1110-1116.)
23-A Service centers for independent living (§§ 1120-1124.)
23-B Child abuse in an educational setting (§§ 1125-1133.)
24 New York state rural education program act (§§ 1201-1207.)

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24 New York state rural education research program act (§§ 1201-1207.)

ARTICLE I

SHORT TITLE AND DEFINITIONS

Section 1. Short title.
2. Definitions.
2-a. Release of directory information; access to institutions.
2-b. Use of student social security numbers restricted.
2-c. Release of student information to certain entities.
2-d. Unauthorized release of personally identifiable information.

Section 1. Short title. This chapter shall be known as the "Education Law".

§ 2. Definitions. Wherever used in this chapter, the following terms shall have the respective meanings hereinafter set forth or indicated:

1. Academy. The term "academy" means an incorporated institution for

instruction in secondary education, and such high schools, academic departments in union free school districts and similar unincorporated schools as are admitted by the regents to the university as of academic grade.

2. College. The term "college" includes universities and other institutions for higher education authorized to confer degrees.

3. University. The term "university" means The University of the State of New York.

4. Regents. The term "regents" means board of regents of The University of the State of New York.

5. Commissioner. The term "commissioner" means commissioner of education of the state of New York.

6. Department. The term "department" means education department of the state of New York.

7. Secondary education. The term "secondary education" means instruction of academic grade, between the elementary grades and the college or university.

8. Higher education. The term "higher education" means education in advance of secondary education, and includes the work of colleges, universities, professional and technical schools, and educational work connected with libraries, museums, university and educational extension courses and similar agencies.

9. Trustee. The term "trustees," when not used in reference to a school district, includes directors, managers or other similar members of the governing board of an educational institution. The terms "trustee" and "trustees", respectively, when used in reference to a school district, shall include the plural or singular meaning, as the case may be, unless otherwise specified.

10. Parental relation. The term "persons in parental relation" to a child includes the parents, guardians or other persons, whether one or more, lawfully having the care, custody or control of such child, including persons who have been designated pursuant to title fifteen-A of article five of the general obligations law as persons in parental relation to the child.

11. Compulsory school ages. The term "child of compulsory school age" means any child between six and sixteen years of age lawfully required to attend upon instruction.

12. School authorities. The term "school authorities" means the trustees, or board of education, or corresponding officers, whether one or more, and by whatever name known, of a city school district, or other school district however created.

13. School officer. The term "school officer" means a clerk, collector, or treasurer of any school district; a trustee; a member of a board of education or other body in control of the schools by whatever name known in a union free school district, central school district, central high school district, or in a city school district; a superintendent of schools; a district superintendent; a supervisor of attendance or attendance officer; or other elective or appointive officer in a school district whose duties generally relate to the administration of affairs connected with the public school system.

14. Board of education. The term "board of education" shall include by whatever name known the governing body charged with the general control, management and responsibility of the schools of a union free school district, central school district, central high school district, or of a city school district.

15. School year. The term "school year" means the period commencing on the first day of July in each year and ending on the thirtieth day of June next following.

16. City school district. a. The following school districts are hereby

designated and declared to be city school districts: (1) Any school district coterminous with a city on January first, nineteen hundred fifty; (2) any school district part of which was without and part of which was within a city on January first, nineteen hundred fifty, and which then contained the whole or the greater portion of the children of the city between birth and eighteen years of age, as shown by the school census; and (3) any school district wholly within, but not coterminous with, a city on January first, nineteen hundred fifty, and which then contained the greater portion of the children of the city between birth and eighteen years of age, as shown by the school census.

b. Whenever a city shall be created after January first, nineteen hundred fifty, that school district shall be and become a city school district which, on the effective date of the incorporation of such city, is: (1) coterminous with the city; (2) partly without and partly within the city and then contains the whole or the greater portion of the children of the city between birth and eighteen years of age, as shown by the school census; or (3) wholly within but not coterminous with the city and then contains the greater portion of the children of the city between birth and eighteen years of age, as shown by the school census.

c. The corporate existence of any school district, which, by virtue of the provisions of this subdivision, shall be and become a city school district, shall continue, and any such school district thereafter shall be governed by the provisions of this chapter applicable to city school districts.

* 17. State university. The term "state university" means the state university of New York, as created by article eight of this chapter.

* NB There are 2 sub 17's

* 17. City. The term "city" means the city school district of such city where the context clearly so indicates.

* NB There are 2 sub 17's

18. Minor or infant. The term "minor" or "infant" means a person who has not attained the age of eighteen years.

19. Expenditures. For purposes of computing aid to public school

districts, boards of cooperative educational services, nonpublic elementary and secondary schools, public and cooperative library systems or public and free association libraries pursuant to this chapter or any other law, such aid shall be computed using state aid worksheets developed pursuant to regulations of the commissioner, designed to reflect use of the state comptroller's definition of expenditures to the extent possible. Such worksheet definitions of expenditures shall be used notwithstanding the fact that this chapter or other applicable law may use terms such as cash expenditures, expenses, costs, paid, payments, or other such terms.

24. Career education. The term "career education" means organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degrees, and shall include vocational and occupational education. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem solving skills, work activities, general employability skills, and the skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education. Except where the intent indicates otherwise, the terms "vocational education" and "occupational education" shall mean "career education."

§ 2-a. Release of directory information; access to institutions. Notwithstanding any other provision of law to the contrary, if a trustee, president, principal, or officer of any institution belonging to the University of the State of New York, or a board of education of any public school, in any city, union free, common or central school district or the administrator of any non-public school of secondary education receiving state funds permits the release of directory information relating to pupils or permits access to school buildings, school grounds or other school property to persons who inform pupils of educational, occupational or career opportunities, such trustee, president, principal, officer, board or administrator shall provide

access to directory information relating to pupils and access to such school property on the same basis for official representatives of the state militia and the armed forces of the United States for the purpose of informing pupils of educational, occupational or career opportunities within the state militia or armed forces of the United States. Pursuant to this section, access provided to school property or directory information shall not be used for purposes other than informing students of educational, occupational or career opportunities.

§ 2-b. Use of student social security numbers restricted. No public or private elementary or secondary school or college as defined in section two of this article shall display any student's social security number to identify such student for posting or public listing of grades, on class rosters or other lists provided to teachers, on student identification cards, in student directories or similar listings, or, unless specifically authorized or required by law, for any public identification purpose.

§ 2-c. Release of student information to certain entities. 1. Definitions. As used in this section the following terms shall have the following meanings:

a. "Student information" shall mean personally identifiable information and biometric records as such terms are defined in section 99.3 of title 34 of the code of federal regulations implementing the Family Education Rights and Privacy Act, as such federal law and regulations are from time to time amended, or any other individual student records and shall also include de-identifiable information which means a collection of data or information that has been altered with the goal of making the student or students associated with such data or information permanently unknowable.

b. "Personally identifiable information" shall mean personally identifiable information as defined in section 99.3 of title 34 of the code of federal regulations implementing the Family Education Rights and

Privacy Act, section 1232-g of title 20 of the United States code, as such federal law and regulations are from time to time amended.

c. "Shared learning infrastructure service provider" or "SLISP" shall mean any entity that collects, stores, organizes, or aggregates student information and contracts with or enters into an agreement with the department for the purposes of providing student information to a data dashboard operator for use in a data dashboard. Provided that the term SLISP shall not include boards of cooperative educational services or regional information centers operated by boards of cooperative educational services or other public entities.

d. "Data dashboard" shall mean an electronic data system or hosted software application or applications that is designed to utilize data and information collected, stored, organized or aggregated by a SLISP and that is designed to provide, through a contract between a New York school district and a data dashboard operator, end users such as educators, students and their families with access to customized student information with the goal of supporting instruction and student learning.

e. "Data dashboard operator" shall mean any third party contractor owning or operating a data dashboard that contracts or otherwise enters into an agreement to utilize data and information from a SLISP.

f. "Educational agency" shall mean any public school district, board of cooperative educational services, special act school district, public school kindergarten program, universal pre-kindergarten programs authorized pursuant to section thirty-six hundred two-e of this chapter, publicly funded pre-kindergarten programs, approved preschool special education programs pursuant to section forty-four hundred ten of this chapter, approved private school for the education of students with disabilities and a state supported or state operated school subject to the provisions of article eighty-five, eighty-seven or eighty-eight of this chapter.

g. "Student" shall mean any person attending an educational agency

identified in paragraph f of this subdivision.

2. An educational agency may opt out of providing personally identifiable information to a SLISP or data dashboard operator for the purpose of creating data dashboards. An educational agency may at any time request that any personally identifiable information associated with such agency not be shared or provided to a SLISP or data dashboard operator. Such request shall be made to the department and upon receipt of such request, the department shall take all actions necessary to prevent and prohibit the sharing or providing of such information to any SLISP or data dashboard operator and that upon receipt of such request, the department shall take actions to immediately ensure that any personally identifiable information provided to any SLISP or data dashboard operator is deleted from such SLISP or operator and destroyed in a secure manner.

3. The commissioner and the department are hereby prohibited from providing any student information to a SLISP and the commissioner and department shall take actions to immediately ensure that any student information provided to any SLISP shall be deleted from such SLISP and destroyed in a secure manner.

§ 2-d. Unauthorized release of personally identifiable information. 1. Definitions. As used in this section the following terms shall have the following meanings:

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

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

c. "Educational agency" means a school district, board of cooperative educational services, school, or the education department.

d. "Personally identifiable information," as applied to student data, means personally identifiable information as defined in section 99.3 of title thirty-four of the code of federal regulations implementing the family educational rights and privacy act, section twelve hundred thirty-two-g of title twenty of the United States code, and, as applied to teacher or principal data, means "personally identifying information" as such term is used in subdivision ten of section three thousand twelve-c of this chapter.

e. "School" means any public elementary or secondary school, universal pre-kindergarten program authorized pursuant to section thirty-six hundred two-e of this chapter, an approved provider of preschool special education, any other publicly funded pre-kindergarten program, a school serving children in a special act school district as defined in section four thousand one of this chapter, an approved private school for the education of students with disabilities, a state-supported school subject to the provisions of article eighty-five of this chapter, or a state-operated school subject to the provisions of article eighty-seven or eight-eight of this chapter.

f. "Student" means any person attending or seeking to enroll in an educational agency.

g. "Eligible student" means a student eighteen years or older.

h. "Parent" means a parent, legal guardian, or person in parental relation to a student.

i. "Student data" means personally identifiable information from student records of an educational agency.

j. "Teacher or principal data" means personally identifiable information from the records of an educational agency relating to the annual professional performance reviews of classroom teachers or

principals that is confidential and not subject to release under the provisions of section three thousand twelve-c of this chapter.

k. "Third party contractor" shall mean any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency, including but not limited to data management or storage services, conducting studies for or on behalf of such educational agency, or audit or evaluation of publicly funded programs. Such term shall include an educational partnership organization that receives student and/or teacher or principal data from a school district to carry out its responsibilities pursuant to section two hundred eleven-e of this title and is not an educational agency as defined in paragraph c of this subdivision, and a not-for-profit corporation or other non-profit organization, other than an educational agency.

2. Chief privacy officer. a. The commissioner shall appoint a chief privacy officer within the department for a term of three years, which may be renewed for three-year terms thereafter. The chief privacy officer shall be qualified by training or experience in state and federal education privacy laws and regulations, civil liberties, information technology, and information security. The chief privacy officer shall report to the commissioner on matters affecting privacy and the security of student, teacher, and principal data.

b. The functions of the chief privacy officer shall include, but not be limited to:

(1) promoting the implementation of sound information practices for privacy and security of student data or teacher or principal data;

(2) assisting the commissioner in handling instances of data breaches as well as assisting the commissioner in due process proceedings regarding any alleged breaches of student data or teacher or principal data;

(3) providing assistance to educational agencies within the state on minimum standards and best practices associated with privacy and the security of student data or teacher or principal data;

(4) formulating a procedure within the department whereby parents, students, teachers, superintendents, school board members, principals, and other persons or entities the chief privacy officer determines is appropriate, may request information pertaining to student data or teacher or principal data in a timely and efficient manner;

(5) assisting the commissioner in establishing a protocol for the submission of complaints of possible breaches of student data or teacher or principal data;

(6) making recommendations as needed regarding privacy and the security of student data on behalf of the department to the governor, the speaker of the assembly, the temporary president of the senate, and the chairs of the senate and assembly education committees; and

(7) issuing an annual report on data privacy and security activities and progress, the number and disposition of reported breaches, if any, and a summary of any complaint submitted pursuant to subparagraph five of this paragraph.

c. The chief privacy officer shall have the power to:

(1) access all records, reports, audits, reviews, documents, papers, recommendations, and other materials maintained by an educational agency that relate to student data or teacher or principal data;

(2) to review and comment upon any department program, proposal, grant, or contract that involves the processing of student data or teacher or principal data before the commissioner begins or awards the program, proposal, grant, or contract; and

(3) any other powers that the commissioner shall deem appropriate.

3. Parents bill of rights for data privacy and security. a. A parents bill of rights for data privacy and security shall be published on the website of each educational agency and shall be included with every contract an educational agency enters into with a third party contractor where the third party contractor receives student data or teacher or principal data.

b. The parents bill of rights for data privacy and security shall state in clear and plain English terms that:

(1) A student's personally identifiable information cannot be sold or

released for any commercial purposes;

(2) Parents have the right to inspect and review the complete contents of their child's education record;

(3) State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewalls, and password protection, must be in place when data is stored or transferred;

(4) A complete list of all student data elements collected by the State is available for public review at (insert website address here) or by writing to (insert mailing address here); and

(5) Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to (insert phone number, email and mailing address here).

c. The parents bill of rights for data privacy and security shall include supplemental information for each contract an educational agency enters into with a third party contractor where the third party contractor receives student data or teacher or principal data. Such supplemental information shall be developed by the educational agency and shall include:

(1) the exclusive purposes for which the student data or teacher or principal data will be used;

(2) how the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements;

(3) when the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement;

(4) if and how a parent, student, eligible student, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and

(5) where the student data or teacher or principal data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

d. The chief privacy officer, with input from parents and other education and expert stakeholders, shall develop additional elements of the parents bill of rights for data privacy and security. The commissioner shall promulgate regulations for a comment period whereby parents and other members of the public may submit comments and suggestions to the chief privacy officer to be considered for inclusion. The parents bill of rights for data privacy and security shall be completed within one hundred twenty days after the effective date of this section.

4. Data collection transparency and restrictions. a. The department shall promote the least intrusive data collection policies practicable that advance the goals of improving academic achievement, empowering parents with information and advancing efficient and effective school operations while minimizing the collection and transmission of personally identifiable information.

b. The chief privacy officer shall develop, regularly update and make publicly available on the department's website and through such additional methods as may facilitate accessibility an inventory and understandable description of the student, teacher and principal data elements collected with an explanation and/or legal or regulatory authority outlining the reasons such data elements are collected and the intended uses and disclosure of the data.

c. Except as otherwise specifically authorized by law, the department shall only collect personally identifiable information relating to an educational purpose.

d. The department may only require districts to submit personally identifiable information, including data on disability status and student suspensions, where such release is required by law or otherwise authorized under the family educational rights and privacy act, 20 U.S.C. section 1232g, and the personal privacy protection law.

e. Except as required by law or in the case of educational enrollment data, school districts shall not report to the department the following

student data elements:

(1) juvenile delinquency records;

(2) criminal records;

(3) medical and health records; and

(4) student biometric information.

f. Personally identifiable information maintained by educational agencies, including data provided to third-party contractors and their assignees, shall not be sold or used for marketing purposes.

g. Parents shall have the right to inspect and review their child's educational record including any student data stored or maintained by an educational agency. The department shall develop policies for school districts that:

(1) provide for annual notification to parents of their right to request student data;

(2) ensure security when providing student data to parents, including that only authorized individuals receive such data; and

(3) specify a reasonable amount of time in which school districts should respond to such requests.

5. Data security and privacy standards. a. The commissioner, in consultation with the chief privacy officer, shall promulgate regulations establishing standards for educational agency data security and privacy policies and shall develop one or more model policies for use by educational agencies. The commissioner shall seek the input of experts, including those from security, cyber-security and fields in addition to education that have experience with personal data protection, in developing such standards and policies.

b. The standards for data security and privacy policies shall include, but not be limited to:

(1) data privacy protections, including criteria for determining whether a proposed use of personally identifiable information would benefit students and educational agencies, and processes to ensure that personally identifiable information is not included in public reports or other public documents;

(2) data security protections, including data systems monitoring, data encryption, incident response plans, limitations on access to personally identifiable information, safeguards to ensure personally identifiable information is not accessed by unauthorized persons when transmitted over communication networks, and destruction of personally identifiable information when no longer needed; and

(3) application of all such restrictions, requirements and safeguards to third-party contractors.

c. Following promulgation of regulations by the commissioner pursuant to paragraph a of this subdivision each educational agency shall ensure that it has a policy on data security and privacy in place that is consistent with applicable state and federal laws and applied to student data and, where applicable, to teacher or principal data. Such policy shall be published on the educational agency's website, if it exists, and notice of such policy shall be provided to all officers and employees of the educational agency.

d. As applied to student data, such policy shall provide all protections afforded to parents and persons in parental relationships, or students where applicable, required under the family educational rights and privacy act, 20 U.S.C. section 1232g, where applicable the individuals with disabilities education act, sections fourteen hundred, et seq. of title twenty of the United States code, and the federal regulations implementing such statutes. Each educational agency shall ensure that it has in place provisions in its contracts with third party contractors or in separate data sharing and confidentiality agreements that require that confidentiality of the shared student data or teacher or principal data be maintained in accordance with federal and state law and the educational agency's policy on data security and privacy.

e. Each educational agency that enters into a contract or other written agreement with a third party contractor under which the third party contractor will receive student data or teacher or principal data shall ensure that such contract or agreement includes a data security and privacy plan that outlines how all state, federal, and local data security and privacy contract requirements will be implemented over the

life of the contract, consistent with the educational agency's policy on data security and privacy. Such plan shall include, but shall not be limited to, a signed copy of the parents bill of rights for data privacy and security, and a requirement that any officers or employees of the third party contractor and its assignees who have access to student data or teacher or principal data have received or will receive training on the federal and state law governing confidentiality of such data prior to receiving access.

f. Each third party contractor that enters into a contract or other written agreement with an educational agency under which the third party contractor will receive student data or teacher or principal data shall:

(1) limit internal access to education records to those individuals that are determined to have legitimate educational interests;

(2) not use the education records for any other purposes than those explicitly authorized in its contract;

(3) except for authorized representatives of the third party contractor to the extent they are carrying out the contract, not disclose any personally identifiable information to any other party:

(i) without the prior written consent of the parent or eligible student; or

(ii) unless required by statute or court order and the party provides a notice of the disclosure to the department, district board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;

(4) maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable student information in its custody;

(5) uses encryption technology to protect data while in motion or in its custody from unauthorized disclosure using a technology or methodology specified by the secretary of the United States department of health and human services in guidance issued under Section 13402(H)(2) of Public Law 111-5.

6. Breach and unauthorized release of personally identifiable information. a. Each third party contractor that receives student data

or teacher or principal data pursuant to a contract or other written agreement with an educational agency shall be required to notify such educational agency of any breach of security resulting in an unauthorized release of such data by the third party contractor or its assignees in violation of applicable state or federal law, the parents bill of rights for student data privacy and security, the data privacy and security policies of the educational agency and/or binding contractual obligations relating to data privacy and security, in the most expedient way possible and without unreasonable delay. The educational agency shall, upon notification by the third party contractor, be required to report to the chief privacy officer any such breach of security and unauthorized release of such data. The chief privacy officer shall, upon belief that such breach and unauthorized release constitutes criminal conduct, report such breach and unauthorized release to law enforcement in the most expedient way possible and without unreasonable delay.

b. In the case of an unauthorized release of student data, the educational agency shall notify the parent or eligible student of the unauthorized release of student data that includes personally identifiable information from the student records of such student in the most expedient way possible and without unreasonable delay. In the case of an unauthorized release of teacher or principal data, the educational agency shall notify each affected teacher or principal of the unauthorized release of data that includes personally identifiable information from the teacher or principal's annual professional performance review in the most expedient way possible and without unreasonable delay.

c. In the case of notification to a parent, eligible student, teacher or principal under paragraph b of this subdivision due to the unauthorized release of student data by a third-party contractor or its assignee, the third-party contractor shall promptly reimburse the educational agency for the full cost of such notification.

d. Each violation of a third party contractor pursuant to paragraph a of this subdivision shall be punishable by a civil penalty of the

greater of five thousand dollars or up to ten dollars per student, teacher, and principal whose data was released, provided that the latter amount shall not exceed the maximum penalty under paragraph (a) of subdivision six of section eight hundred ninety-nine-aa of the general business law.

e. If the chief privacy officer determines that a third party contractor or its assignee, in violation of applicable state or federal law, the data privacy and security policies of the educational agency provided by such educational agency to the third party contractor and/or binding contractual obligations relating to data privacy and security, has released any student data or teacher or principal data received from an educational agency to any person or entity not authorized by law to receive such data pursuant to a lawful subpoena or otherwise, the chief privacy officer, after affording the third party contractor with notice and an opportunity to be heard, shall be authorized to:

(1) order that the third party contractor be precluded from accessing student data or teacher or principal data, as applicable, from the educational agency from which the contractor obtained the data that was improperly disclosed for a fixed period of up to five years; and/or

(2) order that a third party contractor or assignee who knowingly or recklessly allowed for the unauthorized release of student data or teacher or principal data be precluded from accessing student data or teacher or principal data from any educational agency in the state for a fixed period of up to five years; and/or

(3) order that a third party contractor or assignee who knowingly or recklessly allowed for the unauthorized release of student data or teacher or principal data shall not be deemed a responsible bidder or offerer on any contract with an educational agency that involves the sharing of student data or teacher or principal data, as applicable for purposes of the provisions of section one hundred three of the general municipal law or paragraph c of subdivision ten of section one hundred sixty-three of the state finance law, as applicable, for a fixed period of up to five years; and/or

(4) require the third party contractor to provide training at the contractor's expense on the federal and state law governing confidentiality of student data and/or teacher or principal data and the

provisions of this section to all its officers and employees with access to such data, prior to being permitted to receive subsequent access to such data from the educational agency from which the contractor obtained the data that was improperly disclosed or from any educational agency; and/or

(5) if it is determined that the unauthorized release of student data or teacher or principal data on the part of the third party contractor or assignee was inadvertent and done without intent, knowledge, recklessness or gross negligence, the commissioner may determine that no penalty be issued upon the third party contractor.

7. Implementation and enforcement. a. The commissioner, in consultation with the chief privacy officer, shall promulgate regulations establishing procedures to implement the provisions of this section, including but not limited to procedures for the submission of complaints from parents and/or persons in parental relation to students, classroom teachers or building principals, or other staff of an educational agency, making allegations of improper disclosure of student data and/or teacher or principal data by a third party contractor or its officers, employees or assignees that may be subject to the sanctions set forth in subdivision six of this section. Upon receipt of a complaint or other information indicating that such an improper disclosure by a third party contractor may have occurred, the chief privacy officer shall be authorized to investigate, visit, examine and inspect the third party contractor's facilities and records and obtain documentation from, or require the testimony of, any party relating to the alleged improper disclosure of student data or teacher or principal data.

b. Except as provided under paragraph d of subdivision six of this section, each violation of any provision of this section by a third party contractor or its assignee shall be punishable by a civil penalty of up to one thousand dollars; a second violation by the same third party contractor involving the same student data or teacher or principal data shall be punishable by a civil penalty of up to five thousand dollars; any subsequent violation by the same third party contractor involving the same student date or teacher or principal data shall be

punishable by a civil penalty of up to ten thousand dollars. Each violation of this subdivision shall be considered a separate violation for purposes of civil penalties and the total penalty shall not exceed the maximum penalty under paragraph (a) of subdivision six of section eight hundred ninety-nine-aa of the general business law.

c. Nothing contained in this section shall be construed as creating a private right of action against the department or an educational agency.

d. Nothing in this section shall limit the administrative use of student data or teacher or principal data by a person acting exclusively in the person's capacity as an employee of an educational agency or of the state or any of its political subdivisions, any court or the federal government that is otherwise required by law.

ARTICLE 2

DIGNITY FOR ALL STUDENTS

Section 10. Legislative intent.
11. Definitions.
12. Discrimination and harassment prohibited.
13. Policies and guidelines.
14. Commissioner's responsibilities.
15. Reporting by commissioner.
16. Protection of people who report harassment, bullying or discrimination.
17. Application.
18. Severability and construction.

§ 10. Legislative intent. The legislature finds that students' ability to learn and to meet high academic standards, and a school's ability to educate its students, are compromised by incidents of discrimination or harassment including bullying, taunting or intimidation. It is hereby declared to be the policy of the state to afford all students in public schools an environment free of discrimination and harassment. The purpose of this article is to foster civility in public schools and to

prevent and prohibit conduct which is inconsistent with a school's educational mission.

§ 11. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.

2. "School function" shall mean a school-sponsored extra-curricular event or activity.

3. "Disability" shall mean disability as defined in subdivision twenty-one of section two hundred ninety-two of the executive law.

4. "Employee" shall mean employee as defined in subdivision three of section eleven hundred twenty-five of this title.

5. "Sexual orientation" shall mean actual or perceived heterosexuality, homosexuality or bisexuality.

6. "Gender" shall mean actual or perceived sex and shall include a person's gender identity or expression.

7. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or

would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

8. "Cyberbullying" shall mean harassment or bullying as defined in subdivision seven of this section, including paragraphs (a), (b), (c) and (d) of such subdivision, where such harassment or bullying occurs through any form of electronic communication.

9. "Race" shall, for the purposes of this article include traits historically associated with race, including but not limited to, hair texture and protective hairstyles.

10. "Protective hairstyles" shall include, but not be limited to, such hairstyles as braids, locks, and twists.

§ 12. Discrimination and harassment prohibited. 1. No student shall be subjected to harassment or bullying by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex by school employees or students on school property or at a school function. Nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under section thirty-two hundred one-a or paragraph (a) of subdivision two of section twenty-eight hundred fifty-four of this chapter and title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq.), or to prohibit, as discrimination based on disability, actions that would be permissible

under section 504 of the Rehabilitation Act of 1973.

2. An age-appropriate version of the policy outlined in subdivision one of this section, written in plain-language, shall be included in the code of conduct adopted by boards of education and the trustees or sole trustee pursuant to section twenty-eight hundred one of this chapter and a summary of such policy shall be included in any summaries required by such section twenty-eight hundred one.

§ 13. Policies and guidelines. The board of education and the trustees or sole trustee of every school district shall create policies, procedures and guidelines that shall include, but not be limited to:

1. Policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination, that include but are not limited to provisions which:

a. identify the principal, superintendent or the principal's or superintendent's designee as the school employee charged with receiving reports of harassment, bullying and discrimination;

b. enable students and parents to make an oral or written report of harassment, bullying or discrimination to teachers, administrators and other school personnel that the school district deems appropriate;

c. require school employees who witness harassment, bullying or discrimination, or receive an oral or written report of harassment, bullying or discrimination, to promptly orally notify the principal, superintendent or the principal's or superintendent's designee not later than one school day after such school employee witnesses or receives a report of harassment, bullying or discrimination, and to file a written report with the principal, superintendent or the principal or superintendent's designee not later than two school days after making such oral report;

d. require the principal, superintendent or the principal's or

superintendent's designee to lead or supervise the thorough investigation of all reports of harassment, bullying and discrimination, and to ensure that such investigation is completed promptly after receipt of any written reports made under this section;

e. require the school, when an investigation reveals any such verified harassment, bullying or discrimination, to take prompt actions reasonably calculated to end the harassment, bullying or discrimination, eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such harassment, bullying or discrimination was directed. Such actions shall be consistent with the guidelines created pursuant to subdivision four of this section;

f. prohibit retaliation against any individual who, in good faith, reports, or assists in the investigation of, harassment, bullying or discrimination;

g. include a school strategy to prevent harassment, bullying and discrimination;

h. require the principal to make a regular report on data and trends related to harassment, bullying and discrimination to the superintendent;

i. require the principal, superintendent or the principal's or superintendent's designee, to notify promptly the appropriate local law enforcement agency when such principal, superintendent or the principal's or superintendent's designee, believes that any harassment, bullying or discrimination constitutes criminal conduct;

j. include appropriate references to the provisions of the school district's code of conduct adopted pursuant to section twenty-eight hundred one of this chapter that are relevant to harassment, bullying and discrimination;

k. require each school, at least once during each school year, to

provide all school employees, students and parents with a written or electronic copy of the school district's policies created pursuant to this section, or a plain-language summary thereof, including notification of the process by which students, parents and school employees may report harassment, bullying and discrimination. This subdivision shall not be construed to require additional distribution of such policies and guidelines if they are otherwise distributed to school employees, students and parents;

l. maintain current versions of the school district's policies created pursuant to this section on the school district's internet website, if one exists;

2. Guidelines to be used in school training programs to discourage the development of harassment, bullying and discrimination, and to make school employees aware of the effects of harassment, bullying, cyberbullying and discrimination on students and that are designed:

a. to raise the awareness and sensitivity of school employees to potential harassment, bullying and discrimination, and

b. to enable employees to prevent and respond to harassment, bullying and discrimination; and

3. Guidelines relating to the development of nondiscriminatory instructional and counseling methods, and requiring that at least one staff member at every school be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, and sex; and

4. Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education, vary in method according to the nature of the behavior, the developmental age of the student and the student's history of

problem behaviors, and are consistent with the district's code of conduct; and

5. Training required by this section shall address the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

§ 14. Commissioner's responsibilities. The commissioner shall:

1. Provide direction, which may include development of model policies and, to the extent possible, direct services, to school districts related to preventing harassment, bullying and discrimination and to fostering an environment in every school where all children can learn free of manifestations of bias;

2. Provide grants, from funds appropriated for such purpose, to local school districts to assist them in implementing the guidelines set forth in this section;

3. Promulgate regulations to assist school districts in implementing this article including, but not limited to, regulations to assist school districts in developing measured, balanced, and age-appropriate responses to violations of this policy, with remedies and procedures following a progressive model that make appropriate use of intervention, discipline and education and provide guidance related to the application of regulations; and

4. Provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing

cyberbullying, whether on or off school property or at or away from a school function.

5. The commissioner shall prescribe regulations that school professionals applying on or after December thirty-first, two thousand thirteen for a certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, school counselor, school psychologist, school social worker, school administrator or supervisor or superintendent of schools shall, in addition to all other certification or licensing requirements, have completed training on the social patterns of harassment, bullying and discrimination, as defined in section eleven of this article, including but not limited to those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, the identification and mitigation of harassment, bullying and discrimination, and strategies for effectively addressing problems of exclusion, bias and aggression in educational settings.

§ 15. Reporting by commissioner. The commissioner shall create a procedure under which material incidents of harassment, bullying and discrimination on school grounds or at a school function are reported to the department at least on an annual basis. Such procedure shall provide that such reports shall, wherever possible, also delineate the specific nature of such incidents of harassment, bullying and discrimination, provided that the commissioner may comply with the requirements of this section through use of the existing uniform violent incident reporting system. In addition the department may conduct research or undertake studies to determine compliance throughout the state with the provisions of this article.

§ 16. Protection of people who report harassment, bullying or discrimination. Any person having reasonable cause to suspect that a student has been subjected to harassment, bullying or discrimination, by an employee or student, on school grounds or at a school function, who,

acting reasonably and in good faith, reports such information to school officials, to the commissioner or to law enforcement authorities, acts in compliance with paragraph e or i of subdivision one of section thirteen of this article, or otherwise initiates, testifies, participates or assists in any formal or informal proceedings under this article, shall have immunity from any civil liability that may arise from the making of such report or from initiating, testifying, participating or assisting in such formal or informal proceedings, and no school district or employee shall take, request or cause a retaliatory action against any such person who, acting reasonably and in good faith, either makes such a report or initiates, testifies, participates or assists in such formal or informal proceedings.

§ 17. Application. Nothing in this article shall:

1. Apply to private, religious or denominational educational institutions; or

2. Preclude or limit any right or cause of action provided under any local, state or federal ordinance, law or regulation including but not limited to any remedies or rights available under the Individuals With Disabilities Education Act, Title VII of the Civil Rights Law of 1964, section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

§ 18. Severability and construction. The provisions of this article shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provision of this article to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected. The provisions of this article shall be liberally construed to give effect to the purposes thereof.

ARTICLE 2-A

JACK REID LAW: PROTECT ALL STUDENTS ACT

Section 19. Legislative intent.
20. Definitions.
21. Bullying and harassment prevention and response.
22. Applicability.
23. Severability and construction.

§ 19. Legislative intent. The legislature finds that students' ability to learn and to meet high academic standards, and a school's ability to educate its students, are compromised by incidents of harassment including bullying, taunting or intimidation. It is hereby declared to be the policy of the state to afford all students in nonpublic schools an environment free of bullying and harassment. The purpose of this article is to foster civility in nonpublic schools and to prevent and prohibit conduct which is inconsistent with a school's educational mission.

§ 20. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "School property" shall mean in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a nonpublic elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.

2. "School function" shall mean a nonpublic school-sponsored extra-curricular event or activity.

3. "Harassment" and "bullying" shall mean the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; (b) reasonably causes or would reasonably be expected to cause a student

to fear for their physical safety; (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates, or would foreseeably create, a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. For purposes of this definition, the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.

4. "Cyberbullying" shall mean harassment or bullying as defined in subdivision three of this section, where such harassment or bullying occurs through any form of electronic communication.

5. "School" shall mean any nonpublic elementary or secondary school.

§ 21. Bullying and harassment prevention and response. 1. No student shall be subjected to harassment or bullying, including cyberbullying, by other students on school property or at a school function.

2. Every school, subject to this section, shall adopt a written in plain-language and age-appropriate anti-bullying and harassment policy, which must be published on the school's website or internal parent/student portal and shared annually with employees, parents, and students. Such policy shall include but not be limited to information on how bullying and harassment is defined, how incidents will be reported, investigated, and documented, and an age-appropriate process for notifying the victim about the final outcome of the investigation.

3. School employees who witness bullying or harassment, or receive an oral or written report of bullying or harassment, shall promptly notify the principal or head of school or the principal's or head of school's designee, orally not later than one school day after such school employee witnesses or receives a report of bullying and harassment, and must file a written report with the principal or head of school's designee not later than two school days after making the initial oral report.

4. Upon a report of bullying, harassment, or retaliation, the principal or head of school, or the principal or head of school's designee, must investigate promptly, communicate their findings with the victim and take immediate steps and appropriate follow-up action reasonably calculated to ensure that such conduct has stopped and ensure the safety of the student or students including retaliation against any individual who in good faith reports such bullying or assists in the investigation.

§ 22. Applicability. Nothing in this section is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the United States Constitution, section eight of article I of the New York State Constitution, sections three hundred thirteen and thirty-two hundred one of this chapter, and subdivision eleven of section two hundred ninety-six of the executive law.

§ 23. Severability and construction. The provisions of this article shall be severable, and if any court of competent jurisdiction declares any phrase, clause, sentence or provision of this article to be invalid, or its applicability to any government agency, person or circumstance is declared invalid, the remainder of this article and its relevant applicability shall not be affected. The provisions of this article shall be liberally construed to give effect to the purposes thereof.

ARTICLE 3

EDUCATION DEPARTMENT

PART I

GENERAL PROVISIONS

Section 101. Education department; regents of the university.
101-a. Promulgation of rules and regulations of commissioner relating to the supervision of services for the public good conducted under supervision of school districts.

101-b. Paperwork reduction.
102. Associate and assistant commissioners.
103. Divisions of department.
104. Other officers and employees.
105. Removals and suspensions.
106. Joint seal.
107. Compact for education.
108. State education building.
109. (Enacted without section heading).
110. Refunds.
111. Indian affairs.
112. Children in care; responsibility for education.
112-a. Students confined in certain facilities; responsibility for issuance of diplomas.
113. Leaves of absence to professional members of the department.
114. Reduction of salaries for investment in custodial accounts.
140. Historical documentary heritage grants and aid.

PART IV

SCIENTIFIC AND HISTORIC PLACES

Section 174. Powers formerly exercised by the state board of geographic names.

PART V

EDUCATION DEPARTMENT OPTIONAL RETIREMENT PROGRAM

Section 180. Definitions.
181. Education department optional retirement program established.
182. Rates of contribution.
183. Election.
184. Survivor's benefits.
185. Social security.
186. State not liable for payment of benefits.
187. Inconsistent provisions of other acts superseded.

PART I

GENERAL PROVISIONS

§ 101. Education department; regents of the university. There shall continue to be in the state government an education department. The department is charged with the general management and supervision of all public schools and all of the educational work of the state, including the operations of The University of the State of New York and the exercise of all the functions of the education department, of The University of the State of New York, of the regents of the university and of the commissioner of education and the performance of all their powers and duties, which were transferred to the education department by section three hundred twelve of the state departments law or shall have been prescribed by law before March sixteenth, nineteen hundred twenty-seven, whether in terms vested in such department or university or in any sub-department, division or bureau thereof or in such commissioner, board or officer, and such functions, powers and duties shall continue to be vested in the education department continued by this chapter and shall continue to be exercised and performed therein by or through the appropriate officer, sub-department, division or bureau thereof, together with such functions, powers and duties as hereafter may be conferred or imposed upon such department by law. All the provisions of this chapter, in so far as they are not inconsistent with the provisions of this chapter as hereby amended or may be made applicable, shall apply to the education department continued by this chapter as hereby amended and to The University of the State of New York, the board of regents of the university, the commissioner of education and to the divisions, bureaus and officers in such department. The head of the department shall continue to be the regents of The University of the State of New York, who shall appoint, and at pleasure may remove, the commissioner of education. The commissioner shall continue to be the chief administrative officer of the department. The regents also may appoint and, at pleasure, remove a deputy commissioner of education, who shall perform such duties as the regents may assign to him by rule and who, in the absence or disability of the commissioner or when a vacancy exists in the office of commissioner, shall exercise and perform the functions, powers and duties conferred or imposed on the

commissioner by this chapter. The regents of The University of the State of New York shall continue to constitute a board and The University of the State of New York, which was continued under such name by section two of article eleven of the constitution, shall continue to be governed and all its corporate powers to be exercised by such board.

§ 101-a. Promulgation of rules and regulations of commissioner relating to the supervision of services for the public good conducted under supervision of school districts. The commissioner of education shall promulgate rules and regulations for the supervision, by school districts, of programs of performing services for the public good by certain infants pursuant to the provisions of sections seven hundred fifty-eight-a and 353.6 of the family court act. Such rules and regulations, shall include, but not be limited to, provisions (a) assuring that the conditions of work, including wages, meet the standards therefor prescribed pursuant to the labor law; (b) affording coverage to the child under the workers' compensation law; (c) assuring that the entity receiving such services shall not utilize the same to replace its regular employees; and (d) providing for reports to the family court not less frequently than every six months, unless the family court orders otherwise.

§ 101-b. Paperwork reduction. 1. The commissioner shall be authorized to receive and accept reports, plans, applications and all other information required to be reported by statute or regulation through electronic means. The commissioner shall accept hard copy non-electronic filings or submissions if the school district is able to demonstrate that complying with electronic submission requirements would create undue hardship for the school district or some other good cause exists that would make electronic submission extremely impractical for the school district.

2. It shall be the duty of the commissioner to review all existing reports and plans that school districts and boards of cooperative educational services are required to submit and by November first, two

thousand ten, the commissioner shall submit to the board of regents, the governor, the speaker of the assembly, the temporary president of the senate, the director of the budget and the chairs of the respective fiscal and education committees of the senate and assembly specific recommendations to eliminate unnecessary or duplicative reporting requirements; and where possible, recommendations to consolidate reports, plans and other information required to be submitted to the commissioner including which recommendations could be implemented administratively and which would require statutory authorization.

§ 102. Associate and assistant commissioners. The commissioner of education shall appoint, subject to the approval of the regents, such associate and assistant commissioners as he shall deem necessary for the proper organization and general classification of the work of the department, and assign to such associate and assistant commissioners the work which shall be under their respective supervision.

§ 103. Divisions of department. By action of the regents upon the recommendation of the commissioner of education the department may be divided into divisions and bureaus. By like action new divisions and bureaus may be created and divisions and bureaus may be consolidated or abolished, and the administrative work of the department assigned to the several divisions and bureaus.

§ 104. Other officers and employees. The commissioner of education, subject to the approval of the regents, shall have power, in conformity with their rules, to appoint all other needed officers and employees and fix their titles, duties and salaries.

§ 105. Removals and suspensions. With the approval of the regents, the commissioner of education may, at his pleasure, remove from office any assistant commissioner, or other appointive officer or employee; and, when the regents are not in session, the commissioner may, during

his pleasure, suspend, without salary, any such officer or employee, but not longer than till the adjournment of the succeeding meeting of the regents.

§ 106. Joint seal. The regents of the university upon the recommendation of the commissioner of education shall adopt, and may modify at any time, a seal, which shall be used in common as the seal of the education department and of the university; and copies of all records thereof and of all acts, orders, decrees and decisions made by the regents or by the commissioner of education, and of their official papers, and of the drafts or machine copies of any of the foregoing, may be authenticated under the said seal and shall then be evidence equally with and in like manner as the originals.

§ 107. Compact for education. 1. The compact for education is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

COMPACT FOR EDUCATION PREAMBLE

WHEREAS, the proper education of all citizens is one of the most important responsibilities of the states to preserve a free and open society in the United States; and,

WHEREAS, the increasing demands of our whole national life for improving and expanding educational services require a broad exchange of research data and information concerning the problems and practices of education; and,

WHEREAS, there is a vital need for strengthening the voices of the states in the formulation of alternative nationwide educational policies,

THE STATES AFFIRM the need for close and continuing consultation among our several states on all matters of education, and do hereby establish this compact for education.

Article I. Purpose and Policy.

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to

the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

Article II. State Defined.

As used in this compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Article III. The Commission.

A. The educational commission of the states, hereinafter called "the commission", is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the commission shall be entitled to one vote each on

the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to article V and adoption of the annual report pursuant to article III (j).

C. The commission shall have a seal.

D. The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money,

equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

J. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

Article IV. Powers.

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

3. Develop proposals for adequate financing of education as a whole and at each of its many levels.

4. Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

Article V. Cooperation With Federal Government.

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representatives shall have a vote on the commission.

B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

Article VI. Committees.

A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-third of the voting membership of the steering committee shall consist of governors, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: fifteen for one year and fifteen for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee: provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

B. The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the state concerned, be established to consider any matter of special concern to two or more of the party states.

C. The commission may establish such additional committees as its bylaws may provide.

Article VII. Finance.

A. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain

specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article III (g) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to article III (g) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VIII. Eligible Parties; Entry Into and Withdrawal.

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor", as used in this compact, shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December thirty-one, nineteen hundred sixty-seven. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

D. Except for a withdrawal effective on December thirty-one, nineteen hundred sixty-seven in accordance with paragraph C of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. 1. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the

United States, or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

2. Of the seven members of the educational commission of the states representing this state, one shall be the governor, one shall be appointed by the temporary president of the senate from among the members of that body, one shall be appointed by the speaker of the assembly from among the members of that body, one shall be the commissioner of education, and three shall be appointed by and serve at the pleasure of the governor. The members of the commission representing this state shall receive no compensation for their services but shall be allowed their actual and necessary expenses in performance of their duties hereunder.

3. Pursuant to article III (i) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the governor.

§ 108. State education building. The state education building shall be occupied exclusively by the education department, including the university, with the state library, the state museum, and its other divisions and bureaus, together with such other work with which the commissioner of education and the regents have official relations, as the regents may, in their discretion, provide for therein, and such building and the offices of such department shall be maintained at state expense under the charge and care of such department.

§ 109. Any person, association, organization or corporation may be permitted to use the auditorium in the state education building at Albany for such purposes as may be authorized by regulations of the commissioner of education upon payment of such fee as may be required

pursuant to a schedule for such purpose adopted by the commissioner of education and approved by the director of the division of the budget.

§ 110. Refunds. 1. Moneys received by the state education department pursuant to this chapter prior to July first, nineteen hundred forty-two, may be refunded: (a) Where such moneys were not required by law or regents' rule. (b) Where such moneys were in excess of the amounts required by law or regents' rule. (c) Where fees are paid by applicants who are not permitted to enter examinations for which such fees are paid. Any such moneys received after July first, nineteen hundred forty-two shall not be so refunded unless application for such refund has been made within two years after its receipt by the state education department, except that applicants for professional licenses may make an application for a refund within two years of the withdrawal or denial of the application, whichever occurs first.

2. Applicants for professional licenses not receiving such licenses may be granted partial refunds not exceeding fifty percent of the fee paid to the department unless they have failed the examinations for such licenses, in which case such applicants may not receive a refund. Each applicant for a professional license who has at any time received a partial refund of an initial license application fee shall pay all required fees upon submitting any subsequent application for initial licensure.

§ 111. Indian affairs. The education department, by or through the appropriate division, bureau or officer thereof, shall exercise and perform the functions, powers and duties conferred or imposed by law in relation to the education of children upon the Indian reservations.

§ 112. Children in care; responsibility for education. 1. The department shall establish and enforce standards of instruction, personnel qualifications and other requirements for education services or programs, as determined by rules of the regents and regulations of

the commissioner, with respect to the individual requirements of children who are in full-time residential care in facilities or homes operated or supervised by any state department or agency or political subdivision. The department shall cooperate with the office of children and family services, the department of mental hygiene and local departments of social services with respect to educational and vocational training programs for children placed with, committed to or under the supervision of such agencies. The department shall promulgate regulations requiring the cooperation of local school districts in facilitating the prompt enrollment of children who are released or conditionally released from residential facilities operated by or under contract with the office of children and family services, the department of mental hygiene and local departments of social services and in implementing plans for release or conditional release submitted to the family court pursuant to paragraph (c) of subdivision seven of section 353.3 of the family court act and the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act. Such regulations regarding the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act shall be developed in conjunction with the office of children and family services. Nothing herein contained shall be deemed to apply to responsibility for the provision or payment of care, maintenance or other services subject to the provisions of the executive law, mental hygiene law, social services law or any other law.

2. The commissioner shall prepare a report and submit it to the governor, the speaker of the assembly and the temporary president of the senate by December thirty-first, nineteen hundred ninety-six and on December thirty-first of each successive year. Such report shall contain, for each facility operated by or under contract with the office of children and family services that provides educational programs, an assessment of each facility's compliance with the rules of the board of regents, the regulations of the commissioner, and this chapter. Such report shall include, but not be limited to: the number of youth receiving services under article eighty-nine of this chapter; the office's activities undertaken as required by subdivisions one, two,

four and eight of section forty-four hundred three of this chapter; the number of youth receiving bilingual education services; the number of youth eligible to receive limited English proficient services; interviews with facility residents conducted during site visits; library services; the ratio of teachers to students; the curriculum; the length of stay of each youth and the number of hours of instruction provided; instructional technology utilized; the educational services provided following the release and conditional release of the youth, including, but not limited to, the implementation of requirements for the enrollment of such youth in school contained in plans for release and conditional release submitted to the family court pursuant to paragraph (c) of subdivision seven of section 353.3 of the family court act and in the educational components of permanency hearing reports submitted pursuant to section one thousand eighty-nine of the family court act and the compliance by local school districts with the regulations promulgated pursuant to subdivision one of this section; and any recommendations to ensure compliance with the rules of regents, regulations of the commissioner, and this chapter.

3. The department shall conduct site visits every four years, with at least one day's notice, of each facility operated by the office of children and family services that provides educational programs to ensure compliance with rules of the board of regents, regulations of the commissioner, and this chapter. Such site visits shall include personal interviews with facility residents.

* 4. The commissioner shall establish procedures for administrative appeals to resolve interagency disputes between school districts and state departments or agencies or political subdivisions over responsibility for provision of, or payment for, special education programs or services to children with disabilities in full-time residential care in facilities or homes operated or supervised by such state departments or agencies or political subdivisions. During the pendency of any such appeal, the state department or agency responsible for developing the student's individualized education program, or the school district responsible for developing the student's individualized education program where there is no state department or agency so responsible, shall provide and pay for the special education programs

and services on the student's individualized education program and may seek reimbursement in the appeal. The commissioner shall be authorized to make all orders that in the commissioner's judgment are proper or necessary to give effect to the decision in the appeal. Upon a determination that a public agency has failed to provide or pay for such special education programs and services, the commissioner shall certify the amount of such costs to the state comptroller and the state comptroller to deduct such amount from any state funds that become due to such public agency.

* NB Repealed June 30, 2027

§ 112-a. Students confined in certain facilities; responsibility for issuance of diplomas. 1. A person under twenty-one years of age who has not received a high school diploma and who is placed with, committed to, under the supervision of, detained or otherwise confined in any facility operated or administered by a state department or agency or political subdivision of the state which provides educational programs pursuant to section one hundred twelve of this article, or who is confined in a correctional facility, as defined in subdivision four of section two of the correction law, and who participates in an educational program provided by such facility, shall be issued a high school diploma by the school district of location except when credit bearing educational programming is provided by another school district. When credit bearing educational programming is provided by another school district, that district shall be responsible for issuing the high school diploma. The school district responsible for issuing the diploma must determine if such person has completed the minimum New York state diploma requirements as set forth in the regulations of the commissioner while placed with, committed to, under the supervision of, detained or confined in such facility.

2. For purposes of this section the term "school district of location" means the school district in which the facility where such youth is placed, committed, supervised, detained or confined is located.

§ 113. Leaves of absence to professional members of the department. The department, subject to such regulations as the commissioner may promulgate, may grant any professional member of the staff of the department an extended leave of absence for advanced study, research, professional writing or other experience of recognized professional value, for not to exceed one year in seven at the rate of not to exceed one-half the regular salary paid, or for not to exceed six months with salary at full rate for such leave. The balance of salaries appropriated for such persons, or so much thereof as may be necessary, may be applied during the period of such absence for the purpose of the salaries of substitutes to take the place of the persons thus on leave. Not more than five such leaves of absence shall be granted during any one fiscal year.

§ 114. Reduction of salaries for investment in custodial accounts. 1. The department, in its discretion, may enter into a written agreement with any employee to reduce the annual salary otherwise payable by law to such employee for the purpose of investing in a custodial account, as permitted by paragraph seven of subdivision (b) of section four hundred three of the United States internal revenue code, as amended, or in a tax deferred annuity, as permitted by subdivision (b) of section four hundred three of the United States internal revenue code, as amended, for such employee. Any such agreement shall be subject to approval and filing by the comptroller, and shall specify the amount of such reduction and the effective date thereof. Any such agreement may be terminated at any time upon written notice by either such employee or the department. Such termination shall take effect at the beginning of the payroll period the first day of which is nearest to the thirtieth day following the day on which such notification of termination was (a) received by the department, in the event such termination is initiated by the employee, or (b) sent to the employee, in the event such termination is initiated by the department. No more than one such agreement shall be entered into in any period of twelve successive calendar months.

2. Upon approval and filing by the comptroller of any such agreement

the comptroller shall reduce an employee's salary pursuant to said agreement and pay an amount equal to the amount agreed upon for such salary reduction as an employer contribution to the designated custodian of the employee's account or the issuer of the employee's annuity. Notwithstanding the reductions of salary authorized by this section, (a) the amount of employer and employee contributions otherwise required on behalf of an employee electing the optional retirement program pursuant to part five of this article shall continue to be made on the basis of the salary of such employee without regard to such reduction, or (b) in the event a member of a public retirement system in this state agrees to a reduction of salary pursuant to this section, such agreement shall not cause the employee to lose any benefits under such public retirement system to which such employee would otherwise be entitled had he or she not agreed to a reduction in salary for the purpose of establishing a custodial account or purchasing a tax-deferred annuity, and any required employer and employee contributions shall continue to be made on the basis of the salary of such employee without regard to such reduction. Any survivor's benefit payable pursuant to sections one hundred fifty-four and one hundred fifty-four-a of the civil service law shall be based upon the salary of such employee without regard to the reduction authorized by this section.

3. Any payroll deduction, other than income tax withholdings as required by law, which may be required or authorized pursuant to law, contract, agreement, or any other instrument, the amount of which is determined in relation to an employee's earnings, shall be based on the salary of such employee without regard to reduction thereof pursuant to any agreement authorized by this section.

4. Payments for custodial accounts or tax deferred annuities shall be made by the comptroller to the designated custodian or custodians of such accounts or the issuers of such annuities out of moneys otherwise available in accordance with law for salaries of the employees who have entered into agreements pursuant to this section.

5. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives

or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

§ 140. Historical documentary heritage grants and aid. 1. Short title. This section shall be known and may be cited as the "New York documentary heritage act".

2. Definitions. As used in this section, the following terms shall mean:

a. "Historical records". Records that contain significant information that is of enduring value and are therefore worthy of long-term retention and systematic management. Historical records may include diaries, journals, ledgers, minutes, reports, photographs, maps, drawings, blueprints, agreements, memoranda, deeds, case files, and other material. They may take any of several physical forms: parchment, paper, microfilm, cassette tape, film, videotape, computer tapes, discs, and other "machine readable" formats.

b. "Historical records program". Any deliberate, organized program to collect, hold, care for, and make available historical records, including identifying, appraising, arranging, describing, and referencing them and using them in exhibitions and other public and educational programs.

c. "Institutions eligible for historical records program grants". Chartered or incorporated nonprofit archives, libraries, historical societies and museums and other nonprofit institutions in New York state which operate historical records programs and which meet standards to be established by the commissioner pursuant to regulations adopted for such purposes. Institutions operated by state or federal government agencies, and local government archives shall not be eligible for historical records project grants, except that an institution of the state university of New York or the city university of New York may apply for historical records project grants with regard to records other than

internal records generated by the institution after July first, nineteen hundred forty-eight if it is a component of the state university of New York or after July first, nineteen hundred seventy-nine if it is a component of the city university of New York or after the subsequent date on which the institution became a component of such university.

d. "Historical records program project". A project to carry out one or more of the activities described in subdivision three of this section.

e. "Cooperative project". A collaborative effort undertaken by two or more historical records programs, to meet shared needs or to accomplish a common purpose, or a project undertaken by a service provider to address the historical records needs of more than one historical records program.

f. "Regional advisory and assistance agency". A reference and research library resources system, or an alternate public or nonprofit agency or organization willing to provide historical records program development advice and assistance services covering a reference and research library resources system region which is acceptable to the commissioner.

g. "Historical records program development advice and assistance". Advice and assistance on the development and strengthening of historical records programs, promotion of cooperation, coordinated documentation planning, training in historical records management techniques, advice and assistance in reporting of information concerning historical records to statewide and national data bases where appropriate, and initiatives to increase public awareness of the values and uses of historical records.

h. "Service provider". A nonprofit professional or other association, local government, college or university, historical service agency, or other nonprofit institution or system which provides services to historical records programs.

i. "Cost sharing". Local funds, local in-kind services, and other funds and support from other than state sources.

j. "Program year". The annual period from July first through June thirtieth.

3. Scope of activities to be supported. The commissioner is authorized to provide grants and advice to institutions eligible for historical records programs and cooperative projects, and aid to regional advisory and assistance agencies, the central administration of the state university of New York and the central administration of the city university of New York. Grants shall be used to support the development and administration of historical records programs; the surveying, appraisal, identification, collection, duplication, arrangement, description, and making available of historical records; public and educational programming relating to historical records; projects to improve archival techniques; and projects to promote the research use of historical records. Aid to regional advisory and assistance agencies shall be used to promote and assist the development of historical records programs. Aid to the central administrations of the state university of New York and the city university of New York shall be used to develop guidelines, policies and procedures, training, technical assistance, materials, oversight, retention and disposition schedules for university records, and to promote, guide and direct the component institutions of such universities in the sound administration of archival records.

4. Distribution of funds. a. Historical documentary heritage funds shall be distributed as follows: (1) Grants. (i) individual historical records program projects shall be eligible for at least thirty-five percent of the amount available;

(ii) cooperative projects shall be eligible for up to twenty percent of the amount available.

(2) Aid. (i) regional advisory and assistance agencies shall be eligible for forty percent of the amount available;

(ii) the central administration of the state university of New York shall be eligible for two and one-half percent of the total amount available;

(iii) the central administration of the city university of New York

shall be eligible for two and one-half percent of the total amount available.

b. Notwithstanding the provisions of subparagraphs one and two of paragraph a of this subdivision, the commissioner, taking into account the recommendations of the New York state historical records advisory board, may distribute funds designated for one purpose to address the needs of another purpose, provided that the commissioner determines that the significance of the contributions to be realized from the proposals in one category outweighs the significance of the contributions to be realized from the proposals in another category.

5. Cost-sharing. The commissioner shall determine the amount of cost-sharing required from historical records programs, including cooperative programs. For individual historical records program projects involving arrangement, description, and other work relating directly to the administration of historical records held by a program, the amount of such cost-sharing shall be at least fifty percent.

6. Applications for historical records program projects. a. Filing. By dates determined by the commissioner each year, an eligible institution may file an application, in a form prescribed by the commissioner, for a grant to support the approved costs of a proposed historical records project.

b. Content. Such application shall include, but need not be limited to:

(1) a statement describing the applicant's need for the funding requested;

(2) collection statements and policies used by the institution to guide its acquisition efforts;

(3) a summary description of the records included in the historical records program of the institution;

(4) the status of finding aids and published guides for the historical records held by the institution;

(5) the current and/or anticipated level of use and audience for the historical records;

(6) the importance of the historical records for documenting life in New York;

(7) the expected impact of the grant upon the historical records program;

(8) the plan of work for the activities for which the funding is sought;

(9) the proposed project budget, including cost-sharing which would be committed to the project; and

(10) the staff and other resources devoted to the institution's historical records program on an ongoing basis.

c. Approval. In approving any application pursuant to this subdivision, the commissioner shall consider:

(1) information in the proposal as set forth in paragraph b of this subdivision;

(2) the capacity of the institution to make the historical records known and accessible for research, education, public programs, improved policy making and other public benefits;

(3) the potential for improving the documentation of the heritage of any racial and ethnic group; and

(4) the potential for improving the documentation of under documented subjects, institutions, or activities.

7. Application for cooperative projects. a. Filing. By dates to be established by the commissioner each year, a service provider or an eligible institution acting as fiscal agent on behalf of a group of eligible institutions, may file an application, in a form prescribed by the commissioner. A group of cooperating institutions may be formed because of a common purpose, rather than because of geographical proximity.

b. Content. Such application shall include, but need not be limited to:

(1) a statement describing the applicant's need for the funding requested;

(2) a description of the issue, problem, or need that the project will address;

(3) a description of the historical records programs to be served and how the effort to be undertaken in a cooperative project relates to and will strengthen these programs;

(4) description of the plan of work for the project;

(5) outcome or product of the project and how it will improve the identification and administration of historical records or contribute to the strengthening of historical records programs; and

(6) the proposed budget, including cost-sharing that would be contributed to the project.

c. Approval. In approving any application pursuant to this subdivision, the commissioner shall consider:

(1) information in the proposal as set forth in paragraph b of this subdivision;

(2) the importance of the records involved for the documentation of life in New York state;

(3) the importance of the project and the intended outcome or product in terms of strengthening the programs of the cooperating institutions and promoting improved historical records management;

(4) the capacities of the cooperating institutions or service providers for carrying out the project, including prior experience with cooperative or service projects; and

(5) the potential for cooperating institutions to sustain an ongoing productive cooperative relationship as a result of the project.

8. Aid for regional advisory and assistance agencies. a. Coordination. The commissioner shall establish statewide priorities for regional advisory and assistance agencies and shall assist and coordinate their efforts.

b. Historical records program advice and assistance plans. To be eligible to receive aid annually, each participating regional advisory and assistance agency shall submit an annual workplan acceptable to the commissioner, and, after the first year of receiving aid, a report on activities of the prior year and a five-year plan, by dates designated by the commissioner. The five-year plan shall outline goals and objectives to be accomplished in the region during the five-year period.

The annual workplan shall describe the activities to be carried out during the year and the program advice and assistance to be provided. The five-year plans and the annual workplans shall reflect regional priorities and shall be consistent with statewide priorities established by the commissioner.

c. Aid. The commissioner shall each year determine the distribution of aid among eligible regional advisory and assistance agencies. In doing so, he shall take into account the level of resources needed to provide the services described in paragraphs f and g of subdivision two of this section in a satisfactory manner, the extent of the geographical area served by each agency, and the size of the population served by each agency, and shall distribute the available funds in such a manner as will best give effect to this section.

9. Aid for state university of New York and city university of New York. To be eligible to receive aid annually, the central administration of the state university of New York and the central administration of the city university of New York shall each submit an annual workplan acceptable to the commissioner, and, after the first year of receiving aid, a report on activities of the prior year and a five-year plan.

11. Regulations. The commissioner shall adopt regulations to implement the provisions of this section.

PART IV
SCIENTIFIC AND HISTORIC PLACES

§ 174. Powers formerly exercised by the state board of geographic names. The regents, or such bureau, division or officers of the university or of the education department as may be designated by them for such purpose, shall 1. Determine and establish the correct historical and etymological form of the place names in this state and recommend the adoption of such correct forms for public use.

2. Determine the form and propriety of new place names proposed for general use, and no corporation, individual or community shall introduce such new place names without the consent and approval of this board.

3. Co-operate with the United States board of geographic names and with the United States post-office department in establishing a proper, correct and historically accurate form for all place names proposed as designations of new post-offices.

4. No petition or recommendation for the naming of any mountain, lake, river or other natural object for or in honor of any living person shall be granted, approved or consented to by the regents of the university or by the committee on geographic names appointed by it except by unanimous vote.

PART V
EDUCATION DEPARTMENT OPTIONAL RETIREMENT PROGRAM

§ 180. Definitions. Wherever used in this part V of this article:

1. The term "eligible employee" means each employee of the education department who occupies a position which is designated by the commissioner as requiring the rendering of professional services within the field of supervision of higher education, and who, at the time of his initial employment with the department or within one year prior thereto, owns or owned a contract which may legally be continued pursuant to this part. An eligible employee who has elected to be covered by the education department optional retirement program shall not be deemed ineligible by virtue of a subsequent assignment within the education department to a sphere of responsibility outside of the field of supervision of higher education. No person receiving a retirement benefit from any retirement or pension system of New York state or any political subdivision thereof shall be eligible to elect the education department optional retirement program.

2. The term "education department optional retirement program" means the retirement program established pursuant to part V of this article.

3. The term "electing employee" means any eligible employee who exercises his election pursuant to this part V of this article to participate in the education department optional retirement program.

4. The term "state salary" means all amounts paid by or for the state as compensation for services rendered by an eligible employee.

5. The term "insurer" means a life insurance corporation, or other corporation, subject to department of financial services supervision.

§ 181. Education department optional retirement program established. 1. There is hereby established an education department optional retirement program which shall provide for the continuation of contracts providing retirement and death benefits for or on behalf of electing employees. Under such program the state and such employees shall contribute, to the extent authorized or required, towards the continuation of such contracts, which shall have been issued to and shall have previously become the property of such employees.

2. The commissioner shall, in his discretion, designate the insurer or insurers to which payment of such contributions under this article may be made and shall approve the form and content of such contracts. In making such designation and giving such approval the commissioner shall give due consideration to (i) the nature and extent of the rights and benefits to be provided by such contracts for electing employees and their beneficiaries, (ii) the relation of such rights and benefits to the amount of contributions to be made under this part V of this article, (iii) the suitability of such rights and benefits to the needs and interests of electing employees and to the interests of the department in the employment and retention of eligible employees, and (iv) the authority and ability of the designated insurer or insurers to provide rights and benefits under such contracts.

3. The commissioner is hereby authorized to provide for the administration of such education department optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes in accordance with this part V of this article.

§ 182. Rates of contribution. 1. Employer contributions. In the case of any electing employee initially appointed on or before June thirtieth, nineteen hundred ninety-two, the state shall, during continuance of their employment, make contributions at the rate of nine percentum of that portion of their state salary upon which contributions are or may hereafter be paid to the secretary of the treasury of the United States pursuant to article three of the retirement and social security law and at the rate of twelve percentum of that portion of their state salary above said amount, out of moneys which shall be appropriated to the department for such purpose. In the case of any electing employee initially appointed on or after July first, nineteen hundred ninety-two, the state shall, during continuance of their employment, make contributions at the rate of eight percentum of their state salary during the first seven years of such employment and at the rate of ten percentum of their state salary, thereafter, out of moneys which shall be appropriated to the department for such purpose. For purposes of this subdivision, that portion of the employee's salary upon which contributions are paid to the secretary of the treasury of the United States pursuant to article three of the retirement and social security law shall not exceed sixteen thousand five hundred dollars, provided however, that effective October first, two thousand twenty-six, in the case of any electing employee initially appointed on or after April first, two thousand twelve, with respect to employees of the state university and the electing employer, with respect to employees of a community college, shall, during continuance of their employment, make contributions at the rate of nine percentum of their salary during the first seven years of such employment and at the rate of eleven percentum of their salary thereafter, out of monies which shall be appropriated to the state university or which shall be available to the electing

employer for such purpose.

2. Employee contributions. In the case of any electing employee, contributions at the rate of three per centum of such electing employee's state salary shall be deducted by the state comptroller as the employee contribution, provided however, that such employee contribution shall be made by the state in accordance with subdivision one of this section during such period as (a) either section seventy-a of the retirement and social security law or section five hundred twenty-eight of this title provides that the contribution of each member of the New York state employees' retirement system or the New York state teachers' retirement system in the employ of the state shall be reduced by at least eight per centum of such member's compensation, or (b) employee contributions to either such system are no longer required by reason of such system becoming noncontributory for state employees.

Notwithstanding any other law to the contrary, beginning April first, two thousand thirteen any electing employee appointed on or after April first, two thousand twelve, the rate at which each such employee shall contribute in any current plan year (January first to December thirty-first) shall be determined by reference to the wages of such member in the second plan year (January first to December thirty-first) preceding such current plan year as follows:

(a) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(b) members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute three and one-half per centum of annual wages;

(c) members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall contribute four and one-half per centum of annual wages;

(d) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute five and three-quarters per centum of annual wages; and

(e) members with wages greater than one hundred thousand dollars per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (January first to December thirty-first) in which such member has established membership in the Education Department Optional Retirement Program, such employee shall contribute a percent of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer, provided, however, that notwithstanding any other law to the contrary, on and after October first, two thousand twenty-six, the rate at which any electing employee who is subject to this paragraph shall contribute in any current plan year (January first to December thirty-first) shall be determined by reference to the wages of such member in the second plan year (January first to December thirty-first) preceding such current plan year as follows:

(i) members with wages of seventy-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(ii) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute four per centum of annual wages;

(iii) members with wages greater than one hundred thousand dollars per annum but not more than one hundred twenty-five thousand dollars per annum shall contribute five and one-quarter per centum of annual wages; and

(iv) members with wages greater than one hundred twenty-five thousand dollars per annum shall contribute five and three-quarters per centum of annual wages.

3. Payment of contributions pursuant to subdivisions one and two of this section shall be made to the designated insurer or insurers upon audit and warrant of the state comptroller.

§ 183. Election. 1. Election of the education department optional retirement program. (a) Each eligible employee initially appointed on or after July first, nineteen hundred sixty-eight, shall, within thirty days of his entry into service, elect (i) to join either the New York state teachers' retirement system or the New York state employees' retirement system in accordance with the provisions of law applicable thereto or (ii) to elect the education department optional retirement

program established pursuant to this part V of this article. Each eligible employee employed by the department prior to July first, nineteen hundred sixty-eight shall make such election on or before December fourth, nineteen hundred sixty-eight. Any such election shall be effective as of the date of entry into service with the department, except that with respect to those eligible employees possessing contracts which may legally be continued under this part and who initially entered into service with the department prior to the effective date of this part, the deferred election shall be effective as of the effective date of this part.

(b) In the event an eligible employee fails to make an election as provided in paragraph (a) of this subdivision, he shall be deemed to have elected membership in the New York state teachers' retirement system. Such membership shall be effective as of the date of entry into service with the department.

(c) The amount, if any, required to be contributed by any employee in accordance with an election, a deferred election or a failure to elect pursuant to paragraph (a) or paragraph (b) of this subdivision shall be collected by payroll deductions in such manner as may be provided by the state comptroller for those persons electing the education department optional retirement program, or in the case of membership in either the New York state employees' retirement system or the New York state teachers' retirement system, by such retirement system. Nothing herein contained shall be construed to authorize or require payment by the state of contributions on account of services rendered prior to the effective date of this part by eligible employees who at the time of their employment with the department chose to continue, on a voluntary basis, coverage similar to that conferred by this part, but shall be construed to authorize continuation of such contracts after the effective date of this part, subject to rules and regulations to be established by the commissioner.

2. Ineligibility for retirement system membership. Any employee who elects the education department optional retirement program shall be ineligible for membership in either the New York state employees' retirement system or the New York state teachers' retirement system so long as he shall remain employed in the department and shall continue in

the education department optional retirement program.

3. (a) Any eligible employee who is a member of either the New York state employees' retirement system or the New York state teachers' retirement system at the time he elects the optional retirement program established pursuant to this part shall be deemed to be a person who discontinues service on the effective date of such election, for the purpose of determining his eligibility for rights and benefits in either such system; provided, however, that if he does not withdraw his accumulated contributions (i) his continued service with the education department while under the optional retirement program shall be deemed to be member service in either the New York state employees' retirement system or the New York state teachers' retirement system for the purpose of determining his eligibility for any vested retirement allowance, retirement allowance or ordinary death benefit under either such system dependent upon a specified period of total service or upon attainment of a specified age while in service or upon death while in service and (ii) the amount of any such benefit to which he or his estate or person designated by him may become entitled under either such system shall be computed only on the basis of service otherwise creditable to him therein and his compensation during such service.

(b) Electing employees and their beneficiaries shall not be entitled to any right or benefit under either the New York state employees' retirement system or the New York state teachers' retirement system other than a vested retirement allowance, retirement allowance or ordinary death benefit to the extent expressly provided for in this section.

4. (a) Subdivision two of this section shall not apply to any eligible employee who has elected the education department optional retirement program and after June thirtieth, two thousand two, renders service which is creditable in the New York state teachers' retirement system, other than service for which a contribution is made to the education department optional retirement program.

(b) Subdivision three of this section shall not apply to any member of the New York state teachers' retirement system who, after joining such system, elects the education department optional retirement program.

(c) Anything in subdivision three of this section notwithstanding, any eligible employee who is a member of the New York state teachers' retirement system and had elected the education department optional retirement program prior to July first, two thousand two, may obtain credit for service, other than service for which a contribution is made to the education department optional retirement program, which is creditable in such system, was rendered after such member had elected the education department optional retirement program, and was rendered between December first, nineteen hundred ninety-one and June thirtieth, two thousand two, provided (i) such member has rendered at least five years of service credited with the New York state teachers' retirement system at the time such service is credited, and (ii) in the case of such member subject to the provisions of article fourteen or fifteen of the retirement and social security law, the member contributes three percent of the wages earned for such service together with interest at the rate of five percent per annum compounded annually from the date of such service until payment is made.

(d) Anything in this subdivision four notwithstanding, service as an eligible employee for which a contribution is made to the education department optional retirement program shall neither entitle any eligible employee to join or rejoin the New York state teachers' retirement system nor be creditable in such system.

§ 184. Survivor's benefits. In the case of the death of any electing employee after the effective date of his election and before retirement, the value of the death benefits provided by the contract or contracts continued under the education department optional retirement program which is attributable to the state's contribution as determined by the commissioner, shall be deemed to be an ordinary death benefit provided under a public pension plan within the meaning of section one hundred fifty-four of the civil service law.

§ 185. Social security. Every electing employee shall have old-age, survivors, and disability insurance coverage provided by the federal social security act in accordance with the provisions of article three

of the retirement and social security law.

§ 186. State not liable for payment of benefits. Neither the state nor the department shall be a party to any contract continued in whole or in part with contributions made under the education department optional retirement program established and administered pursuant to this part V of this article. No retirement, death or other benefits shall be payable by the state or by the department under such education department optional retirement program, except as otherwise provided in section 184. Such benefits shall be paid to electing employees or their beneficiaries by the designated insurer or insurers in accordance with the terms of their contracts.

§ 187. Inconsistent provisions of other acts superseded. Insofar as the provisions of this part V of this article are inconsistent with the provisions of any other act, general or special, the provisions of this article shall be controlling.

ARTICLE 5

UNIVERSITY OF THE STATE OF NEW YORK

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PART I
GENERAL ORGANIZATION

§ 201. Corporate name and objects. The corporation created in the year seventeen hundred eighty-four under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. Its objects shall be to encourage and promote education, to visit and inspect its several institutions and departments, to distribute to or expand or administer for them such property and funds as the state may appropriate therefor or as the university may own or hold in trust or otherwise, and to perform such other duties as may be intrusted to it. The said corporation shall have power to take, hold and administer real and personal property and the income thereof in trust for any educational, scientific, historical or other purpose within the jurisdiction of the regents of The University of the State of New York.

§ 202. Regents. 1. The University of the State of New York shall be governed and all its corporate powers exercised by a board of regents the number of whose members shall at all times be four more than the number of the then existing judicial districts of the state and shall not be less than fifteen. The regents in office April first, nineteen hundred seventy-four shall hold office, in the order of their election, for such times that the term of one such regent will expire in each year on the first day of April. Commencing April first, nineteen hundred seventy-four, each regent shall be elected for a term of seven years, each such term to expire on the first day of April. Commencing on April first, nineteen hundred ninety-four, each regent shall be elected for a term of five years, each such term to expire on the first day of April. Each regent shall be elected by the legislature by concurrent resolution

in the preceding March, on or before the first Tuesday of such month. If, however, the legislature fails to agree on such concurrent resolution by the first Tuesday of such month, then the two houses shall meet in joint session at noon on the second Tuesday of such month and proceed to elect such regent by joint ballot.

2. All vacancies in such office, either for full or unexpired terms, shall be so filled that there shall always be in the membership of the board of regents at least one resident of each of the judicial districts. A vacancy in the office of regent for other cause than expiration of term of service shall be filled for the unexpired term by an election at the session of the legislature immediately following such vacancy in the manner prescribed in the preceding paragraph, unless the legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by such legislature in the manner prescribed in the preceding paragraph, except as hereinafter provided. However, if such vacancy occurs after the second Tuesday in March and before a resolution to adjourn sine die has been adopted by either house, then the vacancy shall be filled by concurrent resolution, unless the legislature fails to agree on such concurrent resolution within three legislative days after its passage by one house, in which case the two houses shall meet in joint session at noon on the next legislative day and proceed to elect such regent by joint ballots; provided, however, that if the vacancy occur after the adoption by either house of a resolution to adjourn sine die, then the vacancy shall be filled at the next session of the legislature in the manner prescribed in the preceding paragraph.

3. There shall be no "ex-officio" members of the board of regents.

4. No person shall be at the same time a regent of the university and a trustee, president, principal or any other officer of an institution belonging to the university.

5. (a) Every regent, on and after December fifteenth and before the following January fifteenth, in each year, shall file with the secretary of the senate and with the clerk of the assembly a written statement of

(1) each financial interest, direct or indirect of himself or herself, his or her spouse and his or her unemancipated children under the age of eighteen years in any activity which is subject to the jurisdiction of the education department or name of the entity in which the interest is had and whether such interest is over or under five thousand dollars in value.

(2) every office and directorship held by him or her in any corporation, firm or enterprise which is subject to the jurisdiction of the education department or which does business with an institution which is subject to the jurisdiction of the education department, including the name of such corporation, firm or enterprise.

(3) any other interest or relationship which he or she determines in his or her discretion might reasonably be expected to be in the public interest and should be disclosed.

(b) On or before January thirty-first in each year the secretary of the senate and the clerk of the assembly shall jointly prepare a report containing the statements required to be filed pursuant to paragraph (a) of this subdivision. Copies of such report shall be open to public inspection in the office of the secretary of the senate and the clerk of the assembly. The senate and assembly may jointly adopt rules to implement the provisions of this subdivision.

§ 203. Officers. The elective officers of the university shall be a chancellor and a vice-chancellor who shall serve without salary, and such other officers as are deemed necessary by the regents, all of whom shall be chosen by ballot by the regents and shall hold office during their pleasure; but no election, removal or change of salary of an elective officer shall be made by less than six votes in favor thereof. Each regent and each elective officer shall, before entering on his duties, take and file with the secretary of state the oath of office required of state officers.

The chancellor shall preside at all convocations and at all meetings of the regents, and confer all degrees which they shall authorize. In his absence or inability to act, the vice-chancellor, or if he be also absent, the senior regent present, shall perform all the duties and have

all the powers of the chancellor.

§ 204. Meetings and absences. 1. (a) The regents may provide for regular meetings of the board of regents and any committee, subcommittee, task force, or other subgroups thereof. Notice of time and place for all regular public meetings of the board of regents and any committee, subcommittee, task force, or other subgroups thereof shall be publicly provided at least seven days in advance of such meeting. Such notice of time, place and agenda shall be distributed via the board's official internet website and specifically distributed by United States postal service to all regents at their usual addresses and, if a meeting of a committee, subcommittee, task force, or other subgroups thereof, by such means, including but not limited to the United States postal service or electronic means, as determined by the committee, subcommittee, task force, or other subgroups thereof. An agenda for a regular public meeting of the board shall be comprised of a list of all items to be considered with a description of the subject matter of each such item and shall be posted at least three days in advance of the meeting; provided however, that in an instance of a health or public safety emergency, the board may include additional items to the agenda with less than three days notice. In an instance of a health or public safety emergency, the board shall use best efforts to make public any changes to the agenda prior to the regular meeting. The notice and agenda shall be considered a public record.

(b) The chancellor or the commissioner, or any five regents, may at any time call a special meeting of the board of regents and fix the time and place therefor. Notice of time, place and agenda for all special public meetings of the board of regents shall be publicly provided at least three days in advance of such meeting. Such notice of time, place and agenda shall be distributed via the board's official internet website and specifically circulated according to the rules and regulations of the regents to all regents. The board of regents special public meeting agenda shall be comprised of a list of all items to be considered with a description of the subject matter of each such item; provided however, that in an instance of a health or public safety emergency, the board may include additional items to the agenda with

less than three days notice. In an instance of a health or public safety emergency, the board shall use best efforts to make public any changes to the agenda prior to the special meeting. The notice and agenda shall be considered a public record.

2. Any meeting of the board of regents and any committee, subcommittee, task force, or other subgroups thereof shall be conducted in accordance with article seven of the public officers law.

3. A summary of committee reports, any other minutes, and attendance of the board of regents for either regular or special meetings shall be electronically available on the board of regents website at the close of each board meeting and shall be considered a public record. The video recording of any regular full board meeting shall be posted no later than five days following the meeting of the board. Any meeting summaries and actions taken shall be posted on the board of regents website within five days of approval by the board. Information posted on the board of regents website shall remain on the site as archived data for a minimum of ten years.

4. If any regent shall fail to attend three consecutive meetings, without excuse accepted as satisfactory by the regents, that regent may be deemed to have resigned and the regents shall then report the vacancy to the legislature which shall fill it.

§ 205. Quorum. Seven regents attending shall be a quorum for the transaction of business.

§ 206. Authority to take testimony and conduct hearings. The regents, any committee thereof, the commissioner of education, the deputy and any associate and assistant commissioner of education and the counsel of the department may take testimony or hear proofs relating to their official duties, or in any matter which they may lawfully investigate. Hearings by the regents pursuant to any of the provisions of this chapter may be given by or before not less than three members of the regents designated

by the regents or by the chancellor of the university to hold such hearings, but any decision or determination in such proceedings shall be made by the regents.

§ 207. Legislative power. Subject and in conformity to the constitution and laws of the state, the regents shall exercise legislative functions concerning the educational system of the state, determine its educational policies, and, except, as to the judicial functions of the commissioner of education, establish rules for carrying into effect the laws and policies of the state, relating to education, and the functions, powers, duties and trusts conferred or charged upon the university and the education department. But no enactment of the regents shall modify in any degree the freedom of the governing body of any seminary for the training of priests or clergymen to determine and regulate the entire course of religious, doctrinal or theological instruction to be given in such institution. No rule by which more than a majority vote shall be required for any specified action by the regents shall be amended, suspended or repealed by a smaller vote than that required for action thereunder. Rules or regulations, or amendments or repeals thereof, adopted or prescribed by the commissioner of education as provided by law shall not be effective unless and until approved by the regents, except where authority is conferred by the regents upon the commissioner of education to adopt, prescribe, amend or repeal such rules or regulations.

§ 207-a. Disclosure of gifts made to institutions of higher education by foreign governments, persons and entities. 1. As used in this section: a. The term "foreign government" shall mean any government other than the United States government or the government of a state or a political subdivision thereof and shall include an agent of such government;

b. The term "foreign legal entity" shall mean (i) any legal entity created under the laws of a foreign government or (ii) any legal entity created under the laws of the United States or of any state hereof if a

majority of the ownership of the stock of such legal entity is directly or indirectly owned legally or beneficially by one or more foreign governments or one or more foreign persons or one or more legal entities created under the laws of a foreign government or if a majority of the membership of any such entity is composed of foreign persons or legal entities created under the laws of a foreign government and shall include an agent of such legal entity;

c. The term "foreign person" shall mean any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof and shall include an agent of such individual; and

d. The term "gift" shall mean any endowment, gift, grant, contract, award or property of any kind.

2. Every institution authorized by the legislature or by the regents of the university of the state of New York to confer academic degrees in this state shall disclose the amount, terms, restrictions and requirements attached to or made a part of any gift of a value in excess of one hundred thousand dollars made to such institution by a foreign government, foreign legal entity or foreign person in any fiscal year of the institution. If the foreign government, foreign legal entity or foreign person makes more than one gift to an institution in any fiscal year of such institution, and the total value of those gifts in such fiscal year of the institution exceeds one hundred thousand dollars, the institution shall report all of such gifts received.

3. Such information shall be forwarded to the department no later than thirty days after the final day of the fiscal year of the institution. The information shall include:

a. the amount and the date of the making of the gift;

b. when the gift is conditional, matching or designated for a particular purpose, full details of the conditions, matching provisions or designation;

c. the name of the foreign government in the case of a gift by a foreign government; the name of the foreign country in which a foreign entity or foreign person is principally located or resides in the case of a gift by a foreign entity or foreign person.

The name of the foreign entity shall be disclosed in the event of a gift which (i) contains conditions or restrictions regarding the control of curricula, employment or termination of faculty, admission of students, student fees or (ii) is contingent upon the agreement of the institution to take specific public positions or actions or to award honorary degrees; and

d. the purpose or purposes for which the gift will be used.

4. Such information shall be a matter of public record and shall be made available by the department to the general public for review and copying during normal business hours.

§ 207-b. Crisis resources. Each degree-granting institution of higher education shall establish an education campaign to educate students, faculty, and staff about the 9-8-8 suicide and crisis lifeline and the crisis text line. Such education campaign shall include, but not be limited to:

1. resources describing when to utilize the 9-8-8 suicide and crisis lifeline and the crisis text line; and

2. contact information for such services on student identification cards, or the annual distribution of contact information for such services at institutions that do not issue student identification cards.

§ 208. General examinations, credentials and degrees. The regents may confer by diploma under their seal such honorary degrees as they may deem proper, and may establish examinations as to attainments in learning, and may award and confer suitable certificates, diplomas and

degrees on persons who satisfactorily meet the requirements prescribed.

§ 208-a. Scheduling of examinations. The department shall make a bona fide effort to schedule state mandated examinations on days other than days of religious observation. The commissioner may promulgate regulations to implement this section.

§ 209. Academic examinations; admission and fees. The regents shall establish in the secondary institutions of the university, examinations in studies furnishing a suitable standard of graduation therefrom and of admission to colleges, and certificates or diplomas shall be conferred by the regents on students who satisfactorily pass such examinations.

Any person shall be admitted to these examinations who shall conform to the rules and pay the fees prescribed by the regents.

§ 209-a. Applications for admission to college. Notwithstanding any other provision of this chapter to the contrary, no rule or regulation shall be adopted by the school authorities, school officers or board of education of a school district which limits the number of requests for the processing of college applications that may be submitted by the pupils in a secondary school under their or its jurisdiction. Nothing contained in this section shall prohibit school authorities, school officers or boards of education from establishing rules of procedure for the submission of such requests.

§ 210. Registrations. The regents may register domestic and foreign institutions in terms of New York standards, and fix the value of degrees, diplomas and certificates issued by institutions of other states or countries and presented for entrance to schools, colleges and the professions in this state.

§ 210-a. Admission requirements for graduate-level teacher and educational leader programs. Each institution registered by the department with graduate-level teacher and leader education programs shall adopt rigorous selection criteria geared to predicting a candidate's academic success in its program, including but not limited to, achievement of a cumulative grade point average of 3.0 or higher in the candidate's undergraduate program. Each program may exempt up to fifty percent of any incoming class of students from such selection criteria set forth in this section based on a student's demonstration of potential to positively contribute to the teaching profession or other extenuating circumstances pursuant to the regulations of the commissioner. A program shall report to the department the number of students admitted pursuant to such exemption and the selection criteria used for such exemptions.

§ 210-b. Graduate-level teacher and educational leadership program deregistration and suspension. 1. The department shall suspend a graduate program's authority to admit new students if for three consecutive academic years, fewer than fifty percent of its students who have satisfactorily completed the program pass each examination that they have taken that is required for certification and shall notify currently admitted and enrolled students of such suspension. The graduate program shall be permitted to continue operations for the length of time it would take all currently admitted and/or enrolled students, if they were to attend classes on a full-time basis, to complete the requirements for their degrees. If, at any time during such period, the commissioner determines that student and/or program performance has significantly improved, the commissioner may reinstate the program's ability to admit new students. If the commissioner does not affirmatively reinstate the program's authority to admit new students during such time period, the program shall be deregistered. For purposes of this subdivision, students who have satisfactorily completed the graduate program shall mean students who have met each educational requirement of the program, excluding any requirement that the student pass each required New York State teacher certification examination for a teaching certificate and/or school building leader examination for a

school building leader certificate in order to complete the program. Students satisfactorily meeting each educational requirement may include students who earn a degree or students who complete each educational requirement without earning a degree. When making such a determination, the department shall consider the performance on each certification examination of the cohort of students completing an examination not more than five years before the end of the academic year in which the program is completed or not later than the September thirtieth following the end of such academic year, where academic year is defined as July first through June thirtieth, and shall consider only the highest score of individuals taking a test more than once. When making such a determination the department may adjust its methodology for determining examination passage rates for one or more certification examinations to account for sample size and accuracy.

2. The institution may submit an appeal of a suspension of a graduate program's ability to admit students or deregistration pursuant to this section in a manner and timeframe as prescribed by the commissioner in regulations. However, a program that has had its ability to admit students suspended shall not admit new students while awaiting the commissioner's decision on any appeal. An institution with a deregistered program shall not admit any new students in such program while awaiting the commissioner's decision on its application for registration.

3. The department may also, as prescribed by the commissioner in regulations, conduct expedited suspension and registration reviews for graduate programs, pursuant to regulations of the commissioner.

§ 210-c. Interstate reciprocity agreement for post-secondary distance education programs.

INTERSTATE RECIPROCITY AGREEMENT FOR THE POST-SECONDARY DISTANCE EDUCATION PROGRAMS

Article I

Purpose, findings, and policy

The states party to an interstate agreement desire by common action to establish comparable standards for the offering of postsecondary distance-education courses and programs and to facilitate more offerings of distance education courses to the students in their state.

Article II
Definitions

As used in this section and any agreements and contracts made pursuant to it, unless the context clearly states otherwise:

(a)"Accredited" shall mean holding institutional accreditation by name as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education.

(b)"Approve" or "Approval" in the context of an institutional application to operate under the state authorization reciprocity agreement (SARA) means: a written statement by a home state that an institution meets the standards required by SARA and is eligible to operate under SARA.

(c)"Complaint" means: a formal assertion in writing that the terms of this agreement, or of laws, standards or regulations incorporated by this agreement, are being violated by a person, institution, state, agency or other organization or entity operating under the terms of this agreement.

(d) "Council" means: the National Council for SARA.

(e)"C-RAC guidelines" and other uses of "C-RAC" refers to the Interregional Guidelines for the Evaluation of Distance Education Programs (Online Learning) for best practices in postsecondary distance education adopted by the Council of Regional Accrediting Commissions (C-RAC).

(f) "Distance education" means, for purposes of an interstate reciprocity agreement under this section: instruction offered by any means where the student and faculty member are in separate physical locations. It includes, but is not limited to, online, interactive video or correspondence courses or programs. It does not include intrastate distance education activity.

(g) "Home state" means: a member state where the institution holds its legal domicile. To operate under SARA an institution must have a single home state.

(h) "Institution" means: a degree-granting postsecondary entity.

(i) "Legal domicile" of an institution for purposes of eligibility in an interstate agreement means the state in which the institution's principal campus holds its institutional accreditation and, if applicable, its federal Office of Postsecondary Education Identifier (OPEID) number. In the event that the OPEID number is assigned to a campus that is in a different state than the principal accredited campus, the SARA committees of the affected regional compacts shall determine which is the home state for purposes of SARA.

(j) "Member state" means: any state, district or territory that has joined SARA.

(k) "Physical presence" means: a measure by which a state defines the status of an educational institution's presence within the state. The distance education activities of an educational institution with a physical presence within the state are not covered under an interstate reciprocity agreement under this Act and instead must meet the requirements of the state.

(l) "Portal agency" means: the single agency designated by the state to serve as the interstate point of contact for questions, complaints and other communications related to the interstate compact and/or any regional compact.

(m) "Regional compact" means one of New England Board of Higher Education, Midwestern Higher Education Compact, Southern Regional Education Board or Western Interstate Commission for Higher Education, or another SARA interstate regional compact for the mid-Atlantic states.

(n) "State authorization reciprocity agreements" or "SARA" means: an agreement among member states, districts and U.S. territories that establishes comparable national standards for interstate offering of post-secondary distance-education courses and programs.

Article III

Interstate reciprocity agreements for postsecondary distance education

(a) The commissioner shall have the authority on behalf of New York to enter into SARA and/or any regional compacts on behalf of this state with one or more other states to provide for the reciprocity of postsecondary distance education and to carry out all activities necessary to carry out such function.

(b) Upon entrance into SARA and/or any regional compact, the

department shall:

(i) be designated as the portal agency and shall be responsible for the administrative and functional responsibilities of participation in SARA. The department shall not be responsible for all oversight activities of providers in the state, but shall be the portal for the state;

(ii) consider applications from degree-granting institutions on the same basis and either:

(A) approve any institutions that meet the standards of SARA, and agree to the process and commitments of SARA without differentiating by sector;

(B) disapprove any institution that does not meet the standards of SARA, or does not agree to the process and commitments of SARA; or

(C) may approve an institution applying for initial participation in SARA to participate on a provisional status in any of the following circumstances:

(I) the institution is on probationary status or the equivalent with its institutional accrediting body;

(II) the institution is using a letter of credit or is under a cash management agreement by the U.S. Department of Education;

(III) the institution is the subject of a publicly announced investigation by a government agency, and the investigation is related to the institution's academic quality, financial stability or student or consumer protection; or

(IV) the institution is the subject of a current investigation by its home state related to the institution's academic quality, financial stability or student or consumer protection.

(iii) prescribe state processes for consumer protection and complaints in regulations of the commissioner, as required by SARA;

(iv) operate under the processes, procedures and guidelines required by SARA, including the Interregional Guidelines for the Evaluation of Distance Education developed by the Council of Regional Accrediting Commissioners, if required by SARA;

(v) serve as the default forum for any complaint filed against an institution approved by the state to participate in the state authorization reciprocity agreement and the department shall be responsible for coordinating any such efforts and shall have the

authority to investigate and resolve complaints that originate outside of the state. All other state agencies and governing boards of such institutions shall assist as necessary in such investigations and report as needed to the department;

(vi) impose as a penalty refunds or other corrective action to resolve complaints involving residents of other states;

(vii) maintain written documentation of:

(A) all formal complaints received;

(B) complaint notifications provided to institutions and accrediting agencies;

(C) actions taken that are commensurate with the severity of violations; and

(D) complaint resolutions.

(viii) report complaints and concerns to the institutions about which the compliant is lodged, the home state portal agency responsible for the institution, and, if appropriate, any accrediting bodies; and

(ix) impose an annual fee on any institution participating in any interstate agreement, in an amount prescribed by the commissioner in regulations which shall be consistent with any fees required by the interstate agreement and any fees required for the state to administer SARA. Any institution that is removed from eligibility from SARA during the period of approval receives no fee refund; and

(x) report any information required by the National Council for SARA.

Article IV

Institutional eligibility for admission to SARA

An institution applying to operate pursuant to SARA under this section shall:

(a) have its principal campus or central administrative unit domiciled in a state that has joined SARA and be authorized to operate in that state. Only distance education content originating in the United States or a U.S. territory is eligible to be offered under the agreement;

(b) be a U.S. degree-granting institution that is accredited by an accrediting body recognized by the U.S. Secretary of Education;

(c) agree to be bound by any standards, processes and/or guidelines required by SARA, including the Interregional Guidelines for the Evaluation of Distance Education developed by the Council of Regional

Accrediting Commissioners, if required by SARA;

(d) agree to remain responsible for compliance with the requirements of SARA and applicable laws, regardless of whether the institution engages in operations under SARA itself, or through a third-party provider;

(e) agree to notify the education department of any negative changes to its accreditation status;

(f) agree to provide any data requested by the education department, to the extent permitted by applicable law, and assist the department in resolving any complaints arising from its students and to abide by decisions of the department, in order for the education department to effectively monitor any activities under the agreement;

(g) report any information required by SARA and/or this section.

Article V

Approved and accepted programs

Nothing in this section shall be construed to repeal or otherwise modify any law or regulation of this state relating to the approval of any other educational programs not covered by this section.

Article VI

Effect and withdrawal

1. This section shall become effective upon this state's execution of SARA and/or regional compact for distance education.

2. The duration of any regional compact and/or interstate agreement and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

§ 211. Review of regents learning standards. 1. The regents shall periodically review and evaluate the existing regents learning standards to determine if they should be strengthened, modified or combined so as to provide adequate opportunity for students to acquire the skills and knowledge they need to succeed in employment or postsecondary education and to function productively as civic participants upon graduation from high school. Such review and evaluation shall be conducted upon a

schedule adopted by the regents, provided that a review and evaluation of the English language arts standards shall be completed as soon as possible, but no later than the end of the two thousand seven--two thousand eight school year.

2. In conducting such reviews, the regents shall seek the recommendations of teachers, school administrators, teacher educators and others with educational expertise on improvements to the standards so that they ensure that students are prepared, in appropriate progression, for post-secondary education or employment.

§ 211-a. Enhanced state accountability system. To more fully implement the requirements of section one thousand one hundred eleven of the elementary and secondary education act of nineteen hundred sixty-five, as amended, and the federal regulations implementing such statute, the regents shall develop and implement an enhanced state accountability system that uses growth measures to the extent required by this section.

1. By the start of the two thousand eight--two thousand nine school year, the regents shall establish, using existing state assessments, an interim, modified accountability system for schools and districts that is based on a growth model, subject to approval of the United States department of education where required under federal law.

2. The regents shall proceed with the development of an enhanced accountability system, with revised or new state assessments, based on an enhanced growth model that, to the extent feasible and consistent with federal law, includes a value-added assessment model that employs a scale-score approach to measure growth of students at all levels. (a) If the regents establish that the assessment scaling and accountability methodology employed have been determined by external experts in educational testing and measurement to be valid and reliable and in accordance with established standards for educational and psychological testing, and (b) the approval of the United States department of education has been obtained where required by federal law, the enhanced growth model shall be implemented no later than the start of the two

thousand ten--two thousand eleven school year.

3. In implementing the provisions of subdivisions one and two of this section, the regents shall by July first, two thousand eight, establish targets for improvement of schools and school districts based upon performance on state assessments, graduation rates, and other indicators of progress, such as student retention rates and college attendance and completion rates.

4. As used in this chapter, the following words shall have the following meanings:

a. "Growth model" shall mean the assessment of a cohort of students, or individual students, over time that measures the academic progress made by those students.

b. "Value added assessment model" shall mean a form of growth model that includes an evaluation of the specific effects of programs, and other relevant factors, on the academic progress of individual students over time.

§ 211-b. Consequences for consistent lack of improvement in academic performance. In addition to taking appropriate action pursuant to the regulations of the commissioner and the requirements of federal law, the following actions shall be taken to increase school and district accountability for academic performance:

1. The regents shall expand the scope and improve the effectiveness of the schools under registration review (SURR) process in the two thousand seven--two thousand eight school year and thereafter, so as to ensure that all schools that meet the criteria for identification as SURR shall be so identified. The goal of such expansion shall be to identify as SURR up to a total of five percent of the schools in the state within four years, and to reorganize or restructure schools so identified in cases where such action is appropriate.

2. The regents shall develop a plan for increased support and possible intervention in schools in improvement, corrective action, or restructuring status or in SURR status. Notwithstanding any provision of law to the contrary, the regents shall establish a two-step process as follows:

a. The appointment by the commissioner of a school quality review team to assist any school in school improvement, corrective action, restructuring status or SURR status in developing and implementing a school improvement, corrective action, restructuring, or comprehensive plan for the school. Such team may also conduct resource and program and planning audits and examine the quality of curriculum, instructional plans, and teaching in the schools, the learning opportunities and support services available to students, and the organization and operations of the school. After such review, the team shall provide diagnostic recommendations for school improvement, which may include administrative and operational improvements. The recommendation of such team shall be advisory. The reasonable and necessary expenses incurred in the performance of the team's official duties shall be a charge upon the school district, or charter school, where applicable, that operates the school.

b. The appointment by the commissioner of a joint school intervention team, for schools in (i) restructuring status or (ii) SURR status that have failed to demonstrate progress as specified in their corrective action plan or comprehensive education plan. Administrators and educators from the district or charter school where applicable must be included on the team, as well as any distinguished educator appointed to the district pursuant to section two hundred eleven-c of this part. Such team shall assist the school district in developing, reviewing and recommending plans for reorganizing or reconfiguring of such schools. The recommendations of such team should be advisory. The reasonable and necessary expenses incurred in the performance of the school intervention team's official duties shall be a charge upon the school district, or charter school where applicable, that operates the school.

3. A school district that has been identified as requiring academic

progress, as defined by 100.2(p)(7) of the commissioner's regulations, or includes one or more schools under registration review, in need of improvement, in corrective action or restructuring status shall be required to submit a district improvement plan to the commissioner for approval. In formulating the district improvement plan, the district shall consider redirecting resources to programs and activities included in the menu of options under subdivision three of section two hundred eleven-d of this part in the schools so identified. If such options are not adopted in the district improvement plan, the school district shall provide the commissioner with an explanation of such decision which shall be considered by the commissioner in determining whether to approve such plan. The trustees or board of education shall hold a public hearing before adoption of the district improvement plan and a transcript of the testimony at such hearing shall be submitted to the commissioner for review with the district improvement plan.

4. The commissioner shall develop a plan for intervention in schools under restructuring or SURR status that fail to demonstrate progress on established performance measures and may be targeted for closure. Such plan shall specify criteria for school closure and include processes to be followed, research based options, and alternatives and strategies to reorganizing, restructuring or reconfiguring schools. Such plan shall be developed with input from educators including, but not limited to, administrators, teachers and individuals identified as distinguished educators pursuant to section two hundred eleven-c of this part.

5. (a) The regents shall ensure that all school districts include in any contract of employment, entered into, amended, or extended with a superintendent of schools, community superintendent or deputy, assistant, associate or other superintendent of schools who has been or will be appointed for a fixed term, a provision requiring that such contract specify that the superintendent shall be required to cooperate fully with any distinguished educator appointed by the commissioner pursuant to section two hundred eleven-c of this part.

(b) In the case of a superintendent of schools, community superintendent or deputy, assistant, associate or other superintendent of schools who is not appointed for a fixed term, the contract

provisions contained in paragraph (a) of this subdivision shall be deemed to apply to such superintendent immediately.

(c) In the case of a charter school, the contract of employment of the principal or headmaster or other chief school officer of the charter school that is entered into, amended or extended shall also be required to include the provisions contained in paragraph (a) of this subdivision. In addition, such contract provisions shall be deemed to apply immediately to any such person not appointed for a fixed term.

§ 211-c. Distinguished educators. The regents shall establish a distinguished educator program that recognizes educational leaders who have agreed to assist in improving the performance of low performing school districts.

1. Building principals, superintendents of schools and teachers including retirees and current employees of school districts, under whose leadership schools have demonstrated consistent growth in academic performance and other individuals who have demonstrated educational expertise, including superior performance in the classroom, shall be eligible for designation by the regents as distinguished educators. Provided, however, individuals employed by for-profit entities shall not be eligible for such recognition.

2. From the pool of distinguished educators designated by the regents pursuant to subdivision one of this section, the commissioner shall appoint distinguished educators who have expressed their willingness to assist low performing districts in improving their academic performance. To the extent practicable, the commissioner shall appoint distinguished educators to assist districts with comparable demographics to the schools or districts that are or were under such educator's leadership.

3. The commissioner may appoint a distinguished educator to a school district;

a. when such district or a school within such district has failed to achieve adequate yearly progress for four or more years;

b. as a member of a joint school intervention team pursuant to paragraph b of subdivision two of section two hundred eleven-b of this part.

4. The school district to which a distinguished educator is appointed shall cooperate fully with an appointed distinguished educator.

5. An appointed distinguished educator shall assess the learning environment of schools in the district, review or provide assistance in the development and implementation of any district improvement plan and/or any corrective action, restructuring, or comprehensive plan of any school within the district to which the distinguished educator is assigned. Such distinguished educator shall either endorse without change or make recommendations for modifications to any such plan to the board of education, trustees, or chancellor, in a school district in a city of one million or more inhabitants, and the commissioner. Upon receipt of any recommendations for modification, the board of education, trustees, or chancellor shall either modify the plans accordingly or provide a written explanation to the commissioner of its reasons for not adopting such recommendations. The commissioner shall direct the district to modify the plans as recommended by the distinguished educator unless the commissioner finds that the written explanation provided by the district has compelling merit.

6. Appointed distinguished educators shall be deemed ex-officio, non-voting members of the board of education or trustees. In a school district in a city of one million or more inhabitants, any such distinguished educator shall be deemed an ex-officio, non-voting member of the community district education council or the city board, as applicable.

7. The reasonable and necessary expenses incurred by the appointed distinguished educators while performing their official duties shall be paid by the school district.

8. If an appointed distinguished educator is employed by a school

district or charter school, it shall be the duty of the board of education or trustees of such school district, the chancellor of a city school district in a city of one million or more inhabitants, or the board of trustees of such charter school to facilitate the efforts of any such appointed distinguished educators in their employ by granting reasonable leave requests and otherwise accommodating their efforts, to the extent such efforts do not substantially interfere with the educator's performance of his or her regular duties.

§ 211-d. Contract for excellence. 1. a. Every school district that, as of April first of the base year, has at least one school identified as in corrective action or restructuring status or as a school requiring academic progress: year two or above or as a school in need of improvement: year two shall be required to prepare a contract for excellence if the school district is estimated to receive an increase in total foundation aid for the current year compared to the base year in an amount that equals or exceeds either fifteen million dollars or ten percent of the amount received in the base year, whichever is less, or receives a supplemental educational improvement plan grant. In school year two thousand seven--two thousand eight such increase shall be the amount of the difference between total foundation aid received for the current year and the total foundation aid base, as defined in paragraph j of subdivision one of section thirty-six hundred two of this chapter.

b. In addition to the school districts required to prepare a contract for excellence under paragraph a of this subdivision, every school district that filed a contract for excellence in the base year shall file a contract for excellence in the current year if such district is estimated to receive a two-year increase, equal to the positive difference of the total foundation aid apportioned for the current year less the total foundation aid base, as defined in paragraph j of subdivision one of section thirty-six hundred two of this chapter, for the base year, in an amount that equals or exceeds either twenty-seven million five hundred thousand dollars or twenty percent of such total foundation aid base for the base year; provided however, that this requirement shall apply only to a school district that, as of April

first of the base year, has at least one school that has been identified as in corrective action or restructuring status or as a school requiring academic progress: year two or above or as a school in need of improvement: year two.

c. In a city school district located in a city of one million or more inhabitants, a contract for excellence shall be prepared for the city school district and each community district that meets criteria specified in this subdivision.

d. All computations pursuant to paragraphs a and b of this subdivision and subdivision two of this section shall be based upon data included in the computerized school aid run produced by the commissioner in support of the enacted state budget which established the foundation aid formulas for the current year. For purposes of this section, accountability status of schools shall be determined as of April first of the base year, except that if the commissioner determines that the accountability data on file for a school as of April first of the base year was in error and officially adjusts the accountability status of the school after such date, such adjusted data shall be used for the purposes of paragraphs a and b of this subdivision and subdivision two of this section.

e. Notwithstanding paragraphs a and b of this subdivision, a school district that submitted a contract for excellence for the two thousand eight--two thousand nine school year shall submit a contract for excellence for the two thousand nine--two thousand ten school year in conformity with the requirements of subparagraph (vi) of paragraph a of subdivision two of this section unless all schools in the district are identified as in good standing and provided further that, a school district that submitted a contract for excellence for the two thousand nine--two thousand ten school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eleven--two thousand twelve school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the product of the

amount approved by the commissioner in the contract for excellence for the two thousand nine--two thousand ten school year, multiplied by the district's gap elimination adjustment percentage and provided further that, a school district that submitted a contract for excellence for the two thousand eleven--two thousand twelve school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twelve--two thousand thirteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand eleven--two thousand twelve school year and provided further that, a school district that submitted a contract for excellence for the two thousand twelve--two thousand thirteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand thirteen--two thousand fourteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twelve--two thousand thirteen school year and provided further that, a school district that submitted a contract for excellence for the two thousand thirteen--two thousand fourteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand fourteen--two thousand fifteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand thirteen--two thousand fourteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand fourteen--two thousand fifteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand fifteen--two thousand sixteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section,

provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand fourteen--two thousand fifteen school year; and provided further that a school district that submitted a contract for excellence for the two thousand fifteen--two thousand sixteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand sixteen--two thousand seventeen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand fifteen--two thousand sixteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand sixteen--two thousand seventeen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand seventeen--two thousand eighteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand sixteen--two thousand seventeen school year; and provided further that a school district that submitted a contract for excellence for the two thousand seventeen--two thousand eighteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eighteen--two thousand nineteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand seventeen--two thousand eighteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand eighteen--two thousand nineteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand nineteen--two thousand twenty school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two

of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand eighteen--two thousand nineteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand nineteen--two thousand twenty school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty--two thousand twenty-one school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand nineteen--two thousand twenty school year; and provided further that, a school district that submitted a contract for excellence for the two thousand twenty--two thousand twenty-one school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-one--two thousand twenty-two school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty--two thousand twenty-one school year; and provided further that, a school district that submitted a contract for excellence for the two thousand twenty-one--two thousand twenty-two school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-two--two thousand twenty-three school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty-one--two thousand twenty-two school year; and provided further that, a school district that submitted a contract for excellence for the two thousand twenty-two--two thousand twenty-three school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-three--two thousand twenty-four school year which shall, notwithstanding the

requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty-two--two thousand twenty-three school year; and provided further that, a school district that submitted a contract for excellence for the two thousand twenty-three--two thousand twenty-four school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-four--two thousand twenty-five school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty-three--two thousand twenty-four school year; and provided further that a school district that submitted a contract for excellence for the two thousand twenty-four--two thousand twenty-five school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-five--two thousand twenty-six school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty-four--two thousand twenty-five school year; and provided further that a school district that submitted a contract for excellence for the two thousand twenty-five--two thousand twenty-six school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-six--two thousand twenty-seven school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty-five--two thousand twenty-six school year; provided, however, that, in a city school district in a city having a population of one million or more, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, the contract for

excellence shall provide for the expenditure as set forth in subparagraph (v) of paragraph a of subdivision two of this section. For purposes of this paragraph, the "gap elimination adjustment percentage" shall be calculated as the sum of one minus the quotient of the sum of the school district's net gap elimination adjustment for two thousand ten--two thousand eleven computed pursuant to chapter fifty-three of the laws of two thousand ten, making appropriations for the support of government, plus the school district's gap elimination adjustment for two thousand eleven--two thousand twelve as computed pursuant to chapter fifty-three of the laws of two thousand eleven, making appropriations for the support of the local assistance budget, including support for general support for public schools, divided by the total aid for adjustment computed pursuant to chapter fifty-three of the laws of two thousand eleven, making appropriations for the local assistance budget, including support for general support for public schools. Provided, further, that such amount shall be expended to support and maintain allowable programs and activities approved in the two thousand nine--two thousand ten school year or to support new or expanded allowable programs and activities in the current year.

2. a. (i) In a common, union free, central, central high school, or a city school district in a city having less than one hundred twenty-five thousand inhabitants, required to prepare a contract for excellence pursuant to subdivision one of this section and, as of April first of the base year, does not contain any schools identified as in corrective action or restructuring status or requiring academic progress: year three or above, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred four percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to fifty percent of additional funding received in the current year may be used to maintain investments in programs and activities listed in paragraph a of subdivision three of this section.

(ii) In a common, union free, central, central high school, or a city school district in a city having less than one hundred twenty-five thousand inhabitants, required to prepare a contract for excellence pursuant to subdivision one of this section and, as of April first of the base year, has at least one school identified as in corrective action or restructuring status or requiring academic progress: year three or above, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred four percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to thirty-five percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(iii) In a city school district in a city having a population of one hundred twenty-five thousand or more inhabitants but less than one million inhabitants that either receives a supplemental educational improvement plan grant or is required to submit a contract for excellence based solely upon the criteria specified in paragraph b of subdivision one of this section, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, and as supplemental educational improvement plan grants, in excess of one hundred four percent of such aid apportioned to the district in the base year, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or redesign or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to fifty percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(iv) In a city school district in a city having a population of one hundred twenty-five thousand or more inhabitants but less than one million inhabitants that satisfies the criteria specified in paragraph a

of subdivision one of this section and does not receive a supplemental educational improvement plan grant, each contract for excellence shall describe how the sum of the amounts apportioned to the school district in the current year as total foundation aid, in excess of one hundred three percent of the district's foundation aid base, as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year, shall be used to support new programs and new activities or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to twenty-five percent of additional funding received in the current year may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(v) In a city school district in a city having a population of one million or more inhabitants, each contract for excellence shall describe how the amounts apportioned to the school district in the current year as total foundation aid and academic achievement grants, in excess of one hundred three percent of the district's foundation aid base, shall be used to support new programs and new activities or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to thirty million dollars or twenty-five percent of additional funding received in the current year, whichever is less, may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

(vi) Each contract for excellence for a school district that was required to prepare a contract for excellence in the base year shall provide for the expenditure of an amount equivalent to the total budgeted amount approved by the commissioner in the district's approved contract for excellence for the base year; provided that such amount shall be expended to support and maintain allowable programs and activities approved in the base year or to support new or expanded allowable programs and activities in the current year.

(vii) (A) Notwithstanding any other provision of this section to the contrary, a school district that submitted a contract for excellence for the two thousand seven--two thousand eight school year and the two thousand eight--two thousand nine school year and is required to submit a contract for excellence for the two thousand nine--two thousand ten school year but did not fully expend all of its two thousand seven--two

thousand eight foundation aid subject to the contract for excellence restrictions during the two thousand seven--two thousand eight school year may re-allocate and expend such unexpended funds during the two thousand eight--two thousand nine and two thousand nine--two thousand ten school years for allowable contract for excellence programs and activities as defined in subdivision three of this section in a manner prescribed by the commissioner. For purposes of determining maintenance of effort pursuant to subparagraph (vi) of this paragraph for the two thousand eight--two thousand nine school year, funds expended pursuant to this subparagraph shall be included in the total budgeted amount approved by the commissioner in the district's contract for excellence for the two thousand seven--two thousand eight school year; provided that such amount shall not be counted more than once in determining maintenance of effort for the two thousand nine--two thousand ten school year or thereafter.

(B) Notwithstanding any other provision of this section to the contrary, a school district that submitted a contract for excellence for the two thousand nine--two thousand ten school year but did not fully expend all of its two thousand nine--two thousand ten foundation aid subject to the contract for excellence restrictions during the two thousand nine--two thousand ten school year may re-allocate and expend such unexpended funds during the two thousand eleven--two thousand twelve school year for allowable contract for excellence programs and activities as defined in subdivision three of this section in a manner prescribed by the commissioner; provided that such amount shall not be counted more than once in determining any maintenance of effort pursuant to this section.

b. (i) The contract shall specify the new or expanded programs for which additional amounts of such total foundation aid or grant shall be used and shall affirm that such programs shall predominately benefit students with the greatest educational needs including, but not limited to, those students with limited English proficiency, students in poverty and students with disabilities.

(ii) (A) In a city school district in a city having a population of one million or more inhabitants such contract shall also include a plan, which shall be developed in collaboration with the collective bargaining

units representing teachers and the principals beginning in September two thousand twenty-two and signed off on by the chancellor and the presidents of each bargaining unit, to reduce actual class sizes, beginning September two thousand twenty-three and to be achieved by September two thousand thirty for all classes, with the exception of physical education and performing groups, as follows: (1) kindergarten-third grade to have no more than twenty students per class; (2) fourth-eighth grade to have no more than twenty-three students per class; and (3) high school to have no more than twenty-five students per class. Physical education and performing groups shall have no more than forty students per class at all levels. For each of the first three years of the plan, an additional twenty percent of the classrooms in the city school district, excluding special education classes, shall be in compliance with the class size targets, and for each of the following four years, an additional ten percent of the classrooms in the city school district, excluding special education classes, shall be in compliance with the class size targets such that the city school district is in full compliance by two thousand thirty and all classes should maintain the target class size. The class size reduction plan shall prioritize schools serving populations with higher poverty levels.

(B) The class size reduction plan shall include any exemptions to the class size targets. These exemptions shall be limited to: (1) space; (2) over-enrolled students; (3) license area shortages; and (4) severe economic distress. Any such exemptions shall be approved by the chancellor and the presidents of the collective bargaining units representing the teachers and the principals as part of the class size reduction plan. Should the chancellor and the presidents of the collective bargaining units representing the teachers and the principals be unable to reach agreement on the exemptions after thirty days, the issue shall be determined by an arbitrator. In addition, any exemption based on available space shall include a reference to the capital budget to demonstrate that the budget is aligned with resolving the exemption status. Exempted classes, for the years in which they are exempt, and special education classes shall not count toward the applicable target percentage.

(C) The class size reduction plan shall also include the methods to be used to achieve the class size targets, such as the creation or

construction of more classrooms and school buildings, the placement of more than one teacher in a classroom or methods to otherwise reduce the student to teacher ratio, but only as a temporary measure until more classrooms are made available in conformance with the plan. For elective and specialty classes, the collective bargaining unit representing teachers may negotiate class sizes higher than the targets if such increase is approved by a majority of the staff in the school.

(iii) A city school district in a city having a population of one million or more inhabitants shall prepare annual reports, on the dates set forth below, to the commissioner on the status of the implementation of its plan to reduce actual class sizes pursuant to subparagraph (ii) of this paragraph. Such report shall be publicly released and posted on the city school district's website, identifying all schools that received funds targeted at class size reduction efforts pursuant to the requirements of this section and providing the following information regarding such schools:

(A) the amount of contract for excellence funds received by each school and the school year in which it received such funds;

(B) a detailed description of how contract for excellence funds contributed to achieving class size reduction in each school that received such funding including specific information on the number of classes in each school that existed prior to receiving contract for excellence funds and the number of new classes that were created in each school for each year such funding was received, the number of classroom teachers that existed in each school prior to receiving contract for excellence funds and the number of new classroom teachers in each school for each year such funding was received, the student to teacher ratio in each school prior to receiving contract for excellence funds and the student to teacher ratio in each school for each year such funding was received;

(C) the actual student enrollment for the current school year and the projected student enrollment for the upcoming school year for each school by grade level;

(D) the actual class sizes for the current school year, and the projected class sizes for the upcoming school year for each school by grade level;

(E) the annual capital plan for school construction and leasing to

show how many classrooms will be added in each year and in which schools and districts to achieve the class size targets;

(F) how the school capacity and utilization formula is aligned to the class size targets in the city school district's class size reduction plan; and

(G) the schools that have made insufficient progress toward achieving the class size reduction targets set forth in the approved class size reduction plan pursuant to subparagraph (ii) of this paragraph and a detailed description of the actions that will be taken to reduce class sizes in such schools.

The report shall be submitted to the commissioner on or before November fifteenth two thousand twenty-three and on or before November fifteenth of each year thereafter and made available to the public by such date on the city school district's website. If the department determines that the November fifteenth report does not demonstrate sufficient decreases in class size, the department shall issue a letter making that determination public on its website and the city school district shall immediately submit a plan for corrective action, which shall be developed in collaboration with the collective bargaining units representing the teachers and the principals and signed off on by the chancellor and the president of each collective bargaining unit. The city school district's corrective action plan shall also be made available to the public on the city school district's website upon submission to the department. The final corrective action plan shall be made available to the public upon approval by the department. The report shall also be certified by the state or city comptroller that the city school district's capital and education funding plans will provide sufficient space and staffing for the reduction in class size set forth in this paragraph and, if not, what measures and/or funding should be added to the plan to achieve such targets.

(iv) Provided the commissioner approves and the city school district remains in compliance with the class size reduction plan, as set forth herein, the state shall take such compliance into consideration when determining increases in foundation aid.

(v) In addition to the annual reports, the city school district shall submit a financial impact statement on November fifteenth, two thousand

twenty-five. The financial impact statement may recommend a pause of the class size reduction plan, but in no event may it result in a roll back or increase in class sizes.

c. The contract for excellence shall state, for all funding sources, whether federal, state or local, the instructional expenditures per pupil, the special education expenditures per pupil, and the total expenditures per pupil, projected for the current year and actually incurred in the base year.

3. a. The commissioner shall adopt regulations establishing allowable programs and activities intended to improve student achievement which shall be limited to: (i) class size reduction, (ii) programs that increase student time on task, including but not limited to, academic after-school programs, (iii) teacher and principal quality initiatives, (iv) middle school and high school re-structuring, (v) expansion or replication of effective model programs for students with limited English proficiency, and (vi) full-day kindergarten or prekindergarten. Provided, however, that districts may use up to fifteen percent of the additional funding they receive for experimental programs designed to demonstrate the efficacy of other strategies to improve student achievement consistent with the intent of this section and, in school year two thousand seven--two thousand eight, up to thirty million dollars or twenty-five percent of such additional funding, whichever is less, may be used to maintain investments in programs and activities listed in this subdivision. Any such district seeking to implement an experimental program shall first submit a plan to the commissioner setting forth the need for such experimental program and how such program will improve student performance.

b. The commissioner shall assist school districts that include in their contract for excellence the implementation of incentives, developed in collaboration with teachers in the collective bargaining process, for highly qualified and experienced teachers to work in low performing schools to ensure that such incentives are effective.

4. a. A district's contract for excellence for the academic year two

thousand eight--two thousand nine and thereafter, shall be developed through a public process, in consultation with parents or persons in parental relation, teachers, administrators, and any distinguished educator appointed pursuant to section two hundred eleven-c of this chapter.

b. Such process shall include at least one public hearing. In a city school district in a city of one million or more inhabitants, a public hearing shall be held within each county of such city. A transcript of the testimony presented at such public hearings shall be included when the contract for excellence is submitted to the commissioner, for review when making a determination pursuant to subdivision five of this section.

c. In a city school district in a city of one million or more inhabitants, each community district contract for excellence shall be consistent with the citywide contract for excellence and shall be submitted by the community superintendent to the community district education council for review and comment at a public meeting.

* d. For the two thousand seven--two thousand eight school year, school districts shall solicit public comment on their contracts for excellence.

* NB Effective until July 1, 2023

* d. In a city school district in a city of one million or more inhabitants, the public process set forth in paragraphs a through c of this subdivision shall commence no later than thirty days after a state budget is enacted each year and be completed no later than thirty days after its commencement. Notice of the public process shall be provided fifteen days prior to the commencement of the first public hearing and shall be posted on the city school district's website as well as transmitted via email to school administrators, parent and teacher organizations, and elected officials. The proposed plan shall be submitted for state approval within two weeks following the completion of the public process. The proposed plan shall be posted on the city school district's website within twenty-four hours of its submission along with a summary of the public comments and the city school district's explanation and reasons for which public comments were

incorporated into the proposed plan and which public comments were not incorporated into the proposed plan.

* NB Effective July 1, 2023

5. a. Each contract for excellence shall be subject to approval by the commissioner and his or her certification that the expenditure of additional aid or grant amounts is in accordance with subdivision two of this section.

b. In a city school district of one million or more inhabitants, upon approval of the contract for excellence, one-third of the contract for excellence funds shall be released to the city school district. The remainder of the funds shall be released to the city school district upon submission of the November fifteenth report described in subdivision two of this section, only if such report demonstrates sufficient reduction in class sizes, and the remainder of the funds shall be released upon submission by the city school district of the corrective action plan described in subdivision two of this section. In the years following a year which required a corrective action plan pursuant to subdivision two of this section, no contract for excellence funds shall be provided by the state until and unless such corrective action plan has been fully implemented.

6. (a) Increases in total foundation aid and supplemental educational improvement plan grants shall be used to supplement, and not supplant funds allocated by the district in the base year for all purposes set forth in subdivision three of this section. In a city of one million or more, the city school district will provide the collective bargaining unit for teachers with the list of budget codes in which funding provided under this section is utilized for a budget that would begin July first, two thousand twenty-five and after. Except in a city of one million or more, the school district audit report certified to the commissioner by an independent certified public accountant or an independent accountant pursuant to section twenty-one hundred sixteen-a of this chapter shall include a certification by such accountant in a form prescribed by the commissioner of compliance with the first sentence of this subdivision.

(b) Within ten days of adoption of a budget by the city of New York, an independent certified public accountant, or an independent accountant or the comptroller of such city shall certify in a form prescribed by the commissioner that (i) an audit by such office has confirmed that increases in total foundation aid and supplemental improvement grants in the base year were used to supplement, and not supplant funds allocated by the district in the previous year and (ii) in the adopted budget, increases in total foundation aid and supplemental improvement grants supplement, not supplant funds allocated by the district in the base year for such purposes.

Upon a determination that either (i) increases in total foundation aid and supplemental improvement grants in the base year were used to supplant funds allocated by the district, or (ii) increases in total foundation aid and supplemental improvement grants as appropriated will supplant funds allocated by the district in the base year, the district shall be ordered to restore funds in such amounts as to eliminate the violation.

7. The trustees or board of education of each school district subject to this section, or the chancellor in the case of a city school district in a city of one million or more inhabitants, shall assure that procedures are in place by which parents or persons in parental relation may bring complaints concerning implementation of the district's contract for excellence.

a. In a city school district in a city of one million or more inhabitants, such procedures shall provide that complaints may be filed with the building principal with an appeal to the community superintendent, or filed directly with the community superintendent, and that any appeal of the determination of a community superintendent shall be made to the chancellor.

b. In all other districts, such procedures shall either provide for the filing of complaints with the building principals with an appeal to the superintendent of schools or for filing of the complaint directly with the superintendent of schools, and shall provide for an appeal to

the trustees or board of education from the determination of the superintendent of schools.

c. The determination of the trustees or a board of education or the chancellor may be appealed to the commissioner pursuant to section three hundred ten of this title.

8. School districts subject to the provisions of this section shall publicly report the expenditure of total foundation aid in the form and manner prescribed by the commissioner which shall ensure full disclosure of the use of such funds.

9. The department shall develop a methodology for reporting school-based expenditures by all school districts subject to the provisions of this section.

§ 211-e. Educational partnership organizations. 1. The board of education of a school district, and the chancellor of the city school district of the city of New York, subject to the approval of the commissioner, shall be authorized to contract, for a term of up to five years, with an educational partnership organization pursuant to this section to intervene in a school designated by the commissioner as a persistently lowest-achieving school, consistent with federal requirements, or a school under registration review.

2. Notwithstanding any other provision of law, rule or regulation to the contrary, and except as otherwise provided in this section, such contract shall contain provisions authorizing the educational partnership organization to assume the powers and duties of the superintendent of schools for purposes of implementing the educational program of the school, including but not limited to, making recommendations to the board of education on budgetary decisions, staffing population decisions, student discipline decisions, decisions on curriculum and determining the daily schedule and school calendar, all of which recommendations shall be consistent with applicable collective bargaining agreements. Such contract shall include district

performance expectations and/or benchmarks for school operations and academic outcomes, and failure to meet such expectations or benchmarks may be grounds for termination of the contract prior to the expiration of its term. Such contract shall also address the manner in which students will be assigned to the school, the process for employees to transfer into the school, the services that the district will provide to the school, and the manner in which the school shall apply for and receive allocational and competitive grants.

3. The board of education shall retain the ultimate decision-making authority over the hiring, evaluating, termination, disciplining, granting of tenure, assignment of employees serving in the school as well as with respect to staff development for those employees, together with authority concerning all other terms and conditions of employment, all of which decisions shall be made in a manner consistent with applicable collective bargaining agreements. However, notwithstanding any law, rule or regulation to the contrary, upon the effective date of the contract, the educational partnership organization shall be authorized to exercise all powers of a superintendent of schools with respect to such employment decisions, including but not limited to making recommendations, as applicable, to the board of education in connection with and prior to the board of education making decisions regarding staff assignments, the hiring, the granting of tenure, the evaluating, the disciplining and termination of employees, as well as concerning staff development. The employees assigned to the school shall solely be in the employ of the school district and shall retain their tenure rights and all other employment rights conferred by law, and service in the school shall constitute service to the school district for all purposes, including but not limited to, the requirements for criminal history record checks and participation in public retirement systems. Notwithstanding any other provision of law to the contrary, for purposes of article fourteen of the civil service law, employees in the school shall be public employees of the school district as defined in subdivision seven of section two hundred one of the civil service law and shall not be deemed employees of the educational partnership organization by reason of the powers granted to the educational partnership organization by this section. All such employees shall be

members of the applicable negotiating unit containing like titles or positions for the public school district in which such school is located, and shall be covered by the collective bargaining agreement covering that public school district's negotiating unit, except that the duly recognized or certified collective bargaining representative for that negotiating unit may modify or supplement, in writing, the collective bargaining agreement in consultation with the employees of the negotiating unit working in the school. All such modifications of, or supplements to the collective bargaining agreement are subject to ratification by the employees employed within the school and by the board of education of the public school district, consistent with article fourteen of the civil service law. Upon the effective date of the school district's contract with the educational partnership organization, the educational partnership organization shall be empowered to make recommendations to the board of education with respect to the scope of, and process for making modifications and additions to the collective bargaining agreement.

4. Where a recommendation is made by the educational partnership organization to the board of education pursuant to subdivision two or three of this section, and such recommendation is denied, the board of education shall state its reasons for the denial, which shall include an explanation of how such denial will promote improvement of student achievement in the school and how such action is consistent with all accountability plans approved by the commissioner for the school and the school district. Nothing in this subdivision shall be construed to prevent a board of education from denying a recommendation of the educational partnership organization based upon the board of education's determination that carrying out such recommendation would result in a violation of law or violation of the terms of an applicable collective bargaining agreement. If the board of education rejects a recommendation of the educational partnership organization to terminate a probationary employee assigned to the school or to deny tenure to an employee assigned to the school, it shall be the duty of the board of education to transfer such employee to another position in the school district within such employee's tenure area for which the employee is qualified, or to create such a position.

5. For purposes of this section the following terms shall have the following meanings:

(i) "educational partnership organization" means a board of cooperative educational services, a public or independent, non-profit institution of higher education, a cultural institution, or a private, non-profit organization with a proven record of success in intervening in low-performing schools, as determined by the commissioner, provided that such term shall not include a charter school;

(ii) "board of education" means the trustees or board of education of a school district, or, in the case of a city school district of a city having a population of one million or more, the chancellor of such city district;

(iii) "school district" means a common, union free, central, central high school or city school district, other than a special act school district as defined in section four thousand one of this chapter.

(iv) "superintendent of schools" means the superintendent of schools of a school district, and, in the case of a city school district of a city having a population of one million or more, a community superintendent and the chancellor of such city district when acting in the role of a superintendent of schools.

§ 211-f. Takeover and restructuring failing schools. 1. Eligibility for appointment of an external receiver. (a) Failing schools. The commissioner shall designate as failing each of the schools that has been identified under the state's accountability system to be among the lowest achieving five percent of public schools in the state (priority schools) for at least three consecutive school years, or identified as a "priority school" in each applicable year of such period except one school year in which the school was not identified because of an approved closure plan that was not implemented, based upon measures of student achievement and outcomes and a methodology prescribed in the regulations of the commissioner, provided that this list shall not include schools within a special act school district as defined in subdivision eight of section four thousand one of this chapter or schools chartered pursuant to article fifty-six of this chapter. Except

as otherwise provided in paragraph (c) of this subdivision, and pursuant to regulations promulgated by the commissioner, a school designated as failing under this paragraph shall be eligible for receivership under this section upon a determination by the commissioner.

(b) Persistently failing schools. Based upon measures of student achievement and outcomes and a methodology prescribed in the regulations of the commissioner, the commissioner shall designate as persistently failing each of the schools that have been identified under the state's accountability system to be among the lowest achieving public schools in the state for ten consecutive school years, based upon identification of the school by the commissioner as: a "priority school" for each applicable year from the two thousand twelve--two thousand thirteen school year to the current school year, or identified as a "priority school" in each applicable year of such period except one year in which the school was not identified because of an approved closure plan that was not implemented; and as a "School Requiring Academic Progress Year 5", "School Requiring Academic Progress Year 6", "School Requiring Academic Progress Year 7" and/or a "School in Restructuring," for each applicable year from the two thousand six--two thousand seven school year to the two thousand eleven--two thousand twelve school year. This designation shall not include schools within a special act school district as defined in subdivision eight of section four thousand one of this chapter or schools chartered pursuant to article fifty-six of this chapter.

(c) Specific provisions. (i) For schools designated as persistently failing pursuant to paragraph (b) of this subdivision, the local district shall continue to operate the school for an additional school year provided that there is a department-approved intervention model or comprehensive education plan in place that includes rigorous performance metrics and goals, including but not limited to measures of student academic achievement and outcomes including those set forth in subdivision six of this section. Notwithstanding any other provision of law, rule or regulation to the contrary, the superintendent shall be vested with all powers granted to a receiver appointed pursuant to this section for such time period; provided, however that such superintendent shall not be allowed to override any decision of the board of education with respect to his or her employment status. At the end of such year,

the department shall conduct a performance review in consultation and cooperation with the district and school staff to determine, based on the performance metrics in the school's model or plan, whether (1) the designation of persistently failing should be removed; (2) the school should remain under continued school district operation with the superintendent vested with the powers of a receiver; or (3) the school should be placed into receivership; provided, however, that a school that makes demonstrable improvement based on the performance metrics and goals herein shall remain under district operation for an additional school year and if such school remains under district operation, it shall continue to be subject to annual review by the department, in consultation and cooperation with the district, under the same terms and conditions.

(ii) For schools designated as failing, but not persistently failing, the local district shall continue to operate the school for two additional school years provided that there is a department-approved intervention model or comprehensive education plan in place that includes rigorous performance metrics and goals, including but not limited to measures of student academic achievement and outcomes including those set forth in subdivision six of this section. Notwithstanding any other provision of law, rule or regulation to the contrary, the superintendent shall be vested with all powers granted to a receiver appointed pursuant to this section; provided, however that such superintendent shall not be allowed to override any decision of the board of education with respect to his or her employment status. At the end of such two years, the department shall conduct a school performance review in consultation and cooperation with the district and school staff to determine, based on the performance metrics in the school's model or plan, whether (1) the designation of failing should be removed; (2) the school should remain under continued school district operation with the superintendent vested with the powers of a receiver; or (3) the school should be placed into receivership; provided, however, that a school that makes demonstrable improvement based on the performance metrics and goals herein shall remain under district operation for an additional school year and if such school remains under district operation, it shall continue to be subject to such annual review by the department under the same terms and conditions. For schools newly

designated as failing after the two thousand sixteen--two thousand seventeen school year, the school shall be immediately eligible for receivership upon such designation.

(iii) Nothing in this paragraph shall be construed to limit (1) a school district's ability to modify, subject to approval by the department, such department approved intervention model or comprehensive education plan, or (2) the commissioner's ability to require a school district to modify such department approved intervention model or comprehensive education plan and require his or her approval of such modifications.

(iv) The district shall provide notice to parents and guardians of the students of the school which may be placed into receivership pursuant to this subdivision and provided further that the district or the commissioner shall hold a public meeting or hearing for purposes of discussing the performance of the school and the construct of receivership.

1-a. Community engagement team. Upon designation as failing or persistently failing pursuant to subdivision one of this section, the district shall establish a community engagement team which shall include community stakeholders, including but not limited to the school principal, parents and guardians, teachers and other school staff and students. Membership of such team may be modified at any time. Such team shall develop recommendations for improvement of the school and shall solicit input through public engagement. The team shall present its recommendations periodically to the school leadership and, as applicable, the receiver.

2. Appointment of a receiver. (a) Upon a determination by the commissioner that a school shall be placed into receivership, the applicable school district shall appoint an independent receiver, subject to the approval of the commissioner, to manage and operate all aspects of the school and to develop and implement a school intervention plan for the school that shall consider the recommendations developed by the community engagement team when creating such plan. The independent receiver may be a non-profit entity, another school district, or an individual. If the school district fails to appoint an independent

receiver that meets with the commissioner's approval within sixty days of such determination, the commissioner shall appoint the receiver.

(b) The receiver shall be authorized to manage and operate the failing or persistently failing school and shall have the power to supersede any decision, policy or regulation of the superintendent of schools or chief school officer, or of the board of education or another school officer or the building principal that in the sole judgment of the receiver conflicts with the school intervention plan; provided however that the receiver may not supersede decisions that are not directly linked to the school intervention plan, including but not limited to building usage plans, co-location decisions and transportation of students. The receiver shall have authority to review proposed school district budgets prior to presentation to the district voters, or in the case of a city school district in a city having a population of one hundred twenty-five thousand or more, of the adoption of a contingency budget, prior to approval by the board of education, and to modify the proposed budget to conform to the school intervention plan provided that such modifications shall be limited in scope and effect to the failing or persistently failing school and may not unduly impact other schools in the district. A school under receivership shall operate in accordance with laws regulating other public schools, except as such provisions may conflict with this section.

(c) The commissioner shall contract with the receiver, and the compensation and other costs of the receiver appointed by the commissioner shall be paid from a state appropriation for such purpose, or by the school district, as determined by the commissioner, provided that costs shall be paid by the school district only if there is an open administrative staffing line available for the receiver, and the receiver will be taking on the responsibilities of such open line. Notwithstanding any other provision of law to the contrary, the receiver and any of its employees providing services in the receivership shall be entitled to defense and indemnification by the school district to the same extent as a school district employee. The receiver's contract may be terminated by the commissioner for a violation of law or the commissioner's regulations or for neglect of duty. A receiver appointed to operate a district under this section shall have full managerial and operational control over such school; provided, however, that the board

of education shall remain the employer of record, and provided further that any employment decisions of the board of education may be superseded by the receiver. It shall be the duty of the board of education and the superintendent of schools to fully cooperate with the receiver and willful failure to cooperate or interference with the functions of the receiver shall constitute willful neglect of duty for purposes of section three hundred six of this title. The receiver or the receiver's designee shall be an ex officio non-voting member of the board of education entitled to attend all meetings of the board of education.

3. Before developing the school intervention plan, the receiver shall consult with local stakeholders such as: (a) the board of education; (b) the superintendent of schools; (c) the building principal; (d) teachers assigned to the school and their collective bargaining representative; (e) school administrators assigned to the school and their collective bargaining representative; (f) parents and guardians of students attending the school or their representatives; (g) representatives of applicable state and local social service, health and mental health agencies; (h) as appropriate, representatives of local career education providers, state and local workforce development agencies and the local business community; (i) for elementary schools, representatives of local prekindergarten programs; (j) students attending the school as appropriate; (k) as needed for middle schools, junior high schools, central schools or high schools, representatives of local higher education institutions; and (l) the school stakeholder team set forth in subdivision one-a of this section.

4. In creating the school intervention plan, the receiver shall (i) consider the recommendations developed by the community engagement team set forth in subdivision one-a of this section; (ii) include provisions intended to maximize the rapid academic achievement of students at the school; and (iii) ensure that the plan addresses school leadership and capacity, school leader practices and decisions, curriculum development and support, teacher practices and decisions, student social and emotional developmental health, and family and community engagement. The receiver shall, to the extent practicable, base the plan on the findings

of any recent diagnostic review or assessment of the school that has been conducted and, as applied to the school, student outcome data including, but not limited to: (a) student achievement growth data based on state measures; (b) other measures of student achievement; (c) student promotion and graduation rates; (d) achievement and growth data for the subgroups of students used in the state's accountability system; (e) student attendance; and (f) long-term and short-term suspension rates.

5. (a) The receiver shall include the following in the school intervention plan: (i) measures to address social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn; provided that this may include mental health and substance abuse screening; (ii) measures to improve or expand access to child welfare services and, as appropriate, services in the school community to promote a safe and secure learning environment; (iii) as applicable, measures to provide greater access to career and technical education and workforce development services provided to students in the school and their families in order to provide students and families with meaningful employment skills and opportunities; (iv) measures to address achievement gaps for English language learners, students with disabilities and economically disadvantaged students, as applicable; (v) measures to address school climate and positive behavior support, including mentoring and other youth development programs; and (vi) a budget for the school intervention plan.

(b) As necessary, the commissioner and the commissioners of the department of health, the office of children and family services, the department of labor and other applicable state and local social service, health, mental health and child welfare officials shall coordinate regarding the implementation of the measures described in subparagraphs (i) through (iii) of paragraph (a) of this subdivision that are included in the school intervention plan and shall, subject to appropriation, reasonably support such implementation consistent with the requirements of state and federal law applicable to the relevant programs that each such official is responsible for administering, and grant failing schools priority in competitive grants, as allowable before and during

the period of receivership.

6. In order to assess the school across multiple measures of school performance and student success, the school intervention plan shall include measurable annual goals including, but not limited to, the following: (a) student attendance; (b) student discipline including but not limited to short-term and long-term suspension rates; (c) student safety; (d) student promotion and graduation and drop-out rates; (e) student achievement and growth on state measures; (f) progress in areas of academic underperformance; (g) progress among the subgroups of students used in the state's accountability system; (h) reduction of achievement gaps among specific groups of students; (i) development of college and career readiness, including at the elementary and middle school levels; (j) parent and family engagement; (k) building a culture of academic success among students; (l) building a culture of student support and success among faculty and staff; (m) using developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable, that are tailored to the needs of the school; and (n) measures of student learning.

7. (a) Notwithstanding any general or special law to the contrary, in creating and implementing the school intervention plan, the receiver shall, after consulting with stakeholders and the community engagement team, convert schools to community schools to provide expanded health, mental health and other services to the students and their families. In addition, the receiver may: (i) review and if necessary expand, alter or replace the curriculum and program offerings of the school, including the implementation of research-based early literacy programs, early interventions for struggling readers and the teaching of advanced placement courses or other rigorous nationally or internationally recognized courses, if the school does not already have such programs or courses; (ii) replace teachers and administrators, including school leadership who are not appropriately certified or licensed; (iii) increase salaries of current or prospective teachers and administrators to attract and retain high-performing teachers and administrators; (iv) establish steps to improve hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and

organizational structure; (v) reallocate the uses of the existing budget of the school; (vi) expand the school day or school year or both of the school; (vii) for a school that offers the first grade, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; (viii) in accordance with paragraphs (b) and (c) of this subdivision, to abolish the positions of all members of the teaching and administrative and supervisory staff assigned to the failing or persistently failing school and terminate the employment of any building principal assigned to such a school, and require such staff members to reapply for their positions in the school if they so choose; (ix) include a provision of a job-embedded professional development for teachers at the school, with an emphasis on strategies that involve teacher input and feedback; (x) establish a plan for professional development for administrators at the school, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; and/or (xi) order the conversion of a school in receivership that has been designated as failing or persistently failing pursuant to this section into a charter school, provided that such conversion shall be subject to article fifty-six of this chapter and provided further that such charter conversion school shall operate pursuant to such article and provided further that such charter conversion school shall operate consistent with a community schools model and provided further that such conversion charter school shall be subject to the provisions in subdivisions three, four, five, six, nine, ten, eleven, twelve and thirteen of this section.

(b) Notwithstanding any other provision of law, rule or regulation to the contrary, upon designation of any school of the school district as a failing or persistently failing school pursuant to this section, the abolition of positions of members of the teaching and administrative and supervisory staff of the school shall thereafter be governed by the applicable provisions of section twenty-five hundred ten, twenty-five hundred eighty-five, twenty-five hundred eighty-eight or three thousand thirteen of this chapter as modified by this paragraph. A classroom teacher or building principal who has received two or more composite ratings of ineffective on an annual professional performance review shall be deemed not to have rendered faithful and competent service within the meaning of section twenty-five hundred ten, twenty-five

hundred eighty-five, twenty-five hundred eighty-eight or three thousand thirteen of this chapter. When a position of a classroom teacher or building principal is abolished, the services of the teacher or administrator or supervisor within the tenure area of the position with the lowest rating on the most recent annual professional performance review shall be discontinued, provided that seniority within the tenure area of the position shall be used solely to determine which position should be discontinued in the event of a tie.

(c) The receiver may abolish the positions of all teachers and pedagogical support staff, administrators and pupil personnel service providers assigned to a school designated as failing or persistently failing pursuant to this section and require such staff members to reapply for new positions if they so choose. The receiver shall define new positions for the school aligned with the school intervention plan, including selection criteria and expected duties and responsibilities for each position. For administrators and pupil personnel service providers, the receiver shall have full discretion over all such rehiring decisions. For teachers and pedagogical support staff, the receiver shall convene a staffing committee including the receiver, two appointees of the receiver and two appointees selected by the school staff or their collective bargaining unit. The staffing committee will determine whether former school staff reapplying for positions are qualified for the new positions. The receiver shall have full discretion regarding hiring decisions but must fill at least fifty percent of the newly defined positions with the most senior former school staff who are determined by the staffing committee to be qualified. Any remaining vacancies shall be filled by the receiver in consultation with the staffing committee. Notwithstanding any other provision of law to the contrary, a member of the teaching and pedagogical support, administrative, or pupil personnel service staff who is not rehired pursuant to this paragraph shall not have any right to bump or displace any other person employed by the district, but shall be placed on a preferred eligibility list in accordance with the applicable provisions of section twenty-five hundred ten, twenty-five hundred eighty-five, twenty-five hundred eighty-eight or three thousand thirteen of this chapter. Teachers rehired pursuant to this paragraph shall maintain their prior status as tenured or probationary, and a probationary

teacher's probation period shall not be changed.

(d) For a school with English language learners, the professional development and planning time for teachers and administrators identified in clauses (vi) and (vii) of the closing paragraph of paragraph (a) of this subdivision, shall include specific strategies and content designed to maximize the rapid academic achievement of the English language learners.

8. (a) In order to maximize the rapid achievement of students at the applicable school, the receiver may request that the collective bargaining unit or units representing teachers and administrators and the receiver, on behalf of the board of education, negotiate a receivership agreement that modifies the applicable collective bargaining agreement or agreements with respect to any failing schools in receivership applicable during the period of receivership. The receivership agreement may address the following subjects: the length of the school day; the length of the school year; professional development for teachers and administrators; class size; and changes to the programs, assignments, and teaching conditions in the school in receivership. The receivership agreement shall not provide for any reduction in compensation unless there shall also be a proportionate reduction in hours and shall provide for a proportionate increase in compensation where the length of the school day or school year is extended. The receivership agreement shall not alter the remaining terms of the existing/underlying collective bargaining agreement which shall remain in effect.

(b) The bargaining shall be conducted between the receiver and the collective bargaining unit in good faith and completed not later than thirty days from the point at which the receiver requested that the bargaining commence. The agreement shall be subject to ratification within ten business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within thirty days or if the agreement is not ratified within ten business days by the bargaining unit members of the school, the parties shall submit any remaining unresolved issues to the commissioner who shall resolve any unresolved issues within five days, in accordance with standard collective bargaining principles.

(c) For purposes only for schools designated as failing pursuant to subparagraph (ii) of paragraph (c) of subdivision one of this section, bargaining shall be conducted between the receiver and the collective bargaining unit in good faith and completed not later than thirty days from the point at which the receiver requested that the bargaining commence. The agreement shall be subject to ratification within ten business days by the bargaining unit members of the school. If the parties are unable to reach an agreement within thirty days or if the agreement is not ratified within ten business days by the bargaining unit members of the school, a conciliator shall be selected through the American Arbitration Association, who shall forthwith forward to the parties a list of three conciliators, each of whom shall have professional experience in elementary and secondary education, from which the parties may agree upon a single conciliator provided, however, that if the parties cannot select a conciliator from among the three within three business days, the American Arbitration Association shall select a conciliator from the list of names within one business day, and the conciliator shall resolve all outstanding issues within five days. After such five days, if any unresolved issues remain, the parties shall submit such issues to the commissioner who shall resolve such issues within five days, in accordance with standard collective bargaining principles.

9. A final school intervention plan shall be submitted to the commissioner for approval and, upon approval, shall be issued by the receiver within six months of the receiver's appointment. A copy of such plan shall be provided to the board of education, the superintendent of schools and the collective bargaining representatives of teachers and administrators of the school district. The plan shall be publicly available and shall be posted on the department's website and the school district's website, and the school district shall provide notice to parents of such school intervention plan and its availability.

10. Each school intervention plan shall be authorized for a period of not more than three years. The receiver may develop additional components of the plan and shall develop annual goals for each component of the plan in a manner consistent with this section, all of which must

be approved by the commissioner. The receiver shall be responsible for meeting the goals of the school intervention plan.

11. The receiver shall provide a written report to the board of education, the commissioner, and the board of regents on a quarterly basis to provide specific information about the progress being made on the implementation of the school intervention plan. One of the quarterly reports shall be the annual evaluation of the intervention plan under subdivision twelve of this section.

12. (a) The commissioner shall, in consultation and cooperation with the district and the school staff, evaluate each school with an appointed receiver at least annually. The purpose of the evaluation shall be to determine whether the school has met the annual goals in its school intervention plan and to assess the implementation of the plan at the school. The evaluation shall be in writing and shall be submitted to the superintendent and the board of education not later than September first for the preceding school year. The evaluation shall be submitted in a format determined by the commissioner.

(b) If the commissioner determines that the school has met the annual performance goals stated in the school intervention plan, the evaluation shall be considered sufficient and the implementation of the school intervention plan shall continue. If the commissioner determines that the school has not met one or more goals in the plan, the commissioner may require modification of the plan.

13. Upon the expiration of a school intervention plan for a school with an appointed receiver, the commissioner, in consultation and cooperation with the district, shall conduct an evaluation of the school to determine whether the school has improved sufficiently, requires further improvement or has failed to improve. On the basis of such review, the commissioner, in consultation and cooperation with the district, may: (a) renew the plan with the receiver for an additional period of not more than three years; (b) if the failing or persistently failing school remains failing and the terms of the plan have not been substantially met, terminate the contract with the receiver and appoint a new receiver; or (c) determine that the school has improved

sufficiently for the designation of failing or persistently failing to be removed.

14. Nothing in this section shall prohibit the commissioner or a local district from closing a school pursuant to the regulations of the commissioner.

15. The commissioner shall be authorized to adopt regulations to carry out the provisions of this section.

16. The commissioner shall report annually to the governor and the legislature on the implementation and fiscal impact of this section. The report shall include, but not be limited to, a list of all schools currently designated as failing or persistently failing and the strategies used in each of the schools to maximize the rapid academic achievement of students.

17. The commissioner shall provide any relevant data that is needed to implement and comply with the requirements of the chapter of the laws of two thousand fifteen which added this section to any school district that has a school or schools designated as failing or persistently failing pursuant to this section by August fifteenth of each year, to the fullest extent practicable. Provided that the commissioner shall provide guidance to districts and may establish a model intervention plan. And provided further, that the commissioner shall make available to the public any school intervention plan, or other department-approved intervention model or comprehensive education plan of a school or district provided that such measures are consistent with all federal and state privacy laws.

§ 212. Fees. The department shall charge the following fees: 1. For the issuance of a qualifying certificate for admission to a professional school as required by or pursuant to law, five dollars.

2. For admission to a special examination in English authorized or required by or pursuant to law as a pre-requisite to admission to a

professional school or to an examination for a license to engage in or practice a profession, ten dollars.

3. For other certifications or permits for which fees are not otherwise provided, fees as fixed by regulations of the department.

4. For the issuance of a replacement license, ten dollars.

5. For the replacement of a biennial registration certificate which has been lost or destroyed, or for the issuance of each registration certificate for more than one office, five dollars.

6. For a detailed certification of licensure record at the request of an individual, ten dollars.

7. For services and expenses incurred by the department in conducting evaluations, processing complaints or performing other administrative functions related to the review of post-secondary distance education conducted by out-of-state institutions seeking approval to offer distance education to students in New York state who do not participate in an interstate reciprocity agreement pursuant to section two hundred ten-c of this chapter.

§ 212-a. Return of deposits for professional and graduate schools. Any person who makes a deposit on tuition to a professional or graduate school for the fall semester next following the making of the deposit and who demands return of the deposit in writing by the April first previous to such fall semester shall be entitled to the return of such deposit within thirty days of receipt of such demand by the school, and such professional or graduate school shall return the deposit within thirty days.

§ 212-b. Return of tuition for colleges, universities, professional, proprietary and graduate schools. Any person who pays tuition to a college, university, professional, proprietary or graduate school and

who demands its refund in writing before the thirtieth day before the commencement of the term for which the tuition was paid shall be entitled to one hundred percent reimbursement of such tuition within sixty days of receipt of such demand by the college, university, professional, proprietary or graduate school; provided, however, that no deposit on tuition payable upon acceptance shall be governed by the provisions of this section. The provisions of this section shall not apply if a college, university, professional, proprietary or graduate school enters into a nonrevokable contract for special or extraordinary instructional services after receipt of tuition and in reliance of the prospective attendance of the person paying such tuition so long as such person was given notice before paying tuition that such a contract would be entered into.

A violator of the provisions of this section shall be liable for a civil penalty not to exceed ten percent of the amount of tuition which was not refunded as herein provided.

§ 212-c. Teacher accreditation review fees. The costs of accreditation reviews of teacher education programs shall be borne by the institution seeking accreditation by the board of regents. The commissioner shall establish and charge fees to cover the costs of the accreditation visits, any other related visits the commissioner may determine to be necessary, and related expenses. Fees collected shall be deposited to the credit of the teacher education accreditation account and disbursed pursuant to section ninety-nine-h of the state finance law. The commissioner shall be authorized to adopt any regulations needed to implement the provisions of this section.

§ 213. Extension of educational facilities. 1. The regents may extend to the people at large increased educational opportunities and facilities, stimulate interest therein, recommend methods, designate suitable teachers and lecturers, conduct examinations and grant credentials, and otherwise organize, aid and conduct such work. And the regents, and with their approval the commissioner of education, may buy,

sell, exchange and receive by will, or other gift, or on deposit, books, pictures, statuary or other sculptured work, lantern slides, apparatus, maps, globes, films, sound films, kinescopes, photographic recordings and any article or collections pertaining to or useful in and to any of the departments, divisions, schools, institutions, associations or other agencies, or work, under their supervision, or control, or encouragement, and may lend or deposit any such articles in their custody or control, when or where in their judgement compensating educational usefulness will result therefrom; and may also, from time to time, enter into contracts desirable for carrying into effect the foregoing provisions.

2. In carrying out the provisions of subdivision one of this section, the regents may: a. Contract with institutions in the university, school districts, boards of cooperative educational services or other non-profit educational agencies for the acquisition from such institutions, school districts, boards or agencies of sound films, kinescopes, audio recordings and video recordings, scripts, research reports or related educational television materials, for the use of the department, or for the production of educational television programs:

b. Lease, to school districts, boards of cooperative educational services or television corporations created pursuant to section two hundred thirty-six of this chapter, educational television facilities, including transmitters, micro-wave relay facilities, production centers, closed-circuit systems and any equipment necessary therefor, constructed or acquired, and owned by the state, leased by the state, or contract with such districts, boards of cooperative educational services or corporations for the operation of such facilities:

c. Lease and operate a television station in the city of New York.

3. For the purpose of carrying out the provisions of subdivision two of this section, the regents may make rules or authorize the commissioner to make regulations providing standards for research and experimentation, operation and programming of educational television by the state and the school districts, boards of cooperative educational

services, institutions, corporations and agencies, respectively.

4. In carrying out the provisions of subdivisions one and two of this section and in order to encourage and stimulate the further development and use of educational television in the state of New York and for the purposes of providing educational services and facilities for pupils in the public schools of the state of New York, the board of regents is hereby authorized to make additional apportionments to school districts or boards of cooperative educational services in accordance with the provisions of this subdivision to encourage and assist such districts or boards to install and operate a broadcast or closed-circuit television system, or television receiving equipment for the improvement of classroom instruction.

a. Any school district or board of cooperative educational services planning to establish such a program shall submit to the commissioner of education on or before the first day of May of the school year preceding the school year during which the program is to be conducted an application, together with such information as the commissioner of education shall require, including at least a complete statement of purposes of the program, the detailed procedures of operation, a detailed estimate of the cost of such program and a complete description of the installation and equipment to be installed and the detailed procedures of evaluations to be used in determining the improvement of classroom instruction.

b. The commissioner of education shall establish procedures for evaluations of such programs. One such program for each school district or board of cooperative educational services may be approved by the commissioner of education, and any program so approved by the commissioner of education shall be placed on a list in accordance with the educational merit and value of the program, and the date of receipt of the application, where several programs are evaluated as having equal merit and value.

c. Apportionment shall then be made in accordance with the formula contained in paragraph d of this subdivision, in the order of such

programs on the list established in accordance with paragraph b of this subdivision within the amount of the appropriation therefor.

d. Any district or board which proposes to install and operate a broadcast or closed-circuit television system or television receiving equipment for the improvement of classroom instruction, in accordance with a program approved as provided in this subdivision and to the extent that funds are available pursuant to this subdivision, shall be entitled to an apportionment during the five-year period following the approval of the program as follows:

Fifty per cent of the approved cost relative to the acquisition and installation of the equipment, and during the first year fifty per cent of the approved operational expenses in connection with the approved operation of the program; during the second year forty per cent of the approved operational expenses in connection with the approved operation of the program; during the third year thirty per cent of the approved operational expenses in connection with the approved operation of the program; during the fourth year twenty per cent of the approved operational expenses in connection with the approved operation of the program; and during the fifth year ten per cent of the approved operational expenses in connection with the approved operation of the program.

5. A school district or a board of cooperative educational services is hereby authorized and empowered to do and perform any and all acts necessary or convenient to enable it to carry out the provisions of this section.

6. The regents are authorized to make grants of money, materials and equipment for the purpose of promoting the erection and use of educational television facilities by educational television corporations established pursuant to the provisions of section two hundred thirty-six of this chapter. Such grants may be made upon such terms and conditions as the regents may prescribe.

§ 213-b. Unlawful sale of dissertations, theses and term papers. 1. No person shall, for financial consideration, or the promise of financial consideration, prepare, offer to prepare, cause to be prepared, sell or offer for sale to any person any written material which the seller knows, is informed or has reason to believe is intended for submission as a dissertation, thesis, term paper, essay, report or other written assignment by a student in a university, college, academy, school or other educational institution to such institution or to a course, seminar or degree program held by such institution.

2. Nothing herein contained shall prevent such educational institution or any member of its faculty or staff, from offering courses, instruction, counseling or tutoring for research or writing as part of a curriculum or other program conducted by such educational institution. Nor shall this section prevent any educational institution or any member of its faculty or staff from authorizing students to use statistical, computer, or any other services which may be required or permitted by such educational institution in the preparation, research or writing of a dissertation, thesis, term paper, essay, report or other written assignment. Nor shall this section prevent tutorial assistance rendered by other persons which does not include the preparation, research or writing of a dissertation, thesis, term paper, essay, report or other written assignment intended for submission to such educational institution in fulfillment of the requirements for a degree, diploma, certificate or course of study. Nor shall any person be prevented by the provisions of this section from rendering services for a fee which shall be limited to the typing, transcription or reproduction of a manuscript.

3. Nothing contained within this section shall prevent any person from selling or offering for sale a publication or other written material which shall have been registered under the United States laws of copyright, provided, however, that the owner of such copyright shall have given his authorization or approval for such sale and provided further that such publication or other written material shall not be intended for submission as a dissertation, thesis, term paper, essay, report or other written assignment to such educational institution within the state of New York in fulfillment of the requirements for a

degree, diploma, certificate or course of study.

4. No person shall sell, assign or otherwise transfer for business or for any other purpose to any person any information and material of a personal or private nature acquired from a purchaser of a dissertation, thesis, term paper, essay, report or other written assignment without the prior consent of such purchaser. The term "information and material of a personal or private nature" as used in this subdivision shall include, but not be limited to the name of such purchaser, his address and telephone number, the name of such educational institution, the name or number of the course, the name of the faculty member or members for whom such written assignment has been prepared and any description of the research involved or the nature of such written assignment.

5. A violation of the provisions of this section shall constitute a class B misdemeanor.

6. The attorney general and district attorney of the county wherein a violation of this section occurs shall have concurrent authority to investigate and prosecute any violation of this section and any related violations discovered during the course of such investigation.

7. Whenever there shall be a violation of this section, an application also may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding the court may make allowances to the attorney general as provided in section eighty-three hundred three, subdivision six of the civil practice law and rules. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and

rules. Additionally, the attorney general may apply in any such proceeding for a monetary penalty of not more than one thousand dollars per violation.

§ 214. Institutions in the university. The institutions of the university shall include all secondary and higher educational institutions which are now or may hereafter be incorporated in this state, and such other libraries, museums, institutions, schools, organizations and agencies for education as may be admitted to or incorporated by the university. The regents may exclude from such membership any institution failing to comply with law or with any rule of the university.

§ 215. Visitation and reports. The regents, or the commissioner of education, or their representatives, may visit, examine into and inspect, any institution in the university and any school or institution under the educational supervision of the state, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the regents or the commissioner of education shall prescribe. For refusal or continued neglect on the part of any institution in the university to make any report required, or for violation of any law or any rule of the university, the regents may suspend the charter or any of the rights and privileges of such institution.

§ 215-a. Annual report by regents to governor and legislature. 1. The regents of the university of the state of New York shall prepare and submit to the governor, the temporary president of the senate, and the speaker of the assembly, not later than the first day of January, nineteen hundred eighty-nine, nineteen hundred ninety and nineteen hundred ninety-one and the fifteenth day of February of each year thereafter, a report concerning the schools of the state which shall set forth with respect to the preceding school year: enrollment trends; indicators of student achievement in reading, writing, mathematics,

science and vocational courses; graduation, college attendance and employment rates; such other indicators of student performance as the regents shall determine; information concerning teacher and administrator preparation, turnover, in-service education and performance; information concerning school library expenditures and school library media specialist employment; expenditure per pupil on regular education and expenditure per pupil on special education and such other information as requested by the governor, the temporary president of the senate, or the speaker of the assembly. To the extent practicable, all such information shall be displayed on both a statewide and individual district basis and by racial/ethnic group and gender. The regents are authorized to require school districts, boards of cooperative educational services and nonpublic schools to provide such information as is necessary to prepare the report. In preparing the report, the regents shall consult with other interested parties, including local school districts, teachers' and faculty organizations, school administrators, parents and students.

2. The annual report shall specifically identify school districts (i) having fifteen percent or more of their students in special education; or (ii) having fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building; or (iii) having eight percent or more of their students with disabilities in special education programs in public or private separate educational settings. Such report shall also present each district's percent and the statewide percent for each such measure.

§ 215-b. Annual report by commissioner to governor and legislature. The commissioner shall prepare and submit to the governor, the president pro tem of the senate and the speaker of the assembly not later than January first, nineteen hundred ninety-six and by the first day of January in each year thereafter, a report detailing the financial and statistical outcomes of boards of cooperative educational services which shall, at minimum, set forth with respect to the preceding school year: tuition costs for selected programs; standard per pupil cost information

for selected services as determined by the commissioner; and aggregate expenditure data for the following categories: administration, instructional services, career education, special education, rent and facilities and other services; and such other information as deemed appropriate by the commissioner. The format for such report shall be developed in consultation with school district officials and the director of the budget. Such report will include changes from the year prior to the report year for each such item for all boards of cooperative educational services. Such report shall be distributed to all school districts and boards of cooperative educational services and shall be made available to all other interested parties upon request.

§ 215-c. Promoting cost-effectiveness in public elementary and secondary schools. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "cost-effectiveness" shall mean one or more measures of the efficient use of school district resources relative to school performance in accordance with state educational standards, as determined by the department.

(b) "cost-effective practices" shall mean those practices which most efficiently use limited resources to produce a particular outcome or set of outcomes in accordance with state educational standards.

(c) "board" shall mean the board of regents of the state of New York.

2. The board and the commissioner shall wherever practicable promote cost-effectiveness and cost-effective practices in the public elementary and secondary schools and boards of cooperative educational services of the state. As part of the effort pursuant to this section, by January first, nineteen hundred ninety-eight and periodically thereafter, the commissioner shall (a) identify current structures, policies, laws and regulations which hinder cost-effectiveness in schools and school districts; (b) identify cost-effective districts by determining which schools or school districts have demonstrated significant achievement or improvement relative to resource allocation in such areas as student performance, instruction, management, business administration, early childhood education and such other areas as the board deems appropriate;

(c) identify cost-effective action, policies, practices and programs which may be successfully replicated in other school districts; and (d) recommend or, to the extent feasible, develop specific cost-effective ways in which to encourage, recognize and reward academic improvement and success in school districts, and remove existing penalties and fiscal disincentives to such improvement or success.

3. The commissioner shall consult with school district administrators, district superintendents and superintendents of schools, teachers, school board members, parents, students, non-pedagogical school support personnel, representatives from post-secondary institutions and other pertinent groups and individuals in determining cost-effective programs pursuant to subdivision two of this section.

4. The commissioner shall disseminate information to school district administrators, school board members and other interested parties on how cost-effective practices can be used and applied in school districts, individual schools and the classroom. Such information shall include a summary of exemplary cost-effective practices among school districts receiving apportionments pursuant to subparagraph one of paragraph h of subdivision fourteen of section thirty-six hundred two of this chapter.

§ 215-d. State university of New York report on economic development activities. The chancellor of the state university of New York shall report to the governor and to the legislature, on or before January first, two thousand fifteen, on economic development activities undertaken by the state university of New York. Such report shall include, but not be limited to, expenditures of capital funds for economic development activities received from the empire state development corporation, SUNY 2020 challenge grant projects, capital expenditures from other sources, and activities for the purpose of securing START-UP NY approval.

§ 216. Charters. Under such name, with such number of trustees or other managers, and with such powers, privileges and duties, and subject

to such limitations and restrictions in all respects as the regents may prescribe in conformity to law, they may, by an instrument under their seal and recorded in their office, incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history or other department of knowledge, or of education in any way, associations of teachers, students, graduates of educational institutions, and other associations whose approved purposes are, in whole or in part, of educational or cultural value deemed worthy of recognition and encouragement by the university. No school; college; university or other entity providing post secondary education; library; or museum or historical society shall be incorporated under the business corporation law, the not-for-profit corporation law, or any other general law without the consent of the commissioner or, in the case of a college or university, without the written authorization of the Regents. Any other entity incorporated for educational purposes may be formed under the business corporation law or the not-for-profit corporation law without the consent of the commissioner, provided that such institution or association submits a certified copy of the certificate of incorporation to the commissioner within thirty days after the corporation receives confirmation from the department of state that the certificate has been accepted for filing.

No individual, association, partnership, company or corporation not authorized by special charter from the legislature of this state or by charter from the regents to operate a museum, or arboretum shall knowingly use, advertise or transact business under the names "museum," or "arboretum," or any name, title or descriptive material indicating or tending to imply that said individual, association, partnership, company or corporation conducts, carries on, or is such a business when it is not, or that it is authorized to operate as such, unless the right to do so has been granted by the regents or the commissioner in writing. Any violation of this paragraph shall be a misdemeanor. Notwithstanding any other provision of this section, an individual, association, partnership, company or corporation doing business under any of such names on the effective date of this paragraph may come into compliance with this paragraph by obtaining consent of the regents or the commissioner within one year of such effective date.

§ 216-a. Applicability of not-for-profit corporation law. 1. The term "education corporation" as used in this section means a corporation (a) chartered or incorporated by the regents or otherwise formed under this chapter, or (b) formed by a special act of this state with its principal purpose an education purpose and which is a member of the university of the state of New York, or (c) formed under laws other than the statutes of this state which, if it were to be formed currently under the laws of this state, might be chartered by the regents, and which has been authorized to conduct its activities in this state by the regents or as an authorized foreign education corporation with the consent of the commissioner. A corporation as defined in the business corporation law is not an education corporation under this section.

2. An education corporation formed prior to September first, nineteen hundred seventy-three which has authority to issue stock, is subject to the business corporation law in all matters involving shares of stock. To that extent, the not-for-profit corporation law does not apply to such education corporation.

3. A corporation within clause (c) of subdivision one of this section (a) may be granted authority to conduct activities in this state by the regents pursuant to this section and subject to such provisions, not inconsistent with this section, as the regents may prescribe, or (b) with the consent of the commissioner, may receive authority under article 13 (Foreign Corporations) of the not-for-profit corporation law to conduct activities in this state as an authorized foreign not-for-profit corporation. If required by the commissioner and subject to such provisions, not inconsistent with this section, as he may prescribe, an authorized foreign not-for-profit corporation shall be designated as an "authorized foreign education corporation" in its certificate of authority filed with the department of state. A foreign corporation granted authority by the regents hereunder or an "authorized foreign education corporation" is an "education corporation" under this section.

4. Except as provided in subdivisions 2 and 3 of this section, the not-for-profit corporation law applies to a domestic education corporation and an authorized foreign education corporation, provided that:

a. If a provision of the not-for-profit corporation law conflicts with a provision of this chapter or of a special act by which an education corporation is formed, the provision of this chapter or of such special act shall prevail and the not-for-profit corporation law shall not apply in such case. If an applicable provision of this chapter or of such special act relates to a matter embraced in the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply.

b. An education corporation to which the not-for-profit corporation law is made applicable by this section shall be treated as a "corporation", "domestic corporation", "foreign corporation", or "authorized foreign corporation" as such terms are used in the not-for-profit corporation law as modified by this section, except that the purposes of an education corporation shall not thereby be extended.

c. The following provisions of the not-for-profit corporation law shall not apply to education corporations: section one hundred five, section one hundred fourteen, paragraph (a) of section two hundred one, paragraphs (b) and (c) of section two hundred two, section two hundred five, section three hundred one, section three hundred two, section three hundred three, article four except paragraphs (b) through (p) of section four hundred four and section four hundred five, section five hundred nine, article eight except section eight hundred four, section nine hundred seven, section one thousand twelve and article fourteen.

d. The following adjusting provisions shall apply in the application of the not-for-profit corporation law under this section:

(1) The opening clause of paragraph (a) of section one hundred twelve shall read: "At the request of the regents of the university of the state of New York, the attorney-general may maintain an action or special proceeding:"

(2) The first sentence of section five hundred one shall read: "Except when the charter or certificate of incorporation so permits, a corporation shall not have stock or shares or certificates for stock or for shares, but may issue nontransferable membership certificates or cards to evidence membership, whether or not connected with any financial contribution to the corporation, as provided in section six hundred one (Members). The fact that the corporation is an education corporation, and that the membership certificate or card is non-transferable shall be noted conspicuously on the face or back of each such certificate or card."

(3) The first sentence of paragraph (b) of section five hundred eleven shall read as follows: "Upon presentation of the petition, the Court shall direct that notice of the application be given promptly to the attorney general and the commissioner, and in its discretion may direct that notice of the application be given, personally or by mail, to any person interested therein, as member, officer or creditor of the corporation."

(4) Paragraph (a) of section five hundred fifteen shall read as follows: "Except when the charter or certificate of incorporation authorizes the issuance of stock, a corporation shall not pay dividends or distribute any part of its income or profit to its members, directors or officers."

(5) Section five hundred twenty shall include after the words, "suit of the attorney general" the following words, "at the request of the regents of the university of the state of New York,"

(6) Paragraph (b) of section seven hundred three, and section seven hundred four shall not reduce the term of office of directors as provided in the charter or certificate of incorporation of a corporation, or of the number of classes into which its board is divided, if, as of September first, nineteen hundred seventy-three, such term of office of a director is greater than five years or the board is divided into more than five classes. Such term of office or number of classes shall not be increased after September first, nineteen hundred seventy-three.

(7) The requirement of the affirmative vote of a majority of the entire board under paragraph (f) of section seven hundred fifteen for fixing the salaries of officers, if not done in or pursuant to the

by-laws, shall not apply where the number of the entire board is over twenty. In such case the affirmative vote of a number of directors at least equal to the applicable quorum requirement of such board for the transaction of business shall be sufficient.

(8) Section seven hundred sixteen shall not apply to a loan by an education corporation if its board, in the discharge of its duty to the corporation, finds that such loan (1) is in the best interests of the education corporation and (2) is (a) to an officer or director thereof pursuant to a plan of employee or faculty assistance, or (b) to a business corporation the shares of which are wholly owned by such education corporation, or (c) to a not-for-profit corporation which is controlled by such education corporation, or by a group of education corporations including such education corporation, or (d) to any corporation on the board of which a director or officer of such education corporation is serving as a director at the request of the board of such lending education corporation; provided, however, that any loan by an education corporation to any corporation or other entity in which a director or officer of such education corporation has, directly or indirectly, a substantial financial interest, is prohibited. The provisions of this subparagraph shall not apply to a private foundation under section two hundred sixteen-b of this chapter.

(9) The opening clause of paragraph (b) of section seven hundred twenty shall read as follows: "An action may be brought for the relief provided in this section and in paragraph (a) of section seven hundred nineteen (Liabilities of director in certain cases) by the attorney general at the request of the regents of the university of the state of New York, by the corporation, or, in the right of the corporation, by any of the following:"

(10) Under section nine hundred six, if any constituent corporation or the consolidated corporation is or would be an education corporation, the consent of the commissioner shall be endorsed on or annexed to the certificate of merger or consolidation prior to the filing by the department of state.

(11) In addition to the requirements of section nine hundred nine (Consent to filing), the consent of the regents shall be endorsed on or annexed to a certificate of merger or consolidation if any constituent or consolidated corporation was chartered, or formed by special act with

a purpose for which a corporation might be created by the regents.

(12) The opening clause of paragraph (a) of section eleven hundred one shall read: "At the request of the regents of the university of the state of New York, the attorney general may bring an action for the dissolution of a corporation upon one or more of the following grounds:"

(13) The opening clause of paragraph (a) of section eleven hundred two shall read: "With the consent of the regents of the university of the state of New York, a petition for the judicial dissolution of a corporation may be presented:"

(14) The opening clause of paragraph (a) of section twelve hundred two shall read: "Upon notice to the attorney general and the commissioner, a receiver of the property of a corporation can be appointed only by the court, and in one of the following cases:"

e. Any reference in the not-for-profit corporation law to the delivery of any certificate or other instrument to the department of state for filing shall refer to and provide for corresponding action of the regents or the commissioner relating thereto, as the case may be, except that in cases where the commissioner consents to the filing under article thirteen of the not-for-profit corporation law of a certificate of authority in which the authorized foreign corporation is designated as an "authorized foreign education corporation", filing under article thirteen shall mean filing with the department of state.

5. Every corporation to which the not-for-profit corporation law is made applicable by this section, is a charitable corporation as defined in paragraph (a) of section one hundred two (Definitions) of the not-for-profit corporation law under all applicable provisions of that law.

6. From and after the effective date of this section the general corporation law shall not apply to an education corporation.

7. For the purpose of this section and elsewhere in this chapter, the effective date of the not-for-profit corporation law as to corporations to which the not-for-profit corporation law is made applicable by this section, shall be September one, nineteen hundred seventy-three.

8. Nothing in this section shall impair the rights and powers, otherwise granted by law, of the courts or the attorney general of this state.

§ 216-b. Private foundations, as defined in the United States internal revenue code of 1954: provisions included in the charter.

1. The following provisions are hereby included in the charter, heretofore or hereafter granted under this chapter, to incorporate an institution or association (chartered organization) which is a private foundation as defined in section 509 of the United States internal revenue code of 1954 ("Code").

a. The chartered organization shall distribute such amounts for each taxable year at such time and in such manner as not to subject the chartered organization to tax on undistributed income under section 4942 of the code.

b. The chartered organization shall not engage in any act of self-dealing which is subject to tax under section 4941 of the code.

c. The chartered organization shall not retain any excess business holdings which are subject to tax under section 4943 of the code.

d. The chartered organization shall not make any investments in such manner as to subject the corporation to tax under section 4944 of the code.

e. The chartered organization shall not make any taxable expenditures which are subject to tax under section 4945 of the code. Except as provided in subdivision two, this subdivision applies notwithstanding any other provision of the charter or any direction in an instrument by which assets were transferred to the chartered organization.

2. Subdivision 1 shall not apply to the extent that it conflicts with

any mandatory direction in an instrument by which assets were transferred to the chartered organization prior to the effective date of this section unless such conflicting direction is removed as impracticable under article eight of the estates, powers and trusts law or in any other manner provided by law. The absence of a specific provision in such an instrument for the current use of the principal of the fund, or the presence in such an instrument of a provision, as to the principal of the fund, limited to the principal's being held, invested and reinvested, is not such a conflicting mandatory direction.

3. All references in this section to sections of the code shall be to sections as amended from time to time, or to corresponding provisions of subsequent internal revenue laws.

4. Nothing in this section shall impair the rights and powers of the courts or the attorney-general of this state.

§ 216-c. Special provisions for cutlery and knife museums that exhibit automatic knives. 1. For the purposes of this section:

a. "automatic knife" has the meaning defined therefor in subdivision five-c of section 265.00 of the penal law.

b. "cutlery and knife museum" means either: (i) a cutlery and knife museum or institution that is located in Orange, Sullivan, or Ulster county which is devoted to the public exhibition, display, or demonstration of cutlery and knives, including an automatic knife collection, and is incorporated for the promotion of art, education, history, and science, or for preserving the cultural significance of the manufacture of knives and cutlery in the Hudson valley and throughout the United States, or (ii) any other museum or institution, which is not located in a city having a population of one million or more, that is incorporated for the promotion of art, education, history, and science and which offers for public display or exhibition an automatic knife collection.

2. A cutlery and knife museum that wishes to exhibit, show, or display, in whole or in part, an automatic knife collection may be chartered, established, or otherwise permitted to operate and conduct its business pursuant to the provisions of this section and section two hundred sixteen of this part. Any such museum shall also be subject to the other sections of this part applicable to museums or institutions; provided that this section shall supersede any inconsistent provision of any other section of this part applicable to museums or institutions, except section two hundred sixteen of this part.

3. All applicants for a cutlery and knife museum subject to the provisions of this section, who plan to exhibit, show, or display automatic knives, shall be fingerprinted. Any other person thereafter seeking to become a director, officer, employee, or agent of such museum shall be fingerprinted. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of this chapter, and may be submitted to the federal bureau of investigation for a national criminal history record check.

4. Every museum that contains, displays, exhibits or demonstrates cutlery, knives and/or automatic knives that are unlawful to possess in this state shall implement and submit for approval a security plan for securing such cutlery, knives and automatic knives to the division of state police or police department or sheriff's office having jurisdiction over the museum. The security plan will detail specific measures that would be used to prevent the unlawful use of such items. The division of state police or police department or sheriff's office having jurisdiction over the museum shall review the plan and certify whether it meets statutory requirements. Such plan must satisfy at least the following requirements:

a. The building in which all cutlery, knife and automatic knife collections are housed shall be secured against unauthorized entry, using heavy duty locks and doors that are resistant to damage, and windows shall be resistant to breakage.

b. The display and exhibition cases shall be securely locked at all times except when removing a single cutlery, knife or automatic knife item to be placed in storage or on display; and

c. When not displayed, all cutlery, knives and automatic knives shall be secured in a locked fireproof safe or vault on the premises or in a similar secured and locked area.

5. All cutlery and knife museums subject to the provisions of this section that wish to ship or loan cutlery, knives or automatic knives to other licensed museums shall notify in writing and obtain approval from the division of state police. Additionally, any museum that does not contain, display, exhibit or demonstrate cutlery, knives or automatic knives that are unlawful to possess prior to the effective date of this section shall implement and submit for approval a security plan pursuant to subdivision four of this section prior to obtaining such items.

6. No cutlery and knife museum, subject to the provisions of this section, may introduce automatic knives into its premises until the division of state police or police department or sheriff's office having jurisdiction over the museum has inspected the equipment and building features specified in subdivisions four and five of this section and certified in writing that all of them are in compliance with their statutory requirements.

7. All cutlery and knife museums, subject to the provisions of this section, shall be allowed to possess, own, collect, accept, and purchase automatic knives to further their activities to promote art, education, history, and science, and for the preservation of the cultural significance of the manufacture of cutlery and knives in New York state.

§ 217. Provisional charters. On evidence satisfactory to the regents that the conditions for an absolute charter will be met within a prescribed time, they may grant a provisional charter which shall be replaced by an absolute charter when the conditions have been fully met; otherwise, after the specified time, on notice from the regents to this

effect, the provisional charter shall terminate and become void and shall be surrendered to the regents. No such provisional charter shall give power to confer degrees.

§ 218. Conditions of incorporation. 1. No institution shall be given power to confer baccalaureate or higher degrees in this state unless it shall have financial resources which, in the judgment of the regents, are adequate to insure satisfactory conduct of its degree program and achievement of its stated educational goals; and no institution for higher education shall be incorporated without suitable provision, approved by the regents, for educational resources and programs. No institution shall institute or have any faculty or department of education in any place or be given power to confer any degree not specifically authorized by its charter; and no corporation shall, under authority of any general act, extend its business to include establishing or carrying on any educational institution or work, without the consent of the board of regents.

2. No institution shall be given power to confer associate degrees in this state unless it shall possess financial resources which, in the judgment of the regents, are adequate to insure satisfactory conduct of its degree programs and achievement of its stated educational goals.

§ 219. Change of name or charter. 1. The regents may, at any time, for sufficient cause, by an instrument under their seal and recorded in their office, change the name, or alter, suspend or revoke the charter or certificate of incorporation of any domestic corporation which they might incorporate under section two hundred sixteen, or any certificate of authority of a foreign corporation which they have issued or to which the commissioner has consented, (a) if subject to their visitation, or, (b) if authorized, chartered or incorporated by the regents or under a general law; provided that, unless on three-fourths request of the trustees of the corporation, no name shall be changed and no charter or certificate shall be altered, suspended or revoked, nor shall any rights or privileges thereunder be suspended or repealed by the regents, until

they have mailed to the usual address of every director or trustee of the corporation concerned at least thirty days' notice of a hearing when any objections to the proposed change will be considered, and until ordered by a vote at a meeting of the regents at which the notices have specified that action is to be taken on the proposed change. A certified copy of such order of the regents, under their seal, to change the name, or alter, suspend or revoke a certificate of incorporation of any domestic corporation filed by the department of state under a general law, or certificate of authority of any foreign corporation filed by the department of state under a general law, shall be delivered by the regents to such department. The order shall become effective upon the filing of such certified copy by the department of state.

2. Any notice to a trustee whose address is not readily ascertainable may be mailed to him in care of the institution. Where it appears that any institution incorporated by the regents has ceased to function, and the regents after diligent effort are unable to ascertain the names of the surviving trustees, if any, and their addresses or any address for the institution formerly maintained by the corporation, and are therefore unable to send the thirty-day notice to the trustees in the manner prescribed in this section, they may give such thirty days' notice by causing the same to be published once a week for three successive weeks prior to the date of such hearing in a daily or weekly newspaper published or printed in the place where the said corporation or its principal office is or was located; or if there be no such paper, then in a daily or weekly paper published or printed within the county, if there be one, or, if not, in an adjoining county to that in which such corporation or its principal office is or was located.

3. Whenever the trustees of any such corporation shall determine, upon three-fourths vote to dissolve the corporation, they may petition the regents to issue an order of dissolution. If it appears to the satisfaction of the regents that there is no sufficient reason for the continuance of the corporation that all taxes chargeable to the corporation have been paid, and, if the corporation has stock provisions, that the outstanding stock has been surrendered for cancellation, the regents shall thereupon have power to dissolve the

corporation.

4. Whenever the charter or incorporation of an institution is revoked or an order of dissolution made pursuant to the provisions of this section, it shall be the duty of the trustees and/or the custodians of the permanent academic records of such institution to file the same with the state education department, or with such other agency as may be approved by said department where they shall be kept available for future reference. In the event, however, that an application is made to the supreme court for an order directing the disposition of assets of such educational corporation pursuant to the provisions of section two hundred twenty of this chapter and such order is thereupon made, the disposition of such permanent academic records may be directed therein. A copy of the order shall be filed with the education department by the applicant and such order shall so provide.

5. An education corporation may file an assumed name certificate pursuant to section one hundred thirty of the general business law, provided that the consent of the regents is endorsed or annexed thereto. Any education corporation that has filed an assumed name certificate with the secretary of state prior to the effective date of this subdivision shall file a copy of such certificate with the department no later than ninety days after the effective date of this subdivision.

§ 220. Distribution of assets. 1. Whenever the regents have revoked the charter of any educational corporation or dissolved such corporation pursuant to section two hundred nineteen of this chapter or whenever a provisional charter has expired, if the corporation has assets the board of trustees shall, within three months after such revocation, dissolution or expiration, petition the supreme court in the judicial district where the principal office of the corporation is or was located for an order directing the disposition of any and all property belonging to the corporation. Such petition shall be duly verified and shall set forth a complete statement of all the assets, together with their location and an estimate of their value, and also a statement of the ascertainable debts of the corporation.

2. Such petition shall be accompanied by proof that notice of the time and place of such intended application to said court has been duly published once in each week for at least four weeks successively, next preceding such application, in a newspaper circulated in the county where such corporation is located.

3. A copy of such petition shall be served upon the regents and the attorney general not less than ten days prior to such application.

4. The court shall direct the sale of sufficient designated assets to pay any outstanding debts and the cost of dissolution. The regents and the board of trustees may present to the court their recommendation as to the disposition of the remaining property of the corporation if there be library books, objects of art or of historical significance, as far as possible they shall not be sold but shall be transferred to libraries, museums or educational institutions willing to accept them. If a charter contains a provision indicating a proposed disposition of the assets in case of dissolution, such provision shall be followed by the court in its order as far as practicable. If there be any surplus moneys after payment of debts and the expenses of liquidation, the court may direct that the same be devoted and applied to any such educational, religious, benevolent, charitable or other objects or purposes as the said trustees may indicate by their petition and the said court may approve.

5. Upon the revocation of the charter of an educational corporation or its dissolution, the trustees of such corporation shall be empowered to continue in office for the purpose of settlement of the affairs of the corporation.

§ 221. Dissolution of educational institution by stockholders. 1. Meeting to consider application for dissolution, when to be called. The trustees of any educational corporation chartered by regents or subject to their visitation and having capital stock, may, and upon the written application of any person owning or lawfully holding one-third of the

said capital stock, must call a general meeting of the stockholders of the said corporation as hereinafter provided, for the purpose of determining whether or not such corporation shall surrender its charter and be dissolved and its property distributed among the stockholders thereof.

2. Notice thereof, how published. The notice for such general meeting must state the object thereof and be subscribed by the chairman or other acting presiding officer and the secretary or acting secretary of the said corporation or board of trustees; it shall be published once a week for three successive weeks prior to such meeting in a daily or weekly newspaper circulated in the place where the principal office of such corporation is located; or if there be no such paper, then in a daily or weekly paper circulated within the county, if there be one, or, if not, in an adjoining county to that in which such corporation is located.

3. Vote requisite for surrender of charter and dissolution. Whenever, at a meeting of the stockholders called as hereinbefore provided, any person or persons holding or qualified to vote upon a majority of the capital stock of such educational corporation shall vote to surrender the charter thereof and to dissolve the corporation, the trustees of such corporation, or a majority of them, must make and sign a certificate of such action, cause the same to be properly attested by the officers of the corporation and file the same, together with a copy of the published notice for the meeting at which such action was taken, and due proof of the publication thereof, in the office of the board of regents of the university of the state of New York and thereupon, if the said proceedings shall have been regularly conducted as above prescribed, the charter of said corporation shall be deemed to be surrendered and the said corporation dissolved.

4. Powers of trustees of educational corporations upon dissolution. Upon the dissolution of such educational corporation as herein provided, or upon the revocation by the regents, pursuant to section two hundred nineteen of this chapter, of the charter of an educational corporation having outstanding shares of stock, the trustees thereof shall forthwith become and be trustees of the creditors and stockholders of the

corporation dissolved. They shall have full power to settle the affairs of the said corporation; to collect and pay the outstanding debts; to sue for and recover debts and property thereof by the name of the trustees of such corporation; to sell and dispose of the property thereof, at public or private sale, and to divide among the stockholders the moneys or other property that shall remain after the payment of debts and necessary expenses.

5. Notice to creditors to present claims, how published. The said trustees shall, after the dissolution of the said corporation, insert in a newspaper circulated in the place where the principal office of said corporation is located, or if there be none such then in a newspaper circulated within the county, if there be one, or, if not, in an adjoining county, a notice once in each week for three successive months, requiring all persons having claims against the said corporation dissolved to present the same with proof thereof to the said trustees at the place designated in such notice, on or before a day therein named which shall be not less than three months from the first publication thereof. In case any action shall be brought upon any claim which shall not have been presented to the said trustees within three months from the first publication of such notice, the said trustees shall not be chargeable for any assets, moneys or proceeds of the said corporation dissolved, which they may have paid in satisfaction of other claims against the said corporation, or in making distribution to the stockholders thereof, before the commencement of such action.

6. Surrender of stock scrip, upon distribution to shareholders. Upon the distribution by the said trustees of assets or property, or the proceeds thereof, of the dissolved corporation among its stockholders, the said trustees may require the certificates of ownership of capital stock, if such have been issued, standing in the name of any stockholder claiming a distributive share, or under whom such share is claimed, to be surrendered for cancellation by such stockholder or person claiming the said share. In the event of the non-production of any such certificate, the said trustees may require satisfactory proof of the loss thereof, or of any other cause for such non-production, together with such security as they may prescribe, before payment of the

distributive share to which the person claiming upon such share of stock may appear to be entitled.

7. Notice of distribution, to absent and unknown shareholders. In case the said trustees upon such distribution by them of assets or property, or the proceeds thereof, of the dissolved corporation among its stockholders, shall be unable to find any of the said stockholders or the persons lawfully owning or entitled to any portion of the said capital stock, they shall give notice in the manner hereinabove provided for calling the general meeting of stockholders of such distribution, to the persons in whose names such stock shall stand upon the books of the said corporation, requiring them to appear at a time and place designated, to receive the portion of such assets or property to which they may be entitled; in case of the failure of any such persons to so appear, it shall be lawful for the said trustees to pay over and deliver to the county treasurer of the county wherein the principal office of such corporation was located, or to any trust company or other corporation located within such county and authorized to receive moneys on deposit under order or judgment of a court of record, the proportion of the assets, property or proceeds aforesaid which such non-appearing stock bears to the whole stock; the said trustees shall also deliver therewith a list of the persons entitled to receive the same, together with the separate amounts to which they shall be severally entitled.

8. Liability of trustees, when to cease. Upon the payment and discharge of the debts and obligations of the corporation dissolved, as hereinbefore provided, and the distribution of its assets, property and proceeds among the stockholders thereof, and due provision made, as hereinabove prescribed, for the interests of non-appearing stockholders and such as can not be found, the said trustees shall become and be relieved and discharged from further duty, liability and responsibility by reason of their relation to the said corporation, or towards the stockholders thereof.

9. Duties and liabilities of custodians. Any county treasurer, trust company or other corporation to whom assets, property or proceeds shall be delivered as herein provided, shall hold the same in trust for the

persons designated and entitled to receive it; and upon receiving satisfactory proof of the right and title thereto, or upon the order of any court of record competent to adjudicate thereupon, shall pay over and deliver to any persons entitled to receive the same the portion of such proceeds, property or assets to which they shall be entitled.

§ 222. Suspension of operations. If any institution in the university shall discontinue its educational operations without cause satisfactory to the regents, it shall surrender its charter to them, subject, however, to restoration whenever arrangements satisfactory to the regents are made for resuming its work.

§ 223. Consolidation or merger of corporations. Any two or more corporations chartered under the powers of the regents or incorporated under a special act of the legislature or under a general law for purposes for which a charter may be granted by the regents may enter into an agreement for the consolidation or merger of such corporations, setting forth the terms and conditions of consolidation or merger, the name of the proposed consolidated or merged corporation, the place or places where the institution or institutions to be maintained is or are to be located, the number of its directors, which may be five or more, the time of the annual election and the names of the persons to be directors until the first or next annual meeting.

The agreement must be approved by three-fourths of the trustees or directors of such corporations at a meeting of the trustees or directors of each corporation, separately and specially called for that purpose, which approval, duly verified by the chairman and clerk of such meeting, shall be annexed to the petition. On presentation of a petition, together with the certificate of approval and the agreement for consolidation or merger, and on such notice to interested parties as the regents shall prescribe, and after hearing such interested parties as desire to be heard, the regents may make and execute an order for the consolidation or merger of the corporations on such terms and conditions as the regents may prescribe. When such order is made, such corporations

shall become one corporation by the name designated in the order, and shall be subject only to such duties and obligations as a corporation formed under this chapter for the same purposes; and all the property belonging to the corporations so consolidated or merged shall be vested in and transferred to the new or surviving corporation, which shall be subject to all the liabilities of the former corporations, to the same extent as if they had been contracted or incurred by it. If any corporation so consolidated or merged was incorporated under a special act of the legislature or under a general law pursuant to which its certificate of incorporation was filed with the department of state, the regents shall deliver a certified copy of the order of consolidation or merger to such department.

§ 224. Prohibitions. 1. a. No individual, association, partnership or corporation not holding university, college or other degree conferring powers by special charter from the legislature of this state or from the regents, shall confer any degree or use, advertise or transact business under the name university or college, or any name, title or descriptive material indicating or tending to imply that said individual, association, partnership or corporation conducts, carries on, or is a school of law, medicine, dentistry, pharmacy, veterinary medicine, nursing, optometry, podiatry, architecture or engineering, unless the right to do so shall have been granted by the regents in writing under their seal.

b. Notwithstanding any other provision of law to the contrary, no individual, association, partnership or corporation operating an institution on a for-profit basis and holding degree-conferring powers granted by the regents pursuant to this subdivision shall, through a change of ownership or control, convey, assign or transfer such degree-conferring authority without the consent of the regents. For purposes of this subdivision, a change of ownership or control shall include, but shall not be limited to, merger or consolidation with any corporation; sale, lease, exchange or other disposition of all or substantially all of the assets of the institution; and the transfer of a controlling interest of the stock of a corporation.

2. No person shall buy, sell or fraudulently or illegally make or alter, give, issue or obtain or attempt to obtain by fraudulent means any diploma, certificate or other instrument purporting to confer any literary, scientific, professional or other degree, or to constitute any license, or a duplicate thereof, or any certificate of registration, or to certify to the completion in whole or in part of any course of study in any university, college, academy or other educational institution.

3. No person, firm, association or corporation shall offer or otherwise advertise a college degree in the state of New York without the prior written approval of the department, in accordance with the regulations of the commissioner of education, unless the institution offering or advertising such a degree is accredited by at least one accrediting commission recognized by the United States commissioner of education as a reliable authority for the purpose of accreditation at the post secondary level or unless the program leading to such degree is registered with the department of education of the state of New York. A violation of this subdivision is a violation punishable by a fine not to exceed five hundred dollars. Any newspaper or other advertising medium which carries said advertisement shall be exempt from the provisions of this subdivision.

3-a. Notwithstanding the provisions of subdivision three of this section, the commissioner of education, boards of education, school authorities, or authorized school officers shall not be required to accept for purposes of certification, recertification, licensure, appointment, promotional increment, or salary differential for pedagogic personnel, any diploma, degree or course credit from a university, college, academy, school or other institution of learning located outside the state of New York if such diploma, degree or course credit was granted without the requirement of on-campus attendance and if instruction and testing was transacted primarily by correspondence.

Any person making application for certification, recertification, licensure, appointment, promotional increment or salary differential may be required by the commissioner, or by boards of education, school

authorities or authorized school officers to submit a signed statement or affidavit as part of such application to identify any diploma, degree or course credit which was granted by a university, college, academy, school or other institution of learning located outside the state of New York if such diploma, degree or course credit was granted without the requirement of on-campus attendance and if instruction and testing was transacted primarily by correspondence. A willful and wrongful misrepresentation on such application shall constitute grounds for disciplinary action in accordance with the provisions of this chapter, the rules of the regents, the regulations of the commissioner, or the by-laws, rules or regulations of such school authorities.

The provisions of this subdivision shall not apply to any diploma, degree or course credit completed before the effective date of this subdivision.

4. No diploma or degree shall be conferred in this state except by a regularly organized institution of learning meeting all requirements of law and of the university, nor shall any person, with intent to deceive, falsely represent himself to have received any such degree or credential, nor shall any person append to his name any letters in the same form registered by the regents as entitled to the protection accorded to university degrees, unless he shall have received from a duly authorized institution the degree or certificate for which the letters are registered. Counterfeiting or falsely or without authority making or altering in a material respect any such credential issued under seal shall be a felony; any other violation of this section shall be a misdemeanor; and any person who aids or abets another, or advertises or offers himself to violate the provisions of this section, shall be liable to the same penalties.

§ 224-a. Students unable because of religious beliefs to register or attend classes on certain days. 1. No person shall be expelled from or be refused admission as a student to an institution of higher education for the reason that he or she is unable, because of his or her religious beliefs, to register or attend classes or to participate in any

examination, study or work requirements on a particular day or days.

2. Any student in an institution of higher education who is unable, because of his or her religious beliefs, to attend classes on a particular day or days shall, because of such absence on the particular day or days, be excused from any examination or any study or work requirements.

3. It shall be the responsibility of the faculty and of the administrative officials of each institution of higher education to make available to each student who is absent from school, because of his or her religious beliefs, an equivalent opportunity to register for classes or make up any examination, study or work requirements which he or she may have missed because of such absence on any particular day or days. No fees of any kind shall be charged by the institution for making available to the said student such equivalent opportunity.

4. If registration, classes, examinations, study or work requirements are held on Friday after four o'clock post meridian or on Saturday, similar or makeup classes, examinations, study or work requirements or opportunity to register shall be made available on other days, where it is possible and practicable to do so. No special fees shall be charged to the student for these classes, examinations, study or work requirements or registration held on other days.

5. In effectuating the provisions of this section, it shall be the duty of the faculty and of the administrative officials of each institution of higher education to exercise the fullest measure of good faith. No adverse or prejudicial effects shall result to any student because of his or her availing himself or herself of the provisions of this section.

6. Any student, who is aggrieved by the alleged failure of any faculty or administrative officials to comply in good faith with the provisions of this section, shall be entitled to maintain an action or proceeding in the supreme court of the county in which such institution of higher education is located for the enforcement of his or her rights under this

section.

6-a. It shall be the responsibility of the administrative officials of each institution of higher education to give written notice to students of their rights under this section, informing them that each student who is absent from school, because of his or her religious beliefs, must be given an equivalent opportunity to register for classes or make up any examination, study or work requirements which he or she may have missed because of such absence on any particular day or days. No fees of any kind shall be charged by the institution for making available to such student such equivalent opportunity.

7. As used in this section, the term "institution of higher education" shall mean any institution of higher education, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree or diploma. Such term shall not include any institution which is operated, supervised or controlled by a church or by a religious or denominational organization whose educational programs are principally designed for the purpose of training ministers or other religious functionaries or for the purpose of propagating religious doctrines. As used in this section, the term "religious belief" shall mean beliefs associated with any corporation organized and operated exclusively for religious purposes, which is not disqualified for tax exemption under section 501 of the United States Code.

§ 225. Unlawful acts in respect to examinations and records. A person who shall:

1. Personate or attempt to offer to personate another person in taking, or attempting or offering to take an examination held in accordance with this chapter or with the rules of the university; or

2. Take, or attempt or offer to take, such an examination in the name of any other person; or

3. Procure any other person to falsely personate him or to take, or attempt or offer to take, any such examination in his name; or

4. Have in his possession question papers to be used in any such examination, when not contained in their sealed wrappers, or copies of such papers or questions, at any time prior to the date set for such examination, unless duly authorized by the regents or the commissioner of education; or

5. Sell or offer to sell question papers or any questions prepared for use in any examination held in accordance with this chapter or with the rules of the university; or

6. Use in any such examination any question papers or questions, or secure or prepare the answers to such questions prior to the time set for the examination; or

7. Willfully and wrongfully disclose or transmit to any person the questions or answers to such examination prior to the time set for such examination, unless duly authorized by the regents, commissioner of education or appropriate school authorities or otherwise provided by law, or willfully and wrongfully destroy, falsify or conceal the records or results of such examination from the appropriate authorities to whom such records or results are required to be transmitted in accordance with this chapter, the rules of the regents, the regulations of the commissioner, or the by-laws, rules or regulations of such school authorities; or

8. Transmit to the state education department answers to questions used in any such examination which are prepared or written outside of the period of examination, or alter any such answers after such period is closed; or

9. Secure or attempt to secure any credential regularly issued by the university, which is based upon such examination or based upon a course or courses of study in any institution of learning or educational institution approved by the university, which he has not actually passed

or completed; or

9-a. Knowingly and willfully make an unauthorized and false alteration or representation of any official records related to a student and maintained by a school or college under the supervision of the regents, the commissioner, or the university of the state of New York, including identifying data, grades, records of attendance, records of student achievement, assessment results, disciplinary records, and individualized education programs.

10. Otherwise secure or attempt to secure the record of having passed such examination or of having been issued or of having been given credit toward such credential in violation of the university rules; is guilty of a misdemeanor and upon conviction thereof shall be punished for a first offense by a fine of not less than fifty dollars or imprisonment for not less than thirty days, or by both such fine and imprisonment, and for a second offense by a fine of not less than two hundred and fifty dollars or imprisonment for not less than six months or by both such fine and imprisonment.

11. Notwithstanding the provisions of subdivision ten of this section, a violation of this section shall also constitute grounds for disciplinary action in accordance with the provisions of this chapter, the rules of the regents, the regulations of the commissioner, or the by-laws, rules or regulations of such school authorities.

§ 226. Powers of trustees of institutions. The trustees of every corporation created by the regents, unless otherwise provided by law or by its charter, may:

1. Number and quorum. Fix the term of office and number of trustees, which shall not exceed twenty-five, nor be less than five. If any institution has more than five trustees, the body that elects, by a two-thirds vote after notice of the proposed action in the call for a meeting, may reduce the number to not less than five by abolishing the office of any trustee which is vacant and filing in the regents' office

a certified copy of the action. A majority of the whole number shall be a quorum.

2. Executive committee. Elect an executive committee of not less than five, who, in intervals between meetings of the trustees, may transact such business of the corporation as the trustees may authorize, except to grant degrees or to make removals from office.

3. Meetings and seniority. Meet on their own adjournment or when required by their by-laws, and as often as they shall be summoned by their chairman, or in his absense by the senior trustee, on written request of three trustees. Seniority shall be according to the order in which the trustees are named in the charter or subsequently elected. Notice of the time and place of every meeting shall be mailed not less than five nor more than ten days before the meeting to the usual address of every trustee.

4. Vacancies and elections; removals by board of regents. Fill any vacancy occurring in the office of any trustee by electing another for the unexpired term; provided, however, that where trustees are elected by the legal voters the person so appointed to fill any such vacancy shall hold office until the next annual election of trustees. The office of any trustee shall become vacant on his death, resignation, refusal to act, removal from office, expiration of his term, or any other cause specified in the charter. If any trustee shall fail to attend three consecutive meetings without excuse accepted as satisfactory by the trustees, he shall be deemed to have resigned, and the vacancy shall be filled. Any vacancy in the office of trustee continuing for more than one year, or any vacancy reducing the number of trustees to less than two-thirds of the full number may be filled by the regents. The regents may remove any trustee of a corporation created by them for misconduct, incapacity, neglect of duty, or where it appears to the satisfaction of the regents that the corporation has failed or refuses to carry into effect its educational purposes. A hearing in the proceeding for the removal of such trustees shall be had before the board of regents or a committee thereof and the trustees shall be given at least ten days' notice of the time and place of such hearing. In case of removal the

regents may appoint successors to the trustees so removed. The provisions of this section as to removal and filling of vacancies in trustees shall not apply to corporations now or hereafter established and maintained by a religious denomination, order or sect. No person shall be ineligible as a trustee by reason of sex.

5. Property holding. Take and hold by gift, grant, devise or bequest in their own right or in trust for any purpose comprised in the objects of the corporation, such additional real and personal property, beyond such as shall be authorized by their charter or by special or general statute, as the regents shall authorize within one year after the delivery of the instrument or probate of the will, giving, granting, devising or bequeathing such property, and such authority given by the regents shall make any such gift, grant, devise or bequest operative and valid in law. Any grant, devise or bequest shall be equally valid whether made in the corporate name or to the trustees of a corporation, and powers given to the trustees shall be powers of the corporation.

6. Control of property. a. Buy, sell, mortgage, let and otherwise use and dispose of its property as they shall deem for the best interests of the institution; and also to lend or deposit, or to receive as a gift, or on loan or deposit, literary, scientific or other articles, collections, or property pertaining to their work; and such gifts, loans or deposits may be made to or with the university or any of its institutions by any person, or by legal vote of any board of trustees, corporation, association or school district, and any such transfer of property, if approved by the regents, shall during its continuance, transfer responsibility therefor to the institution receiving it, which shall also be entitled to receive any money, books or other property from the state or other sources to which said corporation, association or district would have been entitled but for such transfer.

b. Notwithstanding any other provision of law, prior to the discarding of used or surplus books or other such reading materials by trustees of a chartered public or free association library which receives over ten thousand dollars in state aid, such trustees shall offer to donate such books or materials to a not-for-profit corporation or political

subdivision located within the area of the library system or offer to sell such books or materials to the general public. The trustees shall retain any proceeds received from the sale of such books and materials for the purpose of maintaining and improving library service within the system.

7. Officers and employees. Appoint and fix the salaries of such officers and employees as they shall deem necessary who, unless employed under special contract, shall hold their offices during the pleasure of the trustees; but no trustee shall receive compensation as such. The president or chief executive officer of an association library corporation shall be elected by the trustees from their own number and shall be the chairman of the board.

8. Removals and suspensions. Remove or suspend from office by vote of a majority of the entire board any trustee, officer or employee engaged under special contract, on examination and due proof of the truth of a written complaint by any trustee, of misconduct, incapacity or neglect of duty; provided, that at least one week's previous notice of the proposed action shall have been given to the accused and to each trustee.

9. Degrees and credentials. Grant such degrees and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates and diplomas under their seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any institution of learning.

10. Rules. Make all by-laws and rules necessary and proper for the purposes of the institution and not inconsistent with law or any rule of the university; but no rule by which more than a majority vote shall be required for any specified action by the trustees shall be amended, suspended or repealed by a smaller vote than that required for action thereunder.

§ 227. Colleges may construct water-works and sewer systems. 1. Every incorporated college in this state is duly authorized and empowered to construct and maintain a system of water-works for the purpose of supplying its college buildings and premises with pure and wholesome water for domestic, sanitary and fire purposes, and for the preservation of the health of its students, faculty and employees, and for the preservation of the public health of the town, village or city in or near which such college is located, and the construction and maintenance of such water-works is declared to be a public use. Such water-works, as often as necessary, may be enlarged or improved. Every such incorporated college owning its water-works system and having an adequate supply of water therefrom, may furnish water to persons other than students, faculty and employees of such college at and for a just and adequate compensation, providing that they reside within a sewer district now created in which the premises of the said college or any part thereof are embraced, and provided no municipal or private public service corporation operates or maintains a system of water-works therein capable of supplying water to such inhabitants, and provided further that the provisions therein relative to the residence of the purchasers of water within a sewer district shall not restrict Cornell University from selling water to the residents of the hamlet of Forest Home or a water district organized for the purpose of furnishing a potable water supply to said hamlet. Whenever any such college shall extend its mains along any streets, avenues or highways for the purpose of supplying water to such inhabitants, it shall not lose its exemption from taxation by reason thereof, and shall not be deemed to be exercising a public or corporate franchise within the meaning of the tax law.

2. Any such college shall have the right to acquire real estate, or any interest therein, necessary or proper for such water-works, and the right to lay, relay, repair and maintain conduit and water pipes, with connections and fixtures, on, through, and over the lands of others; the right to intercept and divert the flow of waters from the lands of riparian owners, and from persons owning and interested in any waters; and the right to prevent the flow or drainage of noxious, or impure, or unwholesome matter from the lands of others into its reservoirs, or

sources of supply. But no such college shall ever have power to take or use water from any of the lands of this state, or any land, reservoir, or feeders, or any streams which have been taken by the state for the purpose of supplying the canals with water. The consent of an incorporated village or city must be obtained to lay any such pipes in or through its streets, and such consent may be accompanied by such reasonable conditions or restrictions as are proper.

3. Such college may cause such examinations and surveys for its proposed water-works to be made as may be necessary to determine the proper location thereof, and for such purpose, by its officers, agents and servants, may enter upon any lands or waters in the vicinity for the purpose of making such examinations and surveys, subject to liability for all damage done. When surveys or examinations are made or concluded, a map shall be made of the lands or interests to be taken or entered upon, and on which the land or interest of each owner or occupant shall be designated, and all streets and roads in which it is proposed to lay conduit pipes, with the proposed line thereof, which map shall be dated and signed by the engineer making the same; and said map shall be filed and kept in the college library for examination and reference, and a duplicate thereof shall be filed in the clerk's office in each county wherein any of such lands or interests proposed to be taken are located. Such examinations and surveys may be ordered and directed by the president or board of trustees of such college. A majority of the trustees shall determine upon the construction of such water-works and the plans thereof, and order contracts therefor to be made by such officers of the college as may be designated.

4. If any such college shall be unable to agree upon such terms of purchase of any such property, right or easements, before or after plans shall be determined upon, it may, after such plans have been adopted, acquire the same by condemnation, according to the provisions of the eminent domain procedure law.

5. When any such college has constructed and completed water-works, as above provided, it may, by a majority of its trustees, determine upon and construct a sewer system; it may connect the same with the sewer

system of the village, city or town sewer districts thereof in or near which said college is situated, if such connection is practicable. A college, with the approval of its trustees, may allow its sewer system to serve as an interconnection between separate sewer systems of villages, cities or town sewer districts when and so long as such use of the sewer system of the college does not interfere with or limit the use of that sewer system by the college. The college shall not lose its exemption from taxation by reason of such connection or interconnection of its sewer system and the college shall not be deemed to be exercising a public or corporate franchise within the meaning of the tax law. Examination, surveys and a map may be made as above provided. Lands and easements may be acquired by purchase, as above provided, and in case such acquisition can not be made by purchase then they may be acquired by condemnation, according to the provisions of the condemnation law.

§ 228. The Hamilton college sewer district. The Hamilton college sewer district established in the town of Kirkland, Oneida county, outside the village of Clinton, is hereby continued and all the provisions of the town law relating to a sewer district in a town shall apply to such district, except as herein otherwise provided: The district shall be governed by a board of sewer district commissioners consisting of three persons, who shall serve until a vacancy shall occur by reason of death, resignation or removal from office. The town board of the town of Kirkland may remove a member of the board for inefficiency, neglect of duty or misconduct in office after a public hearing on not less than ten days' written notice and an opportunity to be heard in person or by counsel. A vacancy in office of a commissioner shall be filled by appointment by the town board from a list of nominations of not less than three persons made by the remaining commissioners. Each commissioner appointed by the town board must be a resident taxpayer of the sewer district or in lieu thereof an officer, trustee or member of the faculty of Hamilton college. Such commissioners shall select one of their number as chairman and another as secretary. Each commissioner, before entering upon the duties of his office, shall take the constitutional oath of office and execute to the town of Kirkland and file with the town clerk an official undertaking in such sum and with

such sureties as the town board from time to time may direct. Such commissioners may be paid for their services an annual amount, as determined by the town board, up to two thousand dollars. Such compensation shall be deemed an expense of the district. The board of sewer district commissioners of such district shall have all the powers and be subject to the duties and responsibilities of district commissioners elected pursuant to the provisions of article thirteen of the town law.

§ 229. County educational institutions. The board of supervisors of a county, having a population of over five hundred thousand and adjacent to a city having a population of over two million, may determine, by resolution, to make application to the regents for the incorporation, pursuant to the provisions of part one of this article of one or more of the institutions enumerated in section two hundred sixteen of this chapter. The regents may, by an instrument under their seal and recorded in their office, incorporate any such institution or institutions under such name with such number of trustees or other managers, and with such powers, privileges and duties, and subject to such limitations and restrictions in all respects as the regents may prescribe in conformity to law. The cost and expenses necessary to establish, maintain and support such institution or institutions pursuant to the provisions of part one of this article, including the acquisition of real property, and the construction and equipment of buildings and grounds, shall be a county charge and the board of supervisors shall provide for the payment of such cost and expenses by the levy, assessment and collection of taxes in the same manner that taxes are levied, assessed and collected for other county purposes. The provisions of part one of this article shall apply to such institution or institutions, except the provision of section two hundred eighteen of this chapter, requiring resources of at least five hundred thousand dollars.

§ 230. Municipal training institute. The municipal training institute of the state of New York, a corporation created by the regents pursuant

to section two hundred sixteen of the education law for the purpose of improving the administration of municipal affairs by providing courses of training for municipal officials in cities and villages of the state and conducting schools therefor having received an absolute charter under section two hundred sixteen, and the regents having approved the courses of study and plan of instruction of such institute, the cost of carrying out the program of the institute may be defrayed in part with grants of federal vocational education moneys made to the regents under acts of congress for training those in public and other service occupations.

§ 231. Town and county officers training school. The town and county officers training school of the state of New York, a corporation created by the regents pursuant to section two hundred sixteen of the education law for the purpose of improving the administration of municipal affairs by providing courses of training for municipal officials in towns and counties of the state and conducting school therefor having received an absolute charter under section two hundred sixteen, and the regents having approved the courses of study and plan of instruction of such institute, the cost of carrying out the program of the training school may be defrayed in part with grants of federal vocational education moneys made to the regents under acts of congress for training those in public and other service occupations.

§ 232. Departments and their government. The state library and state museum shall be departments of the university, and the regents may establish such other departments and divisions therein as they shall deem useful in the discharge of their duties.

§ 233. State Museum; collections made by the staff. 1. All scientific specimens and collections, works of art, objects of historic interest and similar property appropriate to a general museum, if owned by the state and not placed in other custody by a specific law, shall constitute the collections of the state museum. The state museum shall

be the custodian of the collections, shall perform standard curatorial, research and educational activities and a director appointed by the regents shall constitute its head.

2. Any scientific collection made by a member of the museum staff during his term of office shall, unless otherwise authorized by resolution of the regents, belong to the state and form part of the state museum.

3. The state of New York, through its legislative authority accepts the provisions of section one hundred twenty of the federal-aid highway act of nineteen hundred fifty-six (70 Stat. 374) relating to the salvage of archaeological or paleontological objects, including but not limited to ruins, historic sites, Indian burial grounds, cemeteries, buildings, artifacts, fossils or, other objects of antiquity having national significance from an historical, cultural, social or scientific standpoint, and empowers and directs the commissioner of education to promulgate joint regulations with the department of environmental conservation, the office of general services, and the office of parks, recreation and historic preservation and make agreements with those and other appropriate state departments or agencies and such agency or agencies as needed to carry out the purposes of such provision of law.

4. Except as otherwise provided in subdivision three of this section, no person shall investigate, excavate, remove, injure, appropriate or destroy any object of archaeological, historical, cultural, social, scientific or paleontological interest, situated on, in or under lands owned by the state of New York, without the written permission of the commissioner of education. A violation of this provision shall constitute a class A misdemeanor. The attorney general, either independently or upon referral from a state agency, shall seek civil and/or criminal prosecution, civil and/or criminal penalties and any other relief, including but not limited to seizure and forfeiture of the appropriate items, and forfeiture of the instrumentalities of the unauthorized actions on state lands. The discovery of any such objects shall be forthwith reported to the commissioner by the state department or agency having jurisdiction over such lands.

5. Permits for the examination, excavation or gathering of archaeological, historical, cultural, social, scientific or paleontological objects upon the lands under their respective jurisdictions may be granted by the heads of those state departments or agencies to persons authorized by the commissioner of education for the purposes of the state museum and state science service, for the purpose of the preservation of any such objects worthy of permanent preservation and, in all cases, to the acquisition and dissemination of knowledge relating thereto.

§ 233-a. Property of the state museum. 1. As used in this section:

(a) The term "museum" shall mean the New York state museum.

(b) The term "deaccession" shall mean the permanent removal or disposal of an object from the collection of the museum by virtue of its sale, exchange, donation or transfer by any means to any person.

(c) The term "person" shall mean any natural person, partnership, corporation, company, trust association or other entity, however organized.

(d) The term "property" means any inanimate object, document or tangible object under the office's care which has intrinsic historic, artistic, scientific, or cultural value.

(e) The term "claimant" means a person who asserts ownership or some other legal right to undocumented property held by the museum.

(f) The term "loan" means a deposit of property with the museum not accompanied by a transfer to the museum of title to the property.

(g) The term "lender" means a person whose name appears on the records of the museum as the person legally entitled to, or claiming to be legally entitled to, property held by the museum or, if deceased, the legal heirs of such person.

(h) The term "lender's address" means the most recent address for the lender shown on the museum's records pertaining to the property on loan, or if the lender is deceased, the last known address of the legal heirs of such lender.

(i) The term "permanent loan" means a loan of property to the museum for an unspecified period.

(j) The term "undocumented property" means property in the possession of the museum for which the museum cannot determine the owner by reference to its records.

(k) The term "conservation measures" means any actions taken to preserve or stabilize a property including, but not limited to, proper storage support, cleaning, proper lighting, and restoration.

2. The deaccessioning of property by the museum must be consistent with the mission of the museum.

3. Prior to the acquisition of property by gift, the museum shall provide the donor with a written copy of its mission statement and collections policy, which shall include policies and procedures of the museum relating to deaccessioning.

4. If the museum has the knowledge of a planned bequest of any property prior to the death of the testator, the museum shall provide the testator with a written copy of its mission statement and collections policy, which shall include policies and procedures of the museum relating to deaccessioning.

6. Notice given by the museum under this section must be mailed to the lender's last known address by certified mail, return receipt requested. Service by mail is complete if the museum receives proof that the notice was received not more than thirty days after it was mailed; provided, however, notice may be given by publication if the museum does not:

(a) know the identity of the lender; or

(b) know the address of the lender; or

(c) receive proof that the notice mailed under this section was received within thirty days of mailing. Notice by publication must be given at least once a week for three consecutive weeks in a newspaper of general circulation in:

(i) the county in which the property is held by the museum; and

(ii) the county of the lender's last address, if known.

The date of notice under this subdivision shall be the date of the third published notice.

In addition to any other information that may be required or seem appropriate, any notice given under this section must contain the following:

(A) The name of the lender or claimant, if known.

(B) The last address of the lender or claimant, if known.

(C) A brief description of the property on loan to the museum referenced in the notice.

(D) The date of the loan, if known or the approximate date of acquisition of the property.

(E) The name and address of the museum.

(F) The name, address, and telephone number of the person to be contacted regarding the property.

7. Notwithstanding any other provisions of law regarding abandoned or lost property, the museum may, beginning five years from the date the lender last contacted the museum, clarify title to property on permanent loan or loaned for a specified term that has expired. Proof of such contact shall include previously sent restricted letters or loan forms, returned envelopes, inventories and other documentary evidence. The procedure for clarifying title shall be as follows:

(a) The museum must give notice by mail to the lender that it wishes to clarify ownership rights in the property.

(b) In addition to the information described in subdivision six of this section, the notice shall be entitled "Notice of Termination" and must include a statement containing substantially the following information: "The records of the New York State Museum indicate that you have property on loan at (name of facility). The museum is seeking to determine whether you wish (i) that the museum return the property to you, (ii) that the property remain on loan to the museum subject to annual renewal (if the museum wishes that the property remain on loan), or (iii) that the museum retain the property permanently as its owner. Please contact (name of contact) in writing within one hundred twenty days, in order to advise the museum as to which of the above alternatives you wish to follow."

(c) If, no later than one hundred twenty days following receipt thereof, the lender does not respond to the notice of termination by

submitting a written claim to the property on loan with verifying documentation the office shall send a second notice to the lender containing the following information: "On (date of first notice), the New York State Museum sent you a notice concerning property that, according to our records, has been loaned to the office. You have not responded to that notice, a copy of which is enclosed, and the museum will commence proceedings to acquire title to the property if you do not contact (name of contact), in writing within one hundred twenty days of receiving this second notice."

If the lender fails to respond to the second notice within one hundred twenty days of receipt, at the request of the commissioner, the attorney general may make an application to the supreme court pursuant to article thirty of the civil practice law and rules for a declaratory judgment to determine the museum's right to such property. In a case in which there is no evidence that the notices previously sent by the museum were received by the lender, upon application, the supreme court shall specify the method by which service shall be made upon the lender.

8. Notwithstanding any other provision of law regarding abandoned or lost property the museum may acquire title to undocumented property held by the museum for at least five years as follows:

(a) The museum must give notice by publication that it is asserting title to the undocumented property.

(b) In addition to the information described herein, the notice shall be entitled "Notice of Intent to Acquire Title to Property" and must include a statement containing substantially the following information: "The records of the New York State Museum fail to indicate the owner of record of certain property in its possession. The museum hereby asserts its intent to acquire title to the following property: (general description of property). If you claim ownership of this property, you must submit written proof of ownership to the museum and make arrangements to collect the property. If you fail to do so within one hundred eighty days, the museum will commence proceedings to acquire title to the property. If you claim an interest in the property but do not possess written proof of such interest, you should submit your name and address and a written statement of your claim to (name of contact),

within one hundred eighty days, in order to receive notice of any legal proceedings concerning the property. If you wish to commence legal proceedings to claim the property, you should consult your attorney."

If after one hundred eighty days following the last date of publication of such notice no claimant has responded thereto by submitting written proof of ownership of the property to the museum, or if there is a dispute between the museum and any claimant as to ownership of the property, upon the request of the commissioner, the attorney general may make an application to the supreme court pursuant to article thirty of the civil practice law and rules for a declaratory judgment to determine the museum's rights in the property.

9. A copy of all notices required by subdivision seven or eight of this section shall be sent, by certified mail, return receipt requested, to the International Foundation for Art Research, or any successor foundation or agency having similar purposes, on or before the date on which such notices are mailed or first published pursuant to the requirements of this section.

10. Any person who purchases or otherwise acquires property from the museum acquires good title to such property if the museum has acquired title in accordance with this section.

11. The provisions of subdivisions seven and eight of this section shall not apply to any property that has been reported as stolen to a law enforcement agency or to the Art Theft Archives of the International Foundation for Art Research, or any successor foundation or agency having similar purposes, no later than one year following the theft or discovery of the theft.

12. The museum shall have the following duty to lenders:

(a) When the museum accepts a loan of property, it shall inform the lender in writing of the provisions of this section.

(b) The museum shall give a lender, at the lender's address, prompt written notice by mail of any known injury to, or loss of, property on loan or of the need to apply conservation measures. Such notice shall

advise the lender of his right, in lieu of the application of such conservation measures, to terminate the loan and, no later than thirty days after having received such notice, either retrieve the property or arrange for its isolation and retrieval. The museum shall not be required to publish notice of injury or loss to any undocumented property.

13. The owner of property loaned to the museum is responsible for promptly notifying the museum, in writing, of any change of address or change in the ownership of the property.

14. (a) Unless there is a written loan agreement to the contrary, the museum may apply conservation measures to property on loan to the museum without giving formal notice or first obtaining the lender's permission if immediate action is required to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the public or the museum staff, provided that:

(i) the museum is unable to reach the lender at the lender's last known address or telephone number before the time the museum determines action is necessary; or

(ii) the lender either (A) does not respond to a request for permission to apply conservation measures made pursuant to subdivision twelve of this section within three days of receiving the request or will not agree to the conservation measures the museum recommends or (B) fails to terminate the loan and either retrieve the property or arrange for its isolation and retrieval within thirty days of receiving the request.

If immediate conservation measures are necessary to protect the property or to protect the health or safety of the public or museum staff, the conditions set forth in subparagraphs (i) and (ii) of this paragraph shall not apply.

(b) Unless provided otherwise in an agreement with the lender, if the museum applies conservation measures to property under paragraph (a) of this subdivision, and provided that the measures were not required as a result of the museum's own action or inaction, the museum shall acquire

a lien on the property in the amount of the costs incurred by the museum, including, but not limited to the cost of labor and materials, and shall not be liable for injury to or loss of the property, provided that the museum:

(i) had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the museum, or that the property on loan was a hazard to the health and safety of the public or the museum staff; and

(ii) exercised reasonable care in the choice and application of conservation measures.

15. The museum shall maintain or continue to maintain, as the case may be and to the extent such information is available, a record of acquisition, whether by purchase, bequest, gift, loan or otherwise, of property for display or collection and of deaccessioning or loan of property currently held or thereafter acquired for display or collection. Any such record shall: (a) state the name, address, and telephone number of the person from whom such property was acquired, or to whom such property was transferred by deaccessioning or loan, and a description of such property, its location, if known, and the terms of the acquisition or deaccessioning or loan, including any restrictions as to its use or further disposition, and any other material facts about the terms and conditions of the transaction; (b) include a copy of any document of conveyance relating to the acquisition or deaccessioning or loan of such property and all notices and other documents prepared or received by the museum.

16. Notwithstanding the provisions of the civil practice law and rules or any other law, except for laws governing actions to recover stolen property:

(a) No action against the museum for damages arising out of injury to or loss of property loaned to the museum shall be commenced more than three years from the date the museum gives the lender or claimant notice of the injury or loss under this section.

(b) No action against the museum to recover property shall be commenced more than three years from the date the museum gives notice of its intent to terminate the loan or notice of intent to acquire title to

undocumented property.

§ 233-aa. Property of other museums. 1. As used in this section:

(a) The term "museum" means any institution, including but not limited to museums, historical societies, zoological gardens, aquariums, botanical gardens, and arboreta, having collecting as a stated purpose in its charter, or owning or holding collections, or intending to own or hold collections, that is a governmental entity or not-for-profit corporation. The term museum does not include the state museum.

(b) The term "deaccession" means the permanent removal or disposal of property from the collection of a museum by virtue of its sale, exchange, donation, or transfer by any means to any person.

(c) The term "person" means any natural person, partnership, corporation, company, trust association, or other entity, however organized.

(d) The term "property" means any inanimate object, document, organism, or tangible object under a museum's care which has intrinsic historic, artistic, scientific, or cultural value.

(e) The term "loan" means a deposit of property with a museum not accompanied by a transfer to such museum of title to the property.

(f) The term "lender" means a person legally entitled to, or claiming to be legally entitled to, property held by the museum or, if such person is deceased, the legal heirs of such person.

(g) The term "unclaimed property" means property which is on loan to a museum and in regard to which the lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum for at least ten years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least five years after the date upon which the loan for a definite period expired.

(h) The term "undocumented property" means property that has been in the possession of a museum for at least ten years and for which the museum cannot determine the lender, donor, or owner by making a good faith and reasonable search for the identity and last known address of the lender, donor or owner from the museum records and other records reasonably available to museum staff.

(i) The term "conservation measures" means any actions taken to

preserve or stabilize a property, including, but not limited to, proper storage, support, cleaning, and restoration.

2. The acquisition of property by a museum pursuant to this section must be consistent with the mission of the museum.

3. Prior to the acquisition of property by gift, a museum shall inform a donor or prospective donor of the provisions of this section and shall provide a donor or prospective donor with a written copy of its mission statement and collections policy, which shall include policies and procedures of the museum related to deaccessioning.

4. If the museum has knowledge of a planned bequest of any property prior to the death of the testator, the museum shall provide the testator with a written copy of its mission statement and collections policy, which shall include policies and procedures of the museum relating to deaccessioning, provided, however, that any museum that routinely makes its mission statement and collections policy available on its website shall be deemed to have complied with this subdivision.

5. Proceeds derived from the sale of any property title to which was acquired by a museum pursuant to this section shall be used only for the acquisition of property for the museum's collection or for the preservation, protection, and care of the collection and shall not be used to defray ongoing operating expenses of the museum.

6. (a) Notice by mail required by this section shall be mailed to a lender's last known address by certified mail, return receipt requested; provided, however, that notice shall be given by publication pursuant to paragraph (b) of this subdivision if the museum does not:

(i) know the identity of the lender; or

(ii) know the address of the lender; or

(iii) receive proof that the notice mailed under this section was received within thirty days of mailing.

(b) Notice by publication must be given at least once a week for three consecutive weeks in a newspaper of general circulation in:

(i) the county in which the property is held by the museum; and

(ii) the county of the lender's last address, if known.

The date of notice under this paragraph shall be the date of the third published notice.

(c) In addition to any other information required by this section, any notice given under this section must contain the following:

(i) The name of the lender, if known.

(ii) The last address of the lender, if known.

(iii) A brief description of the property on loan to the museum referenced in the notice.

(iv) The date of the loan, if known, or the approximate date of acquisition of the property.

(v) The name and address of the museum.

(vi) The name, address, and telephone number of the person to be contacted regarding the property.

(d) A copy of all notices required by this section pertaining to property in the form of identifiable works of art known to have been created before nineteen hundred forty-five and to have changed hands in Europe during the Nazi era (1933-1945) shall be sent to The Art Loss Register or any successor organization having similar purposes on or before the date on which such notices are mailed or first published pursuant to the requirements of this section.

7. Unless there is a written loan agreement to the contrary, and notwithstanding any other provision of law regarding abandoned or lost property, a museum that has made a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records reasonably available to museum staff may terminate a loan for unclaimed property in its possession in accordance with the provisions of this subdivision.

(a) If the museum has identified the lender and the lender's last known address, the museum shall give notice by mail, in accordance with subdivision six of this section, of its intent to terminate the loan.

(b) Such notice shall be entitled "Notice of Termination" and must include a statement containing substantially the following information: "The records of the (name of museum) indicate that you have or may have property on loan at (name of facility). The museum is seeking to

determine whether you wish:

(i) that the museum return the property to you,

(ii) that the property remain on loan to the museum subject to annual renewal (if the museum also wishes that the property remain on loan), or

(iii) that the museum obtain all of the lender's rights to the property, either to take the property into its collection or to dispose of the property, in its sole discretion. Please contact (name of contact) in writing within one hundred twenty days to advise the museum as to which of the above alternatives you wish to follow."

(c) If the lender does not respond to the notice of termination, within one hundred twenty days following receipt thereof, the museum shall send a second notice to the lender containing the following information: "On (date of first notice), the (name of museum) sent you a notice concerning property that, according to our records, has been lent to the (name of museum). You have not responded to that notice, a copy of which is enclosed, and the museum will commence proceedings to acquire title to the property if you do not contact (name of contact) in writing within one hundred twenty days of receiving this second notice."

(d) If the lender fails to respond to the second notice within one hundred twenty days of receipt thereof, the museum shall acquire all of the lender's rights to the property.

(e) If the museum does not receive proof that the notices mailed pursuant to this subdivision were received within thirty days of mailing, or if the museum has undertaken a good faith and reasonable search of museum records and other records reasonably available to museum staff but has been unable to determine the identity and last known address of the lender, the museum may terminate the loan by complying with the procedures established in subdivision eight of this section for acquisition of title to undocumented property.

8. (a) Notwithstanding any other provision of law regarding abandoned or lost property, a museum may acquire the rights of the lender, donor, or owner to undocumented property by giving notice by publication, in accordance with subdivision six of this section, that it is asserting title to the undocumented property.

(b) Such notice shall be entitled "Notice of Intent to Acquire Property" and must include a statement containing substantially the

following information: "The (name of museum) hereby asserts its intent to acquire title to the following property: (brief description of property). If you claim ownership of this property, you must contact the museum in writing and make arrangements to collect the property. If you fail to do so within one hundred eighty days, the museum will commence proceedings to acquire title to the property. If you wish to commence legal proceedings to claim the property, you should consult an attorney."

(c) If the museum does not receive contact from any person who can provide documentation or other evidence establishing an ownership interest in the property within one hundred eighty days of the date of notice by publication, the museum shall cause a brief description of the property to be submitted to the comptroller, who shall post such description on the unclaimed funds registry for not less than one hundred eighty days.

(d) If the museum does not receive contact from any person who can provide documentation or other evidence establishing an ownership interest in the property prior to or within thirty days following the conclusion of the unclaimed funds registry posting, the museum shall acquire title to the property.

9. The provisions of subdivisions seven and eight of this section shall not apply to:

(a) any property that was created before nineteen hundred forty-five and changed hands due to theft, seizure, confiscation, forced sale, or other involuntary means in Europe during the Nazi era (1933-1945); or

(b) notwithstanding any copy of a notice sent pursuant to subdivision six of this section, any property reported as stolen to a law enforcement agency or insurer or The Art Loss Register or any successor organization having similar purposes no later than three years following the theft or discovery of the theft.

10. A museum shall acquire all rights to undocumented property that is not solicited by the museum and that is delivered to the museum or left on museum premises after January first, two thousand nine if no person provides documentation or other evidence establishing an ownership interest in the property within ninety days of delivery of such property

to the museum.

11.(a) The museum shall give a lender prompt written notice by mail, in accordance with subdivision six of this section, of any known injury to, or loss of, property on loan or of the need to apply conservation measures. Such notice shall advise the lender of his or her right, in lieu of the application of such conservation measures, to terminate the loan and, no later than thirty days after having received such notice, either retrieve the property or arrange for its isolation and retrieval. The museum shall not be required to publish notice of injury or loss to any undocumented property.

(b) Unless there is a written loan agreement to the contrary, the museum may apply conservation measures to property on loan to the museum without giving formal notice or first obtaining the lender's permission if immediate action is required to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the public or the museum staff; provided that:

(i) the museum is unable to reach the lender at the lender's address or telephone number before the time by which the museum determines action is necessary; or

(ii) the lender either (1) does not respond to a request for permission to apply conservation measures within three days of receiving the request or will not agree to the conservation measures the museum recommends; or (2) fails to terminate the loan and either retrieve the property or arrange for its isolation and retrieval within thirty days of receiving the request.

If immediate conservation measures are necessary to protect the property or to protect the health or safety of the public or museum staff, the conditions set forth in subparagraphs (i) and (ii) of this paragraph shall not apply.

(c) Unless provided otherwise in an agreement with the lender, if a museum applies conservation measures to property under paragraph (a) of this subdivision, and provided that the measures were not required as a result of such museum's own action or inaction, such museum shall acquire a lien on the property in the amount of the costs incurred by

such museum, including, but not limited to, the cost of labor and materials, and shall not be liable for injury to or loss of the property, provided that such museum:

(i) had a reasonable belief at the time when the action was taken that the action was necessary to protect the property on loan or otherwise in the custody of the museum or that such property on loan was a hazard to the health and safety on the public or the museum staff; and

(ii) exercised reasonable care in the choice and application of conservation measures.

12. A lender shall promptly notify a museum, in writing, of any change of address or change in the ownership of property on loan to such museum.

13. The museum shall maintain or continue to maintain, as the case may be and to the extent such information is reasonably available, a record of acquisition, whether by purchase, bequest, gift, loan or otherwise, of property for display or collection and of deaccessioning or loan of property currently held or thereafter acquired for display or collection. Any such record shall:

(a) state the name, address, and telephone number of the person from whom such property was acquired, or to whom such property was transferred by deaccessioning or loan, and a description of such property, its location, if known, and the terms of the acquisition or deaccessioning or loan, including any restrictions as to its use or further disposition, and any other material facts about the terms and conditions of the transaction, which records shall be updated if a lender informs the museum of a change in address, ownership of the property or other relevant information, or if the lender and museum negotiate a change in the terms of the transaction;

(b) include a copy of any document of conveyance relating to the acquisition or deaccessioning or loan of such property and all notices and other documents prepared or received by the museum; and

(c) in the case of property acquired pursuant to this section, include records documenting the search for the identity and last known address of the lender, and copies of all notices and other documents prepared or received by the museum in connection with the acquisition of title to

such property.

14. Nothing in this section shall limit the ability of a lender and museum to bind themselves to different loan provisions by written agreement, nor shall this section abrogate rights and obligations of a lender or museum pursuant to a written agreement.

15. Every museum which has on display any identifiable works of art known to have been created before nineteen hundred forty-five and which changed hands due to theft, seizure, confiscation, forced sale or other involuntary means in Europe during the Nazi era (nineteen hundred thirty-three--nineteen hundred forty-five) shall, to the extent practicable, prominently place a placard or other signage acknowledging such information along with such display.

§ 233-b. New York state freedom trail commission. 1. a. There is hereby established within the department the New York state freedom trail commission. The commission shall consist of twelve members, to be appointed as follows: three members to be appointed by the governor, three members to be appointed by the board of regents, two members to be appointed by the temporary president of the senate, one member to be appointed by the minority leader of the senate, two members to be appointed by the speaker of the assembly, and one member to be appointed by the minority leader of the assembly. Such members shall be representative of academic or public historians, corporations, foundations, historical societies, civic organizations, and religious denominations. In addition, the following state officers, or their designees, shall serve as members of the commission: the commissioner of education, the head of the state museum, the head of the state archives, the head of the office of state history, the commissioner of economic development, the head of the state tourism advisory council and the commissioner of parks, recreation and historic preservation.

b. The commission shall begin functioning upon the appointment of a majority of its members. The chair of the commission shall be chosen by the members of the commission for a three year term. Commission members,

other than ex officio members, shall serve for terms of five years and vacancies shall be appointed in the same manner as provided for original appointments.

c. The department and the office of parks, recreation and historic preservation may provide the commission with such staff, equipment, and facilities as it may need.

2. As part of its responsibilities the commission shall be charged with reviewing and assisting in the implementation of a master plan in conjunction with federal authorities; sponsoring commemorations, linkages, seminars and public forum; assisting, encouraging, and promoting the making of applications for inclusion on the national or state registers of historic places by the parties eligible to do so and the inclusion of such places therein; and developing partnerships and seeking private and public funds to carry out activities to protect, preserve, and promote the important legacy and lessons of the freedom trail and the underground railroad in New York state.

3. The commission shall report annually to the governor, the legislature, and the board of regents for a period of five years from the date of establishment of the commission, but beginning no later than January first, nineteen hundred ninety-nine.

§ 233-c. Study. The commissioner shall conduct a study which shall include, but not be limited to, documenting the history of the freedom trail and underground railroad including identifying sites most likely to be eligible for inclusion on the national or state registers of historic places, or both; providing for the historic research and compilation of contemporaneous reports and records necessary to document the underground railroad sites in New York state, as well as the contributions of individuals and organizations who participated in the activities of the underground railroad; and developing cultural and historic guidebooks, local histories and the publication of public and private documents relating to the underground railroad. The commissioner shall consult with the commissioner of the office of parks, recreation

and historic preservation and the national park service in the conduct of the study.

§ 234. Indian collection. There shall be made, as the Indian section of the state museum, as complete a collection as practicable of the historical, ethnographic and other records and relics of the Indians of the state of New York, including implements or other articles pertaining to their domestic life, agriculture, the chase, war, religion, burial and other rites or customs.

§ 235. State science service. There shall be maintained in the university a science service which shall be known as the state science service and the state geologist, paleontologist, botanist, entomologist, and archaeologist shall constitute its staff together with such other scientists as the regents may employ or who are now employed by them. This service is empowered and directed to make available its services to all the departments of the state, and the residents of the state under such rules and regulations as the regents may prescribe and is empowered to engage in such scientific research as directed by law or by the regents and shall cooperate with scientific units or agencies of other states, the federal government, educational institutions and industry in the discovery, analysis and dissemination of scientific information. The director of the state museum shall also be the director and head of the state science service and the staff of the service shall be members of the staff of the state museum.

§ 235-a. New York state biodiversity research institute. 1. The New York state biodiversity research institute is hereby created within the New York state museum within the education department. The purposes of the institute shall include:

(a) advising the governor, governmental agencies, the regents, and the legislature on matters relating to biodiversity in New York state;

(b) fostering, pursuing and sponsoring collaborative biological and ecological research;

(c) increasing understanding of biodiversity research and conservation needs in New York by establishing and reporting on what is known and what is not known about the biological diversity of the state;

(d) identifying priority needs for biodiversity research and inventory work within New York that currently are not receiving adequate attention, and identifying public or private entities that are best situated to address such needs, thereby leading to better coordination of biodiversity research efforts in the state;

(e) promoting awareness of existing and new sources of biodiversity information and biodiversity expertise among planners, policy makers, and resource managers;

(f) educating elected officials, governmental agencies, and the general public on biodiversity issues through such means as it may determine;

(g) organizing and sponsoring meetings on biodiversity topics;

(h) encouraging the establishment of networks of collaborating scientists engaged in related aspects of biodiversity research;

(i) raising sensitivity to biodiversity concerns among state and local government agencies, and serving as a forum for enhanced interagency information sharing and cooperation;

(j) recommending priority activities for funding through the state land biodiversity stewardship account, created pursuant to section ninety-seven-oo of the state finance law;

(k) assisting the commissioners of environmental conservation and parks, recreation and historic preservation in conducting reviews, pursuant to section 3-0302 of the environmental conservation law and subdivision eighteen of section 3.09 of the parks, recreation and historic preservation law, of lands currently in state ownership, to identify lands and waters that harbor plants, animals, and ecological communities that are rare in New York state;

(l) assisting the commissioner of parks, recreation and historic preservation in identifying ecologically significant sites within state parks and historic sites that are candidates for park preserve or park preservation area designation pursuant to article twenty of the parks, recreation and historic preservation law; and

(m) assisting the commissioner of environmental conservation in identifying lands of ecological significance, currently in state

ownership, to recommend to the governor and the legislature for dedication to the state nature and historical preserve trust pursuant to article forty-five of the environmental conservation law.

2. Definitions. When used in this section, the following terms shall mean:

(a) "Biodiversity" or "biological diversity" means the total variety of living organisms found in the state, and the natural processes that support them; and

(b) "Institute" shall mean the New York state biodiversity research institute created pursuant to subdivision one of this section.

3. Research programs. The institute shall foster, pursue and sponsor original systematic and ecological research, field studies, and inventories of biological collections that are designed to:

(a) increase the information base pertaining to plant, animal, biological community, and ecosystem occurrences in the state, including descriptions, collections and catalogs of fauna and flora, plant and animal life-cycle requirements and characteristics, the dynamics of ecological processes, and the status of rare plants, animals, and biological communities;

(b) detect, document, and interpret patterns and changes in the flora and fauna of the state, including expansions, losses, and introductions of species;

(c) explore and foster the gathering of data in poorly known or vulnerable areas of the state; and

(d) investigate techniques designed to conserve, protect, and manage biodiversity.

4. Education and information transfer programs. The institute shall foster the collection, transfer, and application of biodiversity information in the state by:

(a) fostering access, compatibility, interchange, and synthesis of data among biological information systems maintained by public entities, academic and research institutions, and private organizations;

(b) employing advanced technology to coordinate for ease of use the scattered biological collection resources of the state;

(c) promoting adherence to accepted standards for biodiversity research, including quality control for the collection of voucher specimens and data, and protocols for responsible collection policies; and

(d) supporting the preparation and publication of interpretative works that draw upon biological collection resources.

5. Biennial reports. The institute shall prepare and submit a report on or before January first, nineteen hundred ninety-five and every two years thereafter to the governor, the regents, and the legislature describing programs undertaken or sponsored by the institute, the status of knowledge regarding the state's biodiversity, and research needs related thereto.

6. Executive committee. The institute shall be guided by an executive committee. Members of the committee shall be from varying backgrounds with members selected from the stewardship community, from the scientific community, as well as from government service. Such committee shall consist of seventeen members including the commissioner, the commissioner of environmental conservation, the commissioner of parks, recreation and historic preservation, the chancellor of the state university of New York or their designees, seven at large members appointed by the governor, one of whom shall be chairperson, two members appointed by the temporary president of the senate, one member appointed by the minority leader of the senate, two members appointed by the speaker of the assembly and one member appointed by the minority leader of the assembly. Appointed members shall serve for a term of three years, provided that such members may be reappointed. The executive committee shall:

(a) adopt policies, procedures, and criteria governing the programs and operations of the institute;

(b) recommend to the governor and legislature appropriate actions to identify, manage and conserve exemplary occurrences of common ecological communities on state-owned lands. An "exemplary occurrence of a common ecological community" shall mean a representative, high quality example of a given ecological community type, characterized by a distinctive assemblage of interacting plant and animal populations;

(c) develop and implement the research, education and information transfer programs of the institute;

(d) identify and rate proposals for biodiversity research;

(e) identify and rate proposals for biodiversity stewardship;

(f) submit to the director of the budget, and the chairpersons of the senate finance committee and the assembly ways and means committee on the first day of October nineteen hundred ninety-three and on or before August first in each year thereafter, a budget request for the expenditure of funds available from the biodiversity stewardship and research fund, for the purposes established by section ninety-seven-oo of the state finance law;

(g) meet publicly at least twice a year. The committee shall widely disseminate notice of its meetings at least two weeks prior to each meeting. The commissioners of environmental conservation, education and parks, recreation and historic preservation and the chancellor of the state university shall aid in such dissemination.

7. Scientific working group. The executive committee shall appoint a scientific working group composed of not more than fifteen individuals representing governmental agencies (including a biologist from the department of environmental conservation), academic or research institutions, educational organizations, the forest products industry and non-profit conservation organizations. Members of the scientific working group shall have knowledge and expertise in biodiversity conservation and research and shall serve for a term of three years, provided, however that members may be reappointed for more than one term at the discretion of the executive committee. The scientific working group shall make recommendations to the executive committee with respect to:

(a) the identification of priority biodiversity research needs in the state;

(b) the development and implementation of the institute's research, education, and information transfer programs;

(c) the allocation and expenditure of funds from the biodiversity stewardship and research fund created pursuant to section ninety-seven-oo of the state finance law;

(d) identification and rating of proposals for biodiversity research;

and

(e) identification and rating of proposals for biodiversity stewardship.

8. Institute director. The institute shall have a director who shall be appointed by the executive committee and shall after appointment be an employee of the state museum and science service. The institute director shall serve at the pleasure of the executive committee. The institute director shall serve as chief administrative officer of the institute and provide the necessary support for the executive committee.

9. Compensation. The members of the executive committee and the scientific working group shall serve without additional compensation, but shall be eligible to receive reimbursement for their actual and necessary expenses from the biodiversity stewardship and research fund established by section ninety-seven-oo of the state finance law, provided however, members of the executive committee representing state agencies may receive reimbursement for their actual and necessary expenses from their respective agencies. Members of the executive committee and scientific working group shall be considered state employees for the purposes of sections seventeen and nineteen of the public officers law.

10. Memorandum of understanding. The education department, the department of environmental conservation, and the office of parks, recreation and historic preservation shall enter into a written memorandum of understanding to facilitate the appropriate implementation of the biodiversity research institute and the goals, responsibilities, and programs established by this section.

§ 235-b. New York state biological survey. 1. The New York state biological survey is hereby established in the New York state science service within the state museum to inventory, research, analyze and disseminate information about all the biota of New York. The biological survey shall:

(a) Develop and maintain an inventory of the biological resources of

New York state, with special emphasis on identifying those resources that are important to biological diversity, have real or potential economic significance, or have particular scientific, systematic, or environmental importance;

(b) Conduct research on and advance the knowledge of the biological and ecological characteristics and processes that constitute or affect New York state's environment;

(c) Interpret and publish the results of research on New York state's biological resources, thereby making information available to citizens, teachers, industry, and government for educational purposes and for use in decision making;

(d) Insure the preservation and appropriate expansion of the state's collection of scientific specimens and artifacts, conduct research on these collections, and make specimens and data available for biological resource studies, ecosystem analyses, and other research projects; and

(e) Cooperate with the department of environmental conservation, office of parks, recreation and historic preservation, and other state and federal agencies, private organizations and institutions, corporations, and individuals interested in biological resources.

2. The survey shall not be authorized to enter any privately owned lands without the written consent of the landowner, lessee, or person in control. The survey shall be authorized to enter into agreements with landowners to enter private lands on such terms as may be acceptable.

§ 236. Public television and radio. 1. Short title. This section shall be known and may be cited as the "Public Television and Radio Act of nineteen hundred seventy-eight".

2. Legislative findings and declaration of intent. In the years since New York state's educational television act was passed in nineteen hundred fifty-four, public television in New York has made enormous strides. Audiences which only a decade ago were calculated in the thousands now number in the millions. Approximately seven million New York residents now view public television every week. Public television, which initially served only a handful of students, now brings nearly ten

thousand hours annually of the best of the state's and the nation's educational programming to over one million two hundred thousand students in three thousand schools throughout the state. These programs are used by approximately fifty thousand teachers for direct classroom instruction. Public television also provides the state's youngsters with some twelve thousand hours annually of the finest children's programming available including "Sesame Street", "Electric Company", "Zoom" and "Mr. Rogers Neighborhood". In addition, public television provides a wealth of specialized programming in the educational and cultural arts designed for viewing by, among others, minority and ethnic populations, senior citizens, the unemployed, consumers and citizens interested in the performing arts. It is the sense of the legislature that public television's contributions to the people of New York state have been exceptional. Despite public broadcasting's great progress in New York state in recent years, its full potential remains untapped. It is, therefore, the intent of the legislature both to maintain and, expand the role of public broadcasting in supplying educational, instructional and cultural programs to New Yorkers, as well as to enhance the state's role in its partnership with its citizens so that this valuable state resource can be nurtured to its optimum potential.

3. Public television and radio corporations; creation and operation. a. The board of regents may incorporate any group, institution or association for the purpose of constructing, owning, operating or maintaining a non-profit and noncommercial public television station or public television and/or radio station for providing educational television and radio programs. Any such corporation shall be subject to all the provisions applicable to corporations created by the board of regents and, in addition, shall be subject to the provisions of this section.

b. The charter of any such corporation may be amended from time to time, suspended, or revoked, upon the regents' own motion, after notice and an opportunity to be heard, before the board of regents or a committee thereof or a hearing officer designated by the board of regents.

c. Each such corporation and all its operations and the powers and duties of its trustees and officers shall be subject to the general supervision and control of the board of regents and to such rules as the board of regents may adopt and promulgate from time to time with respect to such corporations.

d. The television programs developed and presented by such corporations shall consist of educational, instructional and cultural programs.

e. The appointment or election of any trustee of such corporation shall be subject to approval by the regents while under regents' charter and through the first five years of broadcast operations. The regents may reinstitute requirements for trustee approval over a reasonable period on finding a corporation in violation of an applicable rule, regulation or law. After the expiration of rule requirements, corporations shall include a list of current trustees in its annual report.

f. The regents may remove any trustee, officer or employee of such corporation for misconduct, incapacity, wilful violation or neglect of duty under this chapter, or wilfully disobeying, or refusing to comply with, any order or rule of the regents. The hearing in the proceeding for the removal of any such person shall be had before the board of regents or a committee thereof or a hearing officer designated by the board of regents and such trustee, officer or employee shall be given at least ten days' notice of the time and place of such hearing.

g. The use of programs for partisan or political purposes or to influence the enactment of legislation shall, in the discretion of the board of regents, be basis for termination of the corporate charter.

h. Each such corporation shall render a report to the board of regents not later than October first of each year upon such matters as the regents may require, and shall furnish such other reports and information from time to time as the regents may require.

i. Any corporation created under the provisions of this section may make purchases of commodities and services through the office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law; provided that each such purchase shall have a cost of five hundred dollars or more and that said corporation shall accept sole responsibility for any payment of such cost due the vendor.

4. Grants-in-aid to public television and radio corporations and public radio stations. a. There shall be apportioned, as assistance for approved operating expenses of public television corporations governed by the provisions of this section, an amount not exceeding the product of the number of residents of the state as determined from the nineteen hundred eighty decennial federal census multiplied by: one dollar for the period beginning July first, nineteen hundred eighty-five and ending June thirtieth, nineteen hundred eighty-six; one dollar multiplied by four-twelfths plus one dollar and twenty-five cents multiplied by eight-twelfths for the period beginning July first, nineteen hundred eighty-six and ending June thirtieth, nineteen hundred eighty-seven; and one dollar and forty cents for the period beginning July first, nineteen hundred eighty-seven and ending June thirtieth, nineteen hundred eighty-eight, and annually thereafter. Such amount shall be allocated to each such corporation in accordance with a formula and schedule of payments developed and approved by the commissioner and the director of the division of the budget.

b. The formula and schedule of payments developed pursuant to paragraph a hereof shall include provision for an amount not less than twenty percent of the total state operating assistance for instructional television services to be provided to local educational agencies by public television corporations through agreements with local school districts, subject to the approval of the commissioner.

c. There shall be annually apportioned funds for the payment of approved capital expenses of educational television corporations and public radio stations in such amounts and in such manner as the legislature shall provide.

d. There shall be apportioned, as assistance for approved radio programming operating expenses, an amount not exceeding: eighty thousand dollars for the period beginning July first, nineteen hundred eighty-five and ending June thirtieth, nineteen hundred eighty-six, and eighty thousand dollars multiplied by four-twelfths plus one hundred thousand dollars multiplied by eight-twelfths for the period beginning July first, nineteen hundred eighty-six and ending June thirtieth, nineteen hundred eighty-seven, and one hundred ten thousand dollars for the period beginning July first, nineteen hundred eighty-seven and ending June thirtieth, nineteen hundred eighty-eight, and annually thereafter to each public television and radio corporation, governed by the provisions of this section, and to each public radio station, as defined in paragraph f of this subdivision and paid in accordance with a formula and schedule of payments developed and approved by the commissioner and the director of the division of the budget. Recipients of assistance shall render a fiscal report to the board of regents not later than December first of each year upon such matters as the regents may require and shall furnish annually such other fiscal reports as the regents may require.

e. On or before November first in each year, the board of regents shall submit to the division of the budget a plan outlining a matching capital grant program for approved capital expenses of public television and/or radio corporations and public radio stations to meet the replacement costs of capital items including towers, antennas, transmitters, videotape recorders, cameras, film chains, control room equipment, buildings and building renovations.

f. Notwithstanding any other provisions of law, for purposes of this subdivision the term "public radio station" shall mean a non-profit and noncommercial radio station which meets the following requirements:

(1) The station shall be licensed to:

(i) an institution chartered by the board of regents; or

(ii) an agency of a municipal corporation; or

(iii) a corporation created in the state education department and within the university of the state of New York.

(2) The station other than stations operated by corporations approved for funding prior to April first, nineteen hundred eighty-five shall have for a period of three consecutive years immediately prior to apportionment of such money and all recipients shall continue to after receipt of such money:

(i) broadcast at least eighteen hours per day or the maximum hours of operation authorized by the federal communications commission, whichever is less, three hundred sixty-five days per year; and

(ii) operate with a staff of at least five full-time members paid at least the federal minimum wage, a budget that includes at least ninety-five thousand dollars of non-federal income of which a reasonable portion is received from local business, foundations, or individual contributors paid either directly to the radio station or broadcast corporation or to a not-for-profit corporation for the benefit of such radio station and an effective radiated power equivalent to three thousand watts at five hundred feet above average terrain or the maximum tower height authorized by the federal communications commission, whichever is less for FM radio stations or two hundred fifty watts for AM radio stations.

g. At such time that assistance authorized by paragraph a of this subdivision exceeds the sum appropriated in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one, there shall be apportioned as assistance for approved operating expenses of New York city-licensed WNYC-TV, for each three hundred sixty-five hours of public service programming broadcast by such station annually, an amount equal to one percent of that portion of public television assistance for approved operating expenses which represents the increment above the level appropriated in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one; provided, however, that the total apportionment to WNYC-TV shall not exceed ten percent of such incremental assistance over such nineteen hundred ninety--nineteen hundred ninety-one level. Notwithstanding any provision of this paragraph to the contrary, such funding for WNYC-TV shall not diminish the amount of state aid received by the nine public television corporations pursuant to paragraph a of this subdivision in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one. For the purposes of this subdivision, "public

service programming" shall be defined as non-commercial cultural, instructional or educational programming. In order to qualify for assistance under this subdivision, the minimum hours of non-commercial public service programming, shall be eight hours daily and shall include three hours daily of prime time service, which is defined as service between the hours of 8:00 p.m. and 11:00 p.m. Non-commercial public service programming, other than prime time, shall be broadcast in blocks of not less than one hundred twenty minutes. All funds so apportioned shall be used for non-commercial public service television broadcast activities. WNYC-TV shall render a report to the commissioner not later than December first of each year such funds are appropriated upon the use of such appropriation, and shall furnish such other reports and information relating to such funds as the commissioner may from time to time require. Funds appropriated pursuant to this subdivision shall not be used for partisan or political purposes or to influence the enactment of legislation.

h. There shall be apportioned, at such time that any appropriation exceeds the sum appropriated in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one for approved capital expenses of educational television corporations and public radio stations, as provided in paragraph c of this subdivision, an amount to New York city-licensed WNYC-TV. Notwithstanding any provisions of this paragraph to the contrary, such funding shall not diminish the amount of state aid, for capital purposes, that the nine public television corporations and fifteen public radio stations received in state fiscal year nineteen hundred ninety--nineteen hundred ninety-one. WNYC-TV shall render a report to the commissioner not later than December first of each year such funds are appropriated upon the use of funds apportioned pursuant to this paragraph, and shall furnish such other reports and information relating to such funds as the commissioner may require.

5. Implementation. For the purposes of carrying out the provisions of this section, the regents may make rules, or authorize the commissioner to make regulations, providing for the implementation of this section, including provision for annual audited reports of the financial records of such corporations as the regents or the commissioner may require.

§ 237. Regents plan for higher education including approved plans of state university and city university of New York and plans of independent institutions of higher education. 1. Purposes of planning. Master planning for higher education in New York State should:

a. Define and differentiate the missions and objectives of higher education.

b. Identify the needs, problems, societal conditions and interests of the citizens of the state of New York to which programs of higher education may most appropriately be addressed.

c. Define and differentiate the missions and objectives of institutions of higher education.

d. Develop programs to meet the needs, solve the problems, affect the conditions and respond to the public's interests by:

(1) Setting goals.

(2) Describing the time required to meet those goals.

(3) Identifying the resources needed to achieve the goals.

(4) Establishing priorities.

e. Be in sufficient detail to enable all participants in the planning process, representatives of the people and the citizens themselves to evaluate the needs, objectives, program proposals, priorities, costs and results of higher education.

f. Optimize the use of resources.

g. Evaluate program effectiveness.

2. The regents shall, on or before the twenty-fifth day of April nineteen hundred seventy-one and each fourth year thereafter, request the state university trustees, the board of higher education of the city of New York, and all independent higher educational institutions to

submit long-range master plans for their development. Such request shall specify the nature of the information, plans and recommendations to be submitted, shall describe statewide needs, problems, societal conditions and interests of the citizens and discuss their priorities, and provide appropriate information which may be useful in the formulation of such plans.

3. The regents shall, once every four years, review the proposed plan and recommendations required to be submitted by the state university trustees pursuant to section three hundred fifty-four of this chapter, the proposed plan and recommendations of the board of higher education in the city of New York required to be submitted pursuant to section sixty-two hundred two of this chapter, and the plans of independent institutions of higher education and, upon approval by the regents of the plans submitted by the state university trustees and the board of higher education, they shall be incorporated into a regents plan or general revision thereof for the development of higher education in the state. Such regents plan shall include the plan and recommendations proposed by the state university trustees and the plan and recommendations proposed by the board of higher education in the city of New York and may include plans with respect to other matters not comprehended within the plan of the state and city universities, including but not limited to improving institutional management and resources, instruction and guidance programs, financial assistance to students and extension of educational opportunities. In determining the need for additional educational facilities in a particular area, the plans and facilities of existing public and independent institutions shall be fully evaluated. Such statewide plan shall include for information purposes a summary of all recommendations appearing in the prior statewide plan and subsequent amendments thereof containing a brief statement of action taken and progress toward achievement of each such recommendation.

4. During the calendar year nineteen hundred sixty-four and each fourth year thereafter the regents shall evaluate all available information with respect to the plans and facilities of independent institutions and shall review and act upon the proposed plan and

recommendations of the state university trustees and upon the proposed plan and recommendations of the board of higher education in the city of New York and incorporate such information, recommendations and each of the component plans so acted upon into a tentative regents plan or general revision thereof for the development of higher education in the state. Copies of such tentative regents plan or general revision thereof, as the case may be, shall be made available to the trustees of the state university, the board of higher education in the city of New York and the governing boards of all other institutions of higher education admitted to the university of the state of New York. Thereafter, after giving due notice, the regents shall conduct one or more hearings on such tentative regents plan or general revision thereof.

5. The regents shall transmit their plan or general revision thereof for the development of higher education in the state to the governor and the legislature on or before the first day of November, nineteen hundred sixty-four and each fourth year thereafter. The governor may disapprove or conditionally approve any part of the plan or general revision thereof after notifying the regents of such disagreements at least sixty days prior to such action during which time they may revise their recommendations relating to such items and request the governor to adopt such revised recommendations in lieu of such action. Such plan or general revision thereof or so much thereof as shall be approved and upon such terms and conditions as the governor may impose, shall become effective upon such approval by the governor.

6. Any modification recommended by the state university trustees or by the board of higher education in the city of New York to their respective plans, theretofore formulated and approved pursuant to section three hundred fifty-four or section sixty-two hundred two of this chapter shall be reviewed by the regents who may hold one or more hearings thereon after giving due notice thereof. As approved by the regents, such modification shall be made a part of the respective plans of the state university and of the city university and shall, together with any modifications the regents may make to that portion of their plan for the development of higher education in the state not

comprehended in the plans of the state and city universities, be transmitted to the governor and the legislature, all of which shall then become effective upon approval by the governor as modifications of the regents plan. By the first day of November in nineteen hundred seventy-four and each fourth year thereafter the regents shall summarize and report to the governor and the legislature any modifications made pursuant to this subdivision and shall include in such report a statement on the progress made in implementing the regents plan and their general recommendations with respect to higher education.

7. An advisory council on higher education consisting of the chancellor of the state university of New York, the chancellor of the city university of New York, and a representative of the commission on independent colleges and universities shall be convened by the commissioner of education and shall advise the regents and the commissioner on all phases of planning.

§ 238. Chair on geriatrics in the state university. 1. There is hereby established in the state university of New York, under the jurisdiction of its board of trustees, one distinguished chair on geriatrics at a state operated institution in the state university for professional education in medicine.

2. The state university board of trustees shall select the location of such chair and shall determine the fields of knowledge to be included within the term "geriatrics" as used in this section.

3. The state university board of trustees are hereby authorized, within annual appropriations made for this purpose, to appoint outstanding scholars to fill the chair on geriatrics established by this section, on such terms and conditions and for such duration as may be agreed upon by the parties.

§ 238-a. Statewide resource centers for geriatric education. 1. There is hereby established in the state university of New York, under the

jurisdiction of its board of trustees, a statewide resource center for geriatric education as established by chapter seven hundred seventy-seven of the laws of nineteen hundred eighty-one, and the acts supplemental thereto.

2. The state university board of trustees is hereby authorized within annual appropriations made for this purpose to designate the SUNY Health Science Center at Syracuse and Mount Sinai Medical Center in New York city to implement the provisions of this section.

3. The statewide resource centers for geriatric education shall be charged with developing a clearinghouse based on information gathered on educational programs in existence throughout the state and nation. The centers shall make available information on model curricula, textbooks, resource materials, medical residencies, internships, clinical rotations, conferences, continuing education programs, funding for research and training and other information that may be useful in improving geriatric training in medical schools within the state. They may also provide such services to allied professions.

4. The centers shall periodically disseminate information of interest to each of the medical schools and allied professions within the state. The centers shall also be available to assist the medical schools and allied professions within the state with individual requests for improving their programs in geriatric education. Efforts should be made to utilize an interdisciplinary approach in disseminating the centers' information.

5. The board of trustees shall submit a report annually to the governor, the president of the senate, the speaker of the assembly, the director of the state office for the aging and the commissioner of health.

§ 239. Albert Einstein chairs in science and Albert Schweitzer chairs in the humanities. 1. Legislative finding and declaration of policy. The public and private colleges in this state enjoy a well-deserved

reputation for academic excellence and intellectual vitality. For them to preserve and further enhance their great stature they must compete with colleges in other states and countries to attract the world's most distinguished and renowned scholars. The presence of these giants of science and the humanities at institutions of learning in this state strengthens and stimulates the academic community of the entire state. Their presence in this state also serves to attract exceptional faculty members, research scholars and students to colleges and research facilities in this state and nurtures the development of graduate work in science and the humanities in colleges in this state which do not now have such programs. All of this helps to create an atmosphere of intellectual, scientific and cultural vigor conducive to the attraction of new atomic, space, technological and other industries to this state. The people of the entire state benefit from the resulting state-wide intellectual, cultural and economic growth. The great cost attendant upon attracting such world famous figures, compensating them and providing them with necessary staff and facilities is beyond the financial means of most colleges. The legislature finds that in order to meet this need a program of distinguished chairs should be established within the university of the state of New York, under the jurisdiction of the regents.

2. There are hereby established in the university of the state of New York, under the jurisdiction of the regents, two distinguished chairs, one of which shall be known as the Albert Einstein chair in science and one of which shall be known as the Albert Schweitzer chair in the humanities. One additional such Einstein chair and one additional such Schweitzer chair shall be established during each of the fiscal years commencing April first, nineteen hundred sixty-five, nineteen hundred sixty-six, nineteen hundred sixty-seven and nineteen hundred sixty-eight, until a total of ten such chairs has been established. The regents shall determine the fields of knowledge to be included within the terms science and humanities as used in this section.

3. The regents are hereby authorized, within appropriations made therefor, to contract with outstanding scholars to fill the Albert Einstein chairs in science and the Albert Schweitzer chairs in the

humanities established by this section, on such terms and conditions and for such duration as may be agreed upon by the parties.

4. The regents are hereby authorized, within appropriations made therefor, to contract with any college in this state on such terms and conditions and for such duration as may be agreed upon by the parties, in relation to the provision of proper facilities, equipment, supplies, professional assistants, clerical and other personnel and such other services as may be necessary or appropriate to enable the holder of an Albert Einstein chair in science or an Albert Schweitzer chair in the humanities to carry out his work in connection therewith and to give effect to the purposes for which such chair was established as set forth in subdivision one of this section. Every college in this state is hereby authorized to enter into such a contract with the regents.

§ 239-a. Collection and distribution of student's residual consumer goods. 1. For purposes of this section, the following terms shall have the following meanings:

a. "consumer goods" shall mean goods that are used or bought for use primarily for personal, family or household purposes including, but not limited to, home furnishings, canned and non-perishable foods, factory-sealed and/or originally-packaged toiletries, clothing, cookware, and electronics.

b. "university" and "college" shall have the same meaning as set forth in section two of this title.

c. "city university" shall have the same meaning as set forth in section sixty-two hundred two of this chapter.

2. The administration of the individual state and city universities and colleges and every public or private college, community college or university within the state, are hereby authorized to facilitate a campus-wide charitable donation program for local area not-for-profit organizations utilizing students' residual consumer goods. The

administration:

a. shall designate a collection area for students to drop-off their unused or surplus goods two weeks before the end of the school year;

b. shall either develop a direct donation program of the residual consumer goods or organize a charitable event to collect residual consumer goods and donate such goods to local not-for-profit organizations; and

c. may involve student organizations for the implementation of the program.

3. The consumer goods collected:

a. shall be from those college students residing in campus-related residential facilities;

b. shall be consumer goods that would be discarded at the end of the school year by college students;

c. shall be in useable and good working condition.

4. In the event that there is no viable local not-for-profit organization able to accept the residential consumer goods collected, the administration of the individual state or city university or college or public or private college, community college or university within the state may organize a campus-wide sale of such goods. The profits of such sale may be dedicated by the student organizations or by the individual state or city university or college or public or private college, community college or university facilitating the program to a local not-for-profit organization.

5. The administration of any individual state or city university or college or public or private college, community college or university may grant credit to student members of organizations involved with the program, pursuant to subdivision two of this section, in the amount and

form that such administration deems appropriate.

§ 239-b. Research dogs and cats. 1. A higher education research facility that receives public money, including tax-exempt status, or a facility that provides research in collaboration with a higher education facility shall after the completion of any testing or research involving a dog or cat, assess the health of the dog or cat and determine whether it is suitable for adoption. Such facility shall thereafter make reasonable efforts to offer for adoption the dog or cat determined to be suitable for adoption, either through private placement or through an animal rescue and shelter organization, a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society, or a duly incorporated animal protective association that operates physical animal sheltering facilities and offers household pets to the public for adoption by way of an established adoption program, prior to euthanizing such dog or cat. Nothing in this section shall create a duty upon such an organization, association or society to accept a dog or cat offered by a higher education research facility for adoption.

2. A facility that is required to offer dogs or cats for adoption under this section may enter into an agreement with an animal rescue and shelter organization, a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society, or a duly incorporated animal protective association that operates physical animal sheltering facilities and offers household pets to the public for adoption by way of an established adoption program.

3. The attending or institutional veterinarian at a facility that is required to offer dogs or cats for adoption under this section shall have the authority to assess the health of an animal and determine whether an animal is suitable for adoption.

PART 1-A

CODY CENTER FOR AUTISM AND DEVELOPMENTAL DISABILITIES

Section 240. The Stony Brook university Cody center for autism and developmental disabilities at Stony Brook university.
241. Purposes of the Cody center.
242. Site.
243. Funding and reporting.

§ 240. The Stony Brook university Cody center for autism and developmental disabilities at Stony Brook university. The Stony Brook university Cody center for autism and developmental disabilities (hereinafter the "Cody center") is hereby established under the jurisdiction of the state university of New York. The Cody center shall be administered as a program of the state university in accordance with the policies of the trustees of the state university.

§ 241. Purposes of the Cody center. The purposes of the Cody center shall be to:

1. Advance the standards of care for individuals with autism spectrum disorders and other developmental disabilities.

2. Provide an educational setting for professionals working with families of individuals with developmental disabilities.

3. Contribute significant research outcomes to the body of science surrounding cause, identification, and treatment of developmental disabilities.

4. Practice a multidisciplinary approach when serving people with developmental disabilities.

5. Support and advance developed programs that form the core of community services and education including the social skills program, the resource center, the school consultation program, undergraduate and graduate courses, the parent education program and case management.

(a) The social skills program at the Cody center:

(i) Curriculum is primarily geared toward children and adolescents with pervasive developmental disorders.

(ii) The program uses a positive teaching approach, in a group format, to promote the development of pro-social behaviors.

(iii) Clinical psychologists and behavior specialists facilitate groups.

(b) Resource center services: The Cody center occupies a facility in Port Jefferson Station designed to provide evaluation and continuing treatment by a multidisciplinary staff including psychiatry, psychology, neurology, genetics, social work and other specialties. The Cody center provides the following services:

(i) Community outreach.

(ii) Individualized information/support sessions with family members of newly diagnosed children.

(iii) Medicaid service coordination.

(iv) Non-medicaid service coordination.

(v) Sponsorship of parent and professional training seminars.

(c) School consultation services: Children with autism spectrum disorders face a number of challenges in mainstream educational systems. Often, school district personnel do not have the special training required to make inclusion a rewarding and successful experience. The school consultation program aims to support teachers and other school personnel in their efforts to educate and work effectively with children with autism spectrum disorders. The program provides:

(i) Proactive and ongoing technical assistance to school districts and private educational facilities throughout Long Island.

(ii) Consultation services by Cody center autism specialists with extensive experience and training in addressing the learning and behavioral needs of children with autism spectrum disorders.

(d) Services include:

(i) Program planning and staff development.

(ii) Parent training.

(iii) Technical assistance to classroom teams to address the needs of a particular child or children.

§ 242. Site. The site of the Cody center shall be at the Matt and

Debra Cody center for autism and developmental disabilities at the state university at Stony Brook.

§ 243. Funding and reporting. Funds shall be made available for the support of the Cody center in the amounts appropriated for this purpose. The Cody center shall annually submit a complete and detailed report setting forth its operations and accomplishments to the chancellor of the state university, the president of the state university at Stony Brook, the director of the budget, and the chairs of the senate higher education committee, the senate finance committee, the assembly higher education committee and the assembly ways and means committee.

PART II
LIBRARIES

§ 245. State library, how constituted. All books, pamphlets, manuscripts, records, archives and maps, and all other property appropriate to a general library, if owned by the state and not placed in other custody by law, shall be in charge of the regents and constitute the state library.

§ 246. State medical library. The state medical library shall be a part of the New York state library under the same government and regulations and shall be open for consultation to every citizen of the state at all hours when the state library is open and shall be available for borrowing books to every accredited physician residing in the state of New York, who shall conform to the rules made by the regents for insuring proper protection and the largest usefulness to the people of the said medical library.

§ 247. State law library; legislative reference library. The state law library and the legislative reference library shall be parts of the

New York state library under the same government and regulations and shall be open for consultation to every citizen of the state at all hours when the state library is open and the law library shall be available for borrowing books to every duly admitted attorney residing in the state of New York, who shall conform to the rules made by the regents for insuring proper protection and the largest usefulness to the people of the said law library.

§ 248. Manuscript and records "on file". Manuscript or printed papers of the legislature, usually termed "on file," and which shall have been on file more than five years in custody of the senate and assembly clerks, and all public records of the state not placed in other custody by a specific law shall be part of the state library and shall be kept in rooms assigned and suitably arranged for that purpose by the trustees of public buildings. The regents shall cause such papers and records to be so classified and arranged that they can be easily found. No paper or record shall be removed from such files except on a resolution of the senate and assembly withdrawing them for a temporary purpose, and in case of such removal a description of the paper or record and the name of the person removing the same shall be entered in a book provided for that purpose, with the date of its delivery and return.

§ 249. State library, when open; use of books. The state library shall be kept open at least eight hours each day on five days every week in the year except the legal holidays known as Independence day, Thanksgiving day and Christmas day. Nothing in this section shall prohibit the regents from opening the state library on other days and times. Members of the legislature, judges of the court of appeals, justices of the supreme court and heads of state departments may borrow from the library books for use in Albany, but shall be subject to such restrictions and penalties as may be prescribed by the regents for the safety or greater usefulness of the library. Under such rules and conditions as the regents may prescribe, the state library may lend its books and printed material for a limited time to other individuals and institutions conforming to said rules and conditions. Such service shall

be free to residents of this state as far as practicable, but the regents may, in their discretion, charge a proper fee to nonresidents or for assistance of a personal nature or for other reason not properly an expense to the state, but which may be authorized for the accommodation of users of the library.

§ 249-a. Libraries of public institutions of higher education; access and use. The state university trustees and the board of higher education of the city of New York are hereby authorized to establish such rules and regulations as may be necessary and appropriate to make provision for access and use by the residents of the state of the libraries and library facilities of the public institutions of higher education under their respective jurisdictions.

§ 250. Duplicate department. The regents shall have charge of the preparation, publication and distribution, whether by sale, exchange or gift, of the colonial history, natural history and all other state publications not otherwise assigned by law. To guard against waste or destruction of state publications, and to provide for the completion of sets to be permanently preserved in American and foreign libraries, the regents shall maintain a duplicate department to which each state department, bureau, board, commission, authority, division, office or public benefit corporation shall send after completing its distribution, any remaining copies which it no longer requires. The above, with any other publications not needed in the state library, shall be the duplicate department, and rules for sale, exchange or distribution from it shall be fixed by the regents, who shall use all receipts from such exchanges or sales for the expenses of and for increasing the duplicate department or depository of the state library.

§ 251. Transfers from state officers. The librarian of any library owned by the state, or the officer in charge of any state department, bureau, board, commission or other office may, with the approval of the regents, transfer to the permanent custody of the state library or

museum any books, papers, maps, manuscripts, specimens or other articles which, because of being duplicates or for other reasons, will in his judgment be more useful to the state in the state library or museum than if retained in his keeping.

§ 252. Other libraries owned by the state. The report of the state library to the legislature shall include a statement of the total number of volumes or pamphlets, the number added during the year, with a summary of operations and conditions, and any needed recommendation for safety or usefulness for each of the other libraries owned by the state, the custodian of which shall furnish such information or facilities for inspection as the regents may require for making this report. Each of these libraries shall be under the sole control now provided by law, but for the annual report of the total number of books owned by or bought each year by the state, it shall be considered as a branch of the state library and shall be entitled to any facilities for exchange of duplicates, inter-library loans or other privileges properly accorded to a branch.

§ 253. Public and association libraries and museums. 1. All provisions of this section and of sections two hundred fifty-four to two hundred seventy-one inclusive shall apply equally to libraries, museums, and to combined libraries and museums, and the word "library" shall be construed to mean reference and circulating libraries and reading rooms.

2. The term "public" library as used in this chapter shall be construed to mean a library, other than professional, technical or public school library, established for free public purposes by official action of a municipality or district or the legislature, where the whole interests belong to the public; the term "association" library shall be construed to mean a library established and controlled, in whole or in part, by a group of private individuals operating as an association, closed corporation or as trustees under the provisions of a will or deed of trust; and the term "free" as applied to a library shall be construed to mean a library maintained for the benefit and free use on equal terms

of all the people of the community in which the library is located.

3. The term "Indian library" shall be construed to mean a public library established by the tribal government of the Saint Regis Mohawk tribe, the Seneca Nations of Indians or the Tonawanda Seneca tribe and located on their respective reservations, to serve Indians residing on such reservations and any other persons designated by its board of trustees.

§ 254. Standards of library service. The regents shall have power to fix standards of library service for every free association, public and hospital library or, with the advice of the appropriate tribal government and library board of trustees, Indian library which receives any portion of the moneys appropriated by the state to aid such libraries, or which is supported in whole or in part by tax levied by any municipality or district. In the case of a hospital library or a library serving a hospital, such standards shall be established in consultation with the commissioner of health. If any such library shall fail to comply with the regents requirements, such library shall not receive any portion of the moneys appropriated by the state for free, hospital or Indian libraries nor shall any tax be levied by any municipality or district for the support in whole or in part of such library.

§ 255. Establishment of a public library. 1. By a majority vote at any election, or at a meeting of the electors duly held, any county, city, village, town, school district or other body authorized to levy and collect taxes; or by vote of its board of supervisors or other governing elective body any county, or by vote of its common council or by action of a board of estimate and apportionment or other proper authority any city, or by vote of its board of trustees any village, or by vote of its town board any town, or any combination of such voting bodies, may individually or jointly authorize the establishment of a public library with or without branches, and may appropriate money raised by tax or otherwise to equip and maintain such library or libraries or to provide

a building or rooms for its or their use. Any such municipality or district may acquire real or personal property for library purposes by gift, grant, devise, bequest or condemnation and may take, buy, sell, hold and transfer either real or personal property for public library purposes. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted, provided that due public notice of the proposed action shall have been given. Whenever the electors of a school district at a district meeting duly held shall have authorized the establishment of a public library under the provisions of this section, at such meeting or at any subsequent meeting duly held, they may determine by a majority of the voters present and voting on the proposition to levy a tax to be collected in installments for the purchase or condemnation of a site and the erection thereon of a library building or the erection of a library building on land acquired otherwise than by purchase or condemnation, or for the purchase of land and a suitable building thereon and make necessary alterations and additions and equip such building for use as a library.

2. Upon the request of a majority of the members of the boards of trustees of two or more libraries chartered by the regents, if it shall appear to the satisfaction of the commissioner that the establishment of a cooperative library system will result in improved and expanded library service to the area and that the area is suitable for the establishment of such a cooperative library system, the commissioner may call a joint meeting of the trustees of such libraries for the purpose of determining whether a cooperative library system shall be established and electing a board of trustees of such cooperative library system. If it shall appear to the commissioner that the area proposed for the cooperative library system is not sufficient to warrant the establishment of such system; that such area is not otherwise suitable or that for sufficient other reason such cooperative library system as proposed should not be established he shall disapprove such request.

a. Notice of such meeting shall be given by the commissioner to each trustee by mail to his last known address at least five days prior to such meeting. At such meeting the board of trustees of each library

participating shall have five votes.

b. Such meeting shall be called to order by the person designated by the commissioner and shall thereupon organize by the election of a chairman. At such meeting a resolution in substantially the following form shall be presented for the action of the meeting: "Resolved that a cooperative library system be established consisting of the following libraries chartered by the regents ..... (name libraries) for the purpose of expanding and improving library service in the area served by the above named libraries."

c. If the resolution described above is adopted, then the meeting shall proceed to elect a board of trustees of such library system to consist of not less than five nor more than twenty-five members as determined by the meeting.

d. Within one month after taking office, the trustees-elect shall apply to the regents for a charter as a cooperative library system.

e. The board of trustees shall manage and control such cooperative library system and shall have all the powers of trustees of other educational institutions in the university as defined in this chapter. Such board shall elect a president, secretary and treasurer. Before entering upon his duties, such treasurer shall execute and file with the trustees an official undertaking in such sum and with such sureties as the board shall direct and approve. The treasurer need not be a member of such board. The funds of the cooperative library system shall be deposited in a bank or banks designated by the board of trustees and shall be expended only under the direction of such trustees upon properly authenticated vouchers.

f. The term of office of trustees shall be either three or five years except that the members of the first board of trustees shall determine by lot the year in which the term of office of each trustee shall expire so that as nearly as possible the terms of either one-third or one-fifth of the members of such board will expire annually. Thereafter, the successors of such trustees shall be elected annually by a meeting of

the trustees of the participating libraries in the cooperative library system. Where the term of office of a trustee is five years, no trustee shall hold office consecutively for more than two full five year terms and where the term of office of a trustee is three years, no trustee shall hold office consecutively for more than three full three year terms. Provided further, however, years served by a trustee appointed to fill an unexpired term shall not count towards the term limit. Such meeting shall be called by the secretary of the cooperative library system who shall give notice to all the trustees of participating libraries in the manner provided in subparagraph a of this subdivision for giving notice of the meeting to authorize the establishment of such cooperative library system. Within one month after approving a change in the length of the term of office of trustees, the trustees shall apply to the regents for an amendment to the charter of the cooperative library system. Such change in the length of the term of office of trustees shall not take effect until such charter amendment is approved by the regents. Any cooperative library system that changes the length of the term of office of trustees pursuant to this paragraph, may appoint an individual for a shorter term in order to ensure that as nearly as possible, an equal number of trustees shall be elected to the board each year, with the trustees assigned such shorter terms determined by lot, and provided further that the term of office of each incumbent member of the board shall not be decreased thereby.

g. A contract may be entered into between the board of trustees of a cooperative library system and the department under which the state library will provide services, facilities and staff to the cooperative library system upon terms agreed upon by and between the parties to such contract.

h. Nothing herein contained shall be deemed to deprive any participating library of its property.

i. The board of trustees of any library chartered by the regents which is not participating in a cooperative library system may adopt a resolution requesting that such library become a participating library in a cooperative library system. Duplicate copies of such resolution

certified by the clerk of such board of trustees shall be filed with the board of trustees of the cooperative library system. If such board approve such resolution such approval shall be endorsed thereon and a copy thereof shall be filed with the commissioner. Upon such resolution being approved by the commissioner such additional library shall become a participating library in such system and shall have the same rights, duties and privileges as other libraries participating therein.

j. The participating libraries in such library system shall be those libraries, members of the boards of trustees of which join in petitioning the commissioner to call the meeting for the establishment of the cooperative library system pursuant to this section, and who are named in the resolution voted upon by such meeting and in the charter of the library system.

k. The board of trustees of each public library system shall meet no fewer than six times a year.

3. Trustees of a reference and research library resources system shall have those powers set forth in section two hundred twenty-six of this article with respect to trustees of corporations chartered by the regents, and in addition shall have the following powers and duties:

a. The board of trustees of a reference and research library resources system shall include at least one representative of each constituent public library system, at least one representative of the member academic library with the largest collection, and at least two nonlibrarians from the research community served by the system.

b. The term of office of trustees shall be five years except that the members of the first board of trustees shall determine by lot the year in which the term of office of each trustee shall expire so that as nearly as possible the terms of one-fifth of the members of such board will expire annually. Thereafter, the successors of such trustees shall be elected annually by a meeting of the designated representatives of the member institutions participating in the reference and research library resources system. No trustee shall hold office consecutively for

more than two full terms. Such annual meeting shall be called by the secretary of the reference and research library resources system who shall give notice to all the participating libraries by mail at least five days prior to such meeting.

c. The board of trustees shall meet no fewer than six times a year.

4. By a majority vote of the tribal government of an Indian reservation, or upon the request of the tribal government of an Indian reservation, an Indian library may be established, with or without branches, and may make application to the state or other source for money to equip and maintain such library or libraries or to provide a building or rooms for its uses. Notwithstanding the provisions of section seven of the Indian law, the board of trustees of such library, on behalf of the tribal government, may acquire real or personal property for use by an Indian library by gift, grant, devise, bequest and may take, buy, sell, hold and transfer either real or personal property for the purposes of such library. No more than one Indian library may be established on a reservation and such library shall serve all inhabitants of that reservation. No such library shall be established on any reservation that has fewer than three hundred permanent residents and one thousand acres of land.

5. The boards of trustees of any two, or more, public libraries, Indian libraries, reference and research library resources systems, cooperative library systems, or association libraries, as defined in this article, may pool surplus funds to be used for the purchase of certificates of deposit in any bank or trust company, provided that such certificate of deposit be secured by a pledge of obligations of the United States of America, or any obligation fully guaranteed or insured as to interest and principal by the United States of America acting through an agency, subdivision, department or division thereof, or obligations of the state of New York. Each participating public library, Indian library, reference and research library resources system, cooperative library system or association library shall be entitled to its pro-rata share of interest earned on such certificates in proportion to its contribution to the purchase price of such certificates.

6. The board of trustees of any two, or more, public libraries, public library systems, reference and research library resources systems, as defined in this chapter, shall have the power to enter into, amend, cancel and terminate agreements for performance among themselves or one for the other of their respective functions, for the purpose of cooperatively advertising and awarding bids for equipment, supplies and services, provided:

a. such advertising and awards have been made in accordance with the requirements of article five-A of the general municipal law;

b. the purchasing and making of contracts shall be subject to general laws applicable thereto; and

c. that any such agreements shall include a manner of responding for any liabilities that might be incurred in the operation of the joint service or agreement.

§ 256. Contracts. 1. Any authority named in section two hundred fifty-five may, individually or jointly with another municipal or district body or tribal government, grant money for the support of the cost of maintaining or the cost of any capital improvements to or expenditure for one or more: free association libraries, provided such libraries are registered by the regents; public libraries, provided such libraries are registered by the regents; and cooperative library systems approved by the commissioner; or may, individually or jointly with another municipal or district body or tribal government, contract with the trustees of a free association library registered by the regents, or with any municipal or district body having control of such a library, or with the trustees of the cooperative library system, or with the trustees of a public library registered by the regents to furnish library services to the people of the municipality, district or reservation for whose benefit the contract is made, under such terms and conditions as may be stated in such contract. The amount agreed to be paid for such services under such contract shall be a charge upon the

municipal or district bodies or tribal government which agree to make the payment and shall be paid directly to the treasurer of the free association library, public library or of the cooperative library system.

2. When the municipality agreeing to make the payment or grant is a town in which there are one or more incorporated villages, which village or villages jointly with such town contract with the trustees of a cooperative library system, a free association library or with another municipal district or body having control of a public library whether or not such district or body is an incorporated village in such town, the amount appropriated by the town board in such town shall be a charge upon the taxable property of that part of the town outside of any such incorporated village.

§ 257. Acceptance of conditional gift. By majority vote at any election or at a meeting of the electors, duly held, any municipality or district or by three-fourths vote of its council any city, or any library or any designated branch thereof if so authorized by such vote of a municipality, district or council, or any combination of such voting bodies, may accept gifts, grants, devises or bequests for library purposes or for kindred affiliated educational, social and civic agencies on condition that a specified annual appropriation shall thereafter be made for the maintenance of a library or branches thereof, or of such kindred affiliated agencies, by the municipality or district or combination so authorizing such acceptance, or upon such other conditions as may be stipulated in the terms of the gift. Such acceptance when approved by the regents of the university under seal and recorded in its book of charters shall be a binding contract, and such municipality or district shall levy and collect yearly in the manner prescribed for other taxes the amount stipulated and shall maintain any so accepted gift, grant, devise or bequest intact and make good any impairment thereof, and shall comply with all other conditions set forth in the stated terms of the gift.

§ 258. Closing of museum; admission fee during certain hours. The trustees of any institution supported under this chapter by public money, in whole or in part, may, so far as consistent with free use by the public at reasonable or specified hours, close any of its museum collections at certain other hours, for study, to meet the demands of special students or for exhibition purposes, and may charge an admission fee at such hours, provided that all receipts from such fees shall be paid into the treasury and be used for the maintenance or enlargement of the institution.

§ 258-a. Purchases by museums, historical societies, zoological gardens, aquariums, botanical gardens and arboreta through office of general services. Museums, historical societies, zoological gardens, aquariums, botanical gardens and arboreta which are chartered or incorporated by the regents or otherwise formed pursuant to section two hundred sixteen of this chapter or otherwise pursuant to the laws of this state and are also non-profit organizations may make purchases of commodities and services through the office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law; provided that each such purchase shall have a cost of five hundred dollars or more and that said museum, historical society, zoological garden, aquarium, botanical garden or arboreta shall accept sole responsibility for any payment of such cost due the vendor.

§ 259. Library taxes. 1. a. Taxes, in addition to those otherwise authorized, may be voted for library purposes by any authority named in section two hundred fifty-five of this part and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor until changed by further vote and shall be levied and collected yearly, or as directed, as are other general taxes. In the case of a school district the appropriation for library purposes shall be submitted to the voters of the district as proposed by the library board of trustees in a separate resolution and shall not be submitted as a part of the appropriation of the necessary funds to meet the estimated expenditures

of the school district. All moneys received from taxes or other public sources for library purposes shall be kept as a separate library fund by the treasurer of the municipality or district making the appropriation and shall be expended only under direction of the library trustees on properly authenticated vouchers, except that money received from taxes and other public sources for the support of a public library or a free association library or a cooperative library system shall be paid over to the treasurer of such library or cooperative library system upon the written demand of its trustees. All such moneys paid over to a public library treasurer shall be deposited and secured in the manner provided by section ten of the general municipal law and the library trustees or the library treasurer, if the trustees shall delegate such duty to him, may invest such moneys in the manner provided by section eleven of such law.

b. (1) Except as provided in subparagraph two of this paragraph, whenever twenty-five qualified voters of a municipality shall so petition and the library board of trustees shall endorse, the question of establishing or increasing the amount of funding of the annual contribution for the operating budget of a registered public or free association library by such municipality to a sum specified in said petition, shall be voted on at the next general election of such municipality, provided that due public notice of the proposed action shall have been given. An increase in library funding provided pursuant to this paragraph shall not apply to a municipal budget adopted prior to the date of such election.

(2) Solely for the purposes of this paragraph, the term "municipality" shall:

(i) not include a city with a population of one million or more,

(ii) mean only a county when the public libraries located in such county are members of a federated public library system whose central library is located in a city of more than three hundred thousand inhabitants.

2. In the case of a joint public library authorized to be established by two or more municipalities or districts pursuant to section two hundred fifty-five of this chapter, the governing bodies of the

participating municipalities and districts shall enter into an agreement designating the treasurer of one of the participating municipalities or districts to be the treasurer of the joint public library. The agreement shall be for a period of not less than one year nor more than five years and the state comptroller and the commissioner of education shall be notified in writing by the board of library trustees of such agreement and designation.

The municipality or district whose treasurer is designated to serve as treasurer of a joint public library may be compensated for the services rendered by such official to the library. The amount to be paid for such services shall be determined by agreement between the governing body of the municipality or district and the board of library trustees, and shall be paid at least annually from the public library fund.

3. The treasurer of a joint public library shall maintain the separate library fund required by subdivision one of this section and shall credit to such fund all moneys received. The state aid apportioned to a joint public library, amounts appropriated by participants toward its support and all amounts received from other sources shall be paid to the library treasurer. Appropriations for the library made by the participating municipalities or districts shall be paid in full to the library treasurer within sixty days after the beginning of the library fiscal year.

Disbursements for purposes of a joint public library shall be made by the treasurer in the manner prescribed in subdivision one of this section.

Within thirty days after the close of the fiscal year the treasurer shall make an annual report of the receipt and disbursement of library moneys to the board of library trustees and to the governing body of each of the participating municipalities or districts.

4. Notwithstanding the provisions of subdivisions one and three of this section, the library trustees may by resolution establish a petty cash fund, in such amount as they shall determine, for any employee who

has supervision of any library or branch thereof. Expenditures from such fund may be made by such employee in advance of audit by the library trustees, but only after the submission of properly itemized and authenticated vouchers for materials, supplies or services furnished to the library or branch thereof and upon terms calling for payment to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. At each meeting of the library trustees a list of all expenditures made from such fund since the last meeting of the trustees, together with the vouchers supporting such expenditures, shall be presented by such employee to the library trustees. The trustees shall direct the treasurer to reimburse such petty cash fund in an amount equal to the total of such bills which the trustees shall so allow. Any of such bills or any portion of such bills which the library trustees shall refuse to allow shall be the personal liability of such employee and he shall promptly reimburse such petty cash fund in the amount of such disallowances. If such reimbursement has not been made by the time of the first payment of salary to such employee after the action of the library trustees in disallowing an amount so expended, such amount shall be withheld from such salary payment to such employee and, if necessary, subsequent salary payments and paid into such petty cash fund until an amount so disallowed by the library trustees has been repaid in full to the petty cash fund.

§ 260. Trustees. 1. Public libraries authorized to be established by action of the voters or their representatives shall be managed by trustees who shall have all the powers of trustees of other educational institutions of the university as defined in this chapter; provided that the number of trustees of county public libraries and Indian libraries shall not be less than five nor more than fifteen and that the number of trustees of other public libraries shall not be less than five nor more than fifteen. The number of trustees of joint public libraries authorized to be established by two or more municipalities or districts or any combination thereof shall be not less than five nor more than twenty-five, as determined by agreement of the voting bodies empowered to authorize the establishment of such libraries pursuant to subdivision one of section two hundred fifty-five of this chapter and shall be set

forth in the resolution authorizing the establishment of such joint public library. Such resolution shall also set forth the number of such trustees which each of the participating municipalities or districts shall be entitled to elect or appoint, and the terms of office of the trustees as determined in accordance with subdivision three of this section.

2. The trustees of public libraries authorized to be established by cities shall be appointed by the mayor and confirmed by the common council, in counties they shall be appointed by the county board of supervisors or other governing elective body, in villages they shall be appointed by the village board of trustees, in towns they shall be appointed by the town board, in school districts they shall be elected by the legal voters in the same manner as trustees are elected in the school district which established said library, and on Indian reservations they shall be elected at a general tribal election or otherwise designated by the chiefs or head men of an Indian tribe; that notwithstanding the fact that county, town or local school district lines do not penetrate the reservation boundary, Indians residing on reservations shall be eligible to serve as trustees of public libraries established in school districts to the same extent as they are qualified voters pursuant to subdivision three of section twenty hundred twelve of this chapter; that the first trustees shall determine by lot the year in which the term of office of each trustee shall expire and that a new trustee shall be elected or appointed annually to serve for three or five years to be determined by the entity establishing the public library. Notwithstanding the foregoing provisions of this subdivision, in any case where a town is a contributor to the support of any such public library in a village located within the town the appointment of trustees of such library who reside outside the village but within such town shall be subject to the approval of the town board of such town. The charter of any public library granted prior to April thirtieth, nineteen hundred twenty-one, which provides for trustees, their terms of office and method of election or appointment in a manner differing from that hereinbefore provided, shall remain in full force and effect until the regents, upon application of the library trustees, shall amend the charter to conform to the provisions of law in effect when such

amendment is made.

3. The trustees of a joint public library authorized to be established by two or more municipalities or districts or any combination thereof shall be appointed or elected by the body authorized by subdivision two of this section to elect or appoint trustees of public libraries authorized to be established by such municipality or district. The number of such trustees to be elected or appointed by each of the participating municipalities or districts shall be determined as provided in subdivision one of this section. The term of office of such trustees shall be three or five years except that the terms of the first trustees shall be so arranged that the terms of as nearly as possible to one-third or one-fifth of the members shall expire annually.

4. No person who is a member of any municipal council or board authorized by this section to appoint public library trustees in any municipality shall be eligible for the office of such public library trustee in such municipality.

5. The boards of trustees of public, free association and Indian libraries shall hold regular meetings at least quarterly, and such boards shall fix the day and hour for holding such meetings.

6. The board of trustees of a library system or a public or free association library chartered by the regents of the state of New York may determine to contribute annually a sum of money to assist the New York State Association of Library Boards in fostering, encouraging and promoting the further development of library activities throughout the state and financing programs in this state which will assist in the dissemination of information leading to the improvement and extension of library services.

7. The board of trustees of a public library established and supported by a school district shall, in addition to powers conferred by this or any other chapter, be authorized in its discretion to call, give notice of and conduct a special district meeting for the purpose of electing library trustees and of submitting initially a resolution in accordance

with the provisions of subdivision one of section two hundred fifty-nine of this chapter. Such meeting shall be held prior to the first day of July but subsequent to the first day of April. Should the board of trustees of the library determine, in its discretion, not to notice and conduct such a meeting, then the election and budget vote will be noticed and conducted by the board of education of the school district as part of its annual meeting.

8. Candidates for the office of trustee of a public library established and supported by a school district shall be nominated by petition which shall meet the requirements of subdivision a of section two thousand eighteen of this chapter, except that such candidates shall be elected in the manner specified in subdivision b of such section except that the nominating petition filed pursuant to subdivision a or b of such section shall be signed by a least twenty-five qualified voters of the library district, or two percent of the voters who voted in the last previous annual election of members of the library board of trustees, whichever is greater. The provisions of this subdivision shall not apply to a charter granted prior to April thirtieth, nineteen hundred seventy-one that provides for a different procedure.

9. The board of trustees of a public library established and supported by a school district, in addition to any other powers conferred by this chapter, may, in its discretion, call, give notice of and conduct a special district meeting of the qualified voters of the school district for any proper library purpose, including the re-submission of a defeated library appropriation, at a time and place designated by said board of trustees, except as to those purposes set forth in subdivision seven of this section.

10. The board of trustees of a public library established and supported by a school district, in addition to any other powers conferred in this chapter, shall have the power to determine the necessity for construction of library facilities, to select a library site or sites, to select the architect, and to require that the board of education call, give notice of and conduct a special district meeting in accordance with the provisions of subdivision nine of this section for

the purpose of designating and acquiring a site or sites and authorizing the issuance of obligations of the school district for acquisition and construction of library facilities, or either.

11. Whenever the board of trustees of a public library shall call, give notice of and conduct a special district meeting under subdivision seven or nine of this section, such meeting shall be established, noticed and conducted in the same manner and to the same extent as such meetings were theretofore established, noticed and conducted by the board of education of the school district, the board of trustees of the libraries making all the determinations and taking all action in respect thereto otherwise required of the board of education of the school district, except that the meeting need not, in the discretion of the board of trustees of the library, be held in separate election districts in those school districts where election districts have been established by the board of education. The board of registration shall meet as provided in section two thousand fourteen of this chapter and notice of the meeting shall be given in accordance with the provisions of sections two thousand four and two thousand seven of this chapter. The cost of all such meetings and registrations shall be a charge to the library.

12. The board of trustees of a public, free association or Indian library which provides public access to the internet shall establish a policy governing patron use of computer terminals which access the internet. Verification of such policy shall be included in the annual report submitted to the department.

Notwithstanding any other provision of law, prior to the discarding of used or surplus books or other such reading materials by trustees of a chartered public, cooperative or free association library which receives over ten thousand dollars in state aid, such trustees shall offer to donate such books or materials to a not-for-profit corporation or political subdivision located within the area of the library system or offer to sell such books or materials to the general public. The trustees shall retain any proceeds received from the sale of such books and materials for the purpose of maintaining and improving library service within the system.

§ 260-a. Meetings of board of trustees. Every meeting, including a special district meeting, of a board of trustees of a public library system, cooperative library system, public library or free association library, including every committee meeting and subcommittee meeting of any such board of trustees in cities having a population of one million or more, shall be open to the general public. Such meetings shall be held in conformity with and in pursuance to the provisions of article seven of the public officers law. Provided, however, and notwithstanding the provisions of subdivision one of section ninety-nine of the public officers law, public notice of the time and place of a meeting scheduled at least two weeks prior thereto shall be given to the public and news media at least one week before such meeting.

§ 260-b. Reduction of salaries for purchase of annuities. Each board of trustees of a library system, cooperative library system, public library or free association library in its discretion, may enter into a written agreement with any employee of such board to reduce the annual salary as otherwise payable by law of such employee for the purpose of purchasing an annuity for such employee. Any such agreement may be terminated at any time upon written notice by either such employee or such board. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

§ 260-c. Reduction of salaries for tax-deferred annuities. The board of trustees of a library system, cooperative library system, public library or free association library, in its discretion, may enter into a written agreement with any of its employees to reduce the annual salary, as otherwise earned and payable by law, of such employee for the purpose of providing a tax-deferred annuity for such employee under the retirement system in which such employee is currently a member, but only

if such retirement system specifically provides for such tax-deferred annuities, and subject to any provisions and limitations applicable thereto. Any such agreement may be terminated upon written notice by either such employee or such board. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

§ 260-d. Board of trustees continuing education. 1. Beginning January first, two thousand twenty-three, each member, elected or appointed, of a board of trustees of a public, free association or Indian library shall be required to complete a minimum of two hours of trustee education annually, from a provider approved by the commissioner on the financial oversight, accountability, fiduciary responsibilities and the general powers and duties of a library trustee. Such trustee education may be delivered online or in person, and may include lectures, workshops, regional or national library association programs, or any other format approved by the commissioner.

2. Each member shall demonstrate compliance with the requirements of this section by filing with the president of the board of trustees evidence of completion of trustee education from an approved provider. Actual and necessary expenses incurred by a member in complying with this section shall be a charge against the library. Such evidence shall include one of the following:

(a) certificates of completion issued by one or more approved providers; or

(b) a signed self-assurance of completion. Such assurance shall identify the approved trustee education providers, a description of the format and content of the completed instruction activities, the date and time such member began and completed each instruction activity and an explanation of why a certificate of completion was not available from such approved providers.

§ 261. Incorporation. Within one month after taking office, the first board of trustees of any such public library or Indian library shall apply to the regents for a charter in accordance with the vote establishing the library.

§ 262. Use of public and Indian libraries. Every library established under section two hundred fifty-five of this chapter shall be forever free to the inhabitants of the municipality or district or Indian reservation, which establishes it, subject always to rules of the library trustees who shall have authority to exclude any person who wilfully violates such rules; and the trustees may, under such conditions as they think expedient, extend the privileges of the library to persons living outside such municipality or district or Indian reservation.

§ 263. Reports. Every library or museum, other than a school library, which enjoys any exemption from taxation or receives state aid or other privilege not usually accorded to business corporations shall make the report required by section two hundred fifteen of this chapter, and such report shall relieve the institution from making any report now required by statute or charter to be made to the legislature or to any department, court or other authority of the state. These reports shall be summarized and transmitted to the legislature by the regents with the annual reports of the university.

§ 264. Injuries to property. Whoever intentionally injures, defaces or destroys any property belonging to or deposited in any incorporated library, reading-room, museum or other educational institution, shall be punished by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

§ 265. Detention. Whoever wilfully detains any book, newspaper, magazine, pamphlet, manuscript or other property belonging to any public or incorporated library, reading-room, museum or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution, such article or other property may be kept, shall be punished by a fine of not less than one nor more than twenty-five dollars, or by imprisonment in jail not exceeding six months, and the said notice shall bear on its face a copy of this section.

§ 265-a. Defense of lawful detention. In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass or invasion of civil rights brought by any person by reason of having been detained on or in the immediate vicinity of the premises of a public library or association library for the purpose of investigation or questioning as to the ownership of any materials, it shall be a defense to such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer or by the librarian in charge, his or her authorized employee or agent, and that such peace officer, librarian, employee or agent has reasonable grounds to believe that the person so detained was committing or attempting to commit larceny on such premises of such materials. As used in this section, "reasonable grounds" shall include, but not be limited to, knowledge that a person has concealed, unauthorized possession of material owned or belonging to the public library or association library, and a "reasonable time" shall mean the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the public library or association library relative to the ownership of the materials.

§ 266. Transfer of libraries. By vote similar to that required by section two hundred fifty-five of this chapter any municipality or district or tribal government or combination of districts, or by action of its trustees at a meeting duly held any association library,

incorporated or registered by the regents, may, when such vote or action has been duly approved by the regents, transfer, conditionally as provided in section two hundred fifty-seven of this chapter, or otherwise, the ownership and control of its library with all its property, real and personal, or any part thereof, to any municipality, or district, or institution providing for free library service; and the trustees or body making the transfer shall thereafter be relieved of all responsibility pertaining to property thus transferred.

§ 267. Local neglect. If the local authorities of any library supported wholly or in part by state money fail to provide for the support of such library and the public usefulness of its books, the regents shall in writing notify the trustees of said library what is necessary to meet the state's requirements, and on such notice all said library's rights to further grants of money or books from the state shall be suspended until the regents certify that the requirements have been met; and if said trustees shall refuse or neglect to comply with such requirements within sixty days after service of such notice, the regents may remove them from office and thereafter all books and other library property wholly or in part paid for from state moneys shall be under the full and direct control of the regents who, as shall seem best for public interests, may appoint new trustees to carry on the library, or may store it, or distribute its books to other libraries.

§ 268. Abolition. Any library established by public vote of any municipality or district, or by vote of the common council of any city, or by vote of the board of trustees of any village, or by action of school authorities, or by vote of the tribal government of an Indian reservation, or under section two hundred fifty-five of this chapter, may be abolished by majority vote at an election, or at a meeting of the electors duly held, provided that due public notice of the proposed action shall have been given, or by vote of such tribal government. If any such library is abolished, its property shall be used first to return to the regents, for the benefit of other free association or public or school libraries in that locality, the equivalent of such sums

as it may have received from the state or from other sources as gifts for public use. After such return any remaining property may be used as directed in the vote abolishing the library, but if the entire library property does not exceed in value the amount of such gifts, it may be transferred to the regents for public use, and the trustees shall thereupon be free from further responsibility. No abolition of a public library shall be lawful until the regents grant a certificate that its assets have been properly distributed and its abolition completed in accordance with law.

§ 269. Library extension service. By such means, in such manner and upon such conditions as the regents may prescribe, they shall make provision for a library extension service for the promotion, organization and supervision of free libraries; for supplying information, advice, assistance or instruction on any matter pertaining to library methods or practice or to the establishment, equipment, organization or administration of libraries; for the acquisition, preparation and circulation of traveling libraries and other educational material; for aiding and encouraging study clubs; and for the employment of all suitable efforts to bring within the reach of all the people of the state, and awaken their desire for, increased opportunities and facilities for reading and study.

§ 270. Acceptance of surplus library books or property. The state education department is hereby authorized to cooperate with the United States commissioner of education, the war assets administration, and/or other federal officers and officials in the administration of any statute heretofore or hereafter enacted for the disposal of surplus library books or property, and to accept for and on behalf of the state of New York or its political subdivisions surplus library books or other property suitable and necessary to the operation of public and free libraries and Indian libraries and for the improvement and extension of library service for New York state, and any funds, which may be made available to the state of New York by the federal government for these and related public and Indian library services.

§ 271. Apportionment of state aid to Indian libraries. Any Indian library chartered by the regents or in the absence of such library any tribal government contracting for service from a chartered and registered library or approved library system, shall be entitled to receive state aid during each calendar year consisting of the following amounts:

1. Eighteen thousand dollars, and

2. The sum of eighteen dollars and twenty cents per capita for persons residing on the reservation served by the Indian library or contract as shown by the latest federal census or certified by the New York state director of Indian services, and

3. The sum of one dollar and fifty cents per acre of area served by the Indian library or contract.

Such sums shall be paid annually to the Indian library board of trustees for the use of the Indian library, or in the absence of such a board, to the tribal government for a contract for library service. Nothing contained in this section shall be construed to diminish the funds, services or supplies provided to any Indian library by a library system as defined in section two hundred seventy-two of this article. Increases in appropriations for such purposes during a calendar year shall be pro rated.

§ 272. Conditions under which library systems are entitled to state aid. 1. Public library systems. a. The term "public library system" as used in this article means:

(1) A library established by one or more counties.

(2) A group of libraries serving an area including one or more counties in whole or in part.

(3) A library of a city containing one or more counties.

(4) A cooperative library system established pursuant to section two

hundred fifty-five of this chapter, the plan of library service of any of which shall have been approved by the commissioner.

b. The "area served" by a public library system for the purposes of this article shall mean the area which the public library system proposes to serve in its approved plan of service. In determining the population of the area served by the public library system the population shall be deemed to be that shown by the latest federal census for the political subdivisions in the area served. Such population shall be certified in the same manner as provided by section fifty-four of the state finance law except that such population shall include the reservation and school Indian population and incarcerated individuals of state institutions under the direction, supervision or control of the state department of corrections and community supervision, the state department of mental hygiene and the state department of social welfare. In the event that any of the political subdivisions receiving library service are included within a larger political subdivision which is a part of the public library system the population used for the purposes of computing state aid shall be the population of the larger political subdivision, provided however, that where any political subdivision within a larger political subdivision shall have taken an interim census since the last census taken of the larger political subdivision, the population of the larger political subdivision may be adjusted to reflect such interim census and, as so adjusted, may be used until the next census of such larger political subdivision. In the event that the area served is not coterminous with a political subdivision, the population of which is shown on such census, or the area in square miles of which is available from official sources, such population and area shall be determined, for the purpose of computation of state aid pursuant to section two hundred seventy-three of this part by applying to the population and area in square miles of such political subdivision, the ratio which exists between the assessed valuation of the portion of such political subdivision included within the area served and the total assessed valuation of such political subdivision.

c. Members of a public library system shall be those public, free association, and Indian libraries located within the service area which

have been admitted to membership prior to July first, nineteen hundred seventy-eight, or which apply for and are granted membership subsequent to that date with the approval of the commissioner. No public library system shall be subject to any loss of benefits under these provisions where such system has made reasonable effort to prevent the unapproved withdrawal of such library from the system and the system demonstrates, in a manner satisfactory to the commissioner, that the residents of the area encompassed by the withdrawing library will continue to benefit from the library services provided by the public library system.

d. "Approved plan" as used in this article means a plan of library service by a public library system approved by the commissioner subsequent to May first, nineteen hundred fifty-eight.

e. Approval shall not be given to a public library system unless it will serve at least two hundred thousand people or four thousand square miles of area, provided, however, that provisional approval may be given to a public library system which will serve at least fifty thousand persons provided the area served includes three or more political subdivisions and provided further that a satisfactory plan of expansion of service to be followed during the ensuing five-year period is adopted by such library system and approved by the commissioner.

f. The board of trustees of the public library system shall submit to the commissioner the plan of library service. Such plan shall be supported by such information as the commissioner may require in the form prescribed by him.

g. No such plan of library service shall be approved by the commissioner unless he finds that it provides for the residents of the area served thereby a method conforming to the regulations of the commissioner by which the participating libraries are obligated to permit the loan of books and material among members of the system for use on the same basis permitted by the library which owns or controls them.

h. The commissioner shall by regulation provide the standard of

service with which such a public library system must comply. Such regulations shall, among other things, relate to the total book stock; the diversity of such book stock with respect to general subjects and type of literature, provided that such regulations shall not, directly or indirectly, prohibit the inclusion of a particular book, periodical or material or the works of a particular author or the expression of a particular point of view; annual additions to book stock; circulation of book stock; maintenance of catalogues; number and location of libraries or branch libraries; hours of operation and number and qualifications of personnel, necessary to enable a public library system to render adequate service. Such regulations may establish standards which differ on the basis of population; density of population; the actual valuation of the taxable property within the area served; the condition of library facilities in existence on April first, nineteen hundred fifty-seven; the amount raised by taxation by or for the area served; the relation of such amount to population and actual value of the property taxed; the relation of the amount of funds received by a public library sytem from local taxes to that derived from private contributions; or on such other basis as the commissioner finds necessary to provide for the equitable distribution of state aid.

i. Each public library system receiving state aid pursuant to this section and section two hundred seventy-three shall furnish such information regarding its library service as the commissioner may from time to time require to discharge his duties under such sections. The commissioner may at any time revoke his approval of a plan of library service if he finds that the public library system operating under such plan no longer conforms to the provisions of this section or the regulations promulgated by the commissioner hereunder; or, in the case of provisional approval, if such library system no longer conforms to the agreement, plans or conditions upon which such provisional approval was based. In such case a public library system shall not thereafter be entitled to state aid pursuant to this section or section two hundred seventy-three unless and until its plan of library service is again approved by the commissioner.

j. (1) In the event that the sum total of local sponsor support raised

by local taxation exclusive of the sum raised for capital expenditures for the support of a public library system and participating libraries in a twelve month period is less than ninety-five per centum of the average of the amounts raised for such purposes by local taxation for the two preceding twelve month periods, the state aid to which such library system would otherwise be entitled shall be reduced by twenty-five per centum. Such state aid shall likewise be reduced by twenty-five per centum in the event that the public library system shall refuse after reasonable notice to make provision for the expansion of the area served in accordance with the regulations of the commissioner. Upon receipt of annual systems and participating libraries activity reports satisfactory to the commissioner, the commissioner shall determine the amount of any underpayment or overpayments related to maintenance of effort and shall apply such adjustment to the next annual payment due such library system. In the first year in which any library system changes its reporting from the calendar year to a fiscal year other than the calendar year, it shall file any additional reporting schedules deemed necessary by the commissioner for the purpose of determining maintenance of effort as required herein, in order that no period of time shall be exempt from such requirement.

(2) In the event that the total sum raised by local taxation, exclusive of the sum raised for capital expenditures, for the support of a central library of a public library system in a twelve month period, is less than ninety-five per centum of the average of the amounts raised for such purposes by local taxation for the two preceding twelve month periods, the state aid to which such library system would otherwise be entitled for the development of its central library shall be reduced by twenty-five per centum. Upon receipt of annual central library activity reports satisfactory to the commissioner, the commissioner shall determine the amount of any underpayment or overpayments related to maintenance of effort and shall apply such adjustment to the next annual payment due such library system. In the first year in which any library system changes its reporting from the calendar year to a fiscal year other than the calendar year, it shall file any additional reporting schedules deemed necessary by the commissioner for the purpose of determining maintenance of effort as required herein, in order that no period of time shall be exempt from such requirement.

(3) The commissioner may waive the requirements of subparagraphs one and two of this paragraph, if the commissioner determines that the application of such subparagraphs would result in excessive hardship for the public library system or central library brought about by an extraordinary change in a local sponsor's economic condition, loss by a local sponsor of state aid to local governments provided under section fifty-four of the state finance law, or by a natural disaster. The commissioner may grant such waiver for a period of up to three consecutive calendar years. The commissioner shall report any waivers granted under this subparagraph to the speaker of the assembly, the temporary president of the senate, the chairs of the legislative fiscal committees and the director of the division of the budget.

(4) A "local sponsor" shall mean any municipality, district or school district, as defined in the general municipal law, or any combination thereof.

k. In promulgating regulations and approving, rejecting or revoking plans of library service pursuant to this section, consideration shall be given to:

(1) The prevention of unreasonable discrimination among the persons served by such public library system.

(2) The need for rapid expansion of library facilities in areas not now served.

(3) The need of each public library system for the professional services of an adequate number of librarians having, in addition to general familiarity with literature, special training with respect to book selection and organization for library use.

(4) The need for a book stock sufficient in size and varied in kind and subject matter.

(5) The need for regular fresh additions to book stock.

(6) The need for adequate books, materials and facilities for research and information as well as for recreational reading.

(7) The need for libraries, branches, and other outlets convenient in location, and with adequate hours of service.

(8) The desirability for the integration of existing libraries and new libraries into systems serving a sufficiently large population to support adequate library service at a reasonable cost.

(9) The need for the economic and efficient utilization of public funds.

(10) The need for full utilization of local pride, responsibility, initiative and support of library service and the use of state aid in their stimulation but not as their substitute.

(11) The needs of special populations.

l. Each public library system shall provide access to the internet in designated libraries located within their systems for the purpose of connecting residents of this state who are serving in the military on active duty in a combat theater or combat zone of operations to spouses, domestic partners, children, including adopted, step, or foster children, and parents, including those who stood in the relationship of a parent to the serviceperson for one year or more, at any time prior to the serviceperson's entry into active military service.

(1) Each public library system shall assign within its system six computer terminals with internet access for such use, and shall ensure that each county within its system has a library with at least one computer terminal for such use.

(2) Notwithstanding subparagraph one of this paragraph, in a library system containing a city with a population of one hundred twenty-five thousand or more individuals, at least two terminals shall be assigned within such city in a designated library or libraries that serve such city. Furthermore, in a city with a population of one million or more, there shall be at least ten terminals assigned in any county which is wholly contained within such city.

(3) When determining which libraries are to be assigned computer terminals for such purpose, the system shall consider the location and current availability of computer terminals with internet access. In the event that within a public library system there are no libraries within a county that have a computer with internet access, a computer with internet access shall be provided by the department to the assigned library within such county. Furthermore, in public library systems with fewer than six counties, when determining where additional terminals should be assigned after terminals have been placed in each county within the system pursuant to subparagraphs one and two of this paragraph, such systems shall give priority to libraries that serve

areas which support and maintain military bases or to libraries that serve the largest populations.

2. Reference and research library resources systems.

a. The term "reference and research library resources system" as used in this article means a duly chartered educational institution resulting from the association of a group of institutions of higher education, libraries, non-profit educational institutions, hospitals, and other institutions organized to improve reference and research library resources service. Such reference and research library resource systems may be registered upon meeting the standards set forth by the commissioner.

b. The "area served" by a reference and research library resources system for the purposes of this article shall include not less than seven hundred fifty thousand persons, as based upon the latest approved federal census, or not less than ten thousand square miles; and the defined area of service shall:

(1) Include more than one county; and

(2) Respect the integrity of the area of service of a public library system; and

(3) Constitute a service area effectively related to the availability of information resources and services and to the area of service of other reference and research library resources systems, as determined by the commissioner.

c. Membership in a reference and research library resources system.

(1) The membership shall include at least four chartered degree-granting institutions of higher education of the four year level whose libraries meet departmental standards.

(2) Membership shall also include either:

(i) at least one chartered degree-granting institution of higher education offering graduate programs for a masters degree whose library holds not less than two hundred seventy-five thousand volumes and currently receives not less than three thousand periodical titles, or

(ii) a public library which holds not less than four hundred thousand

adult volumes and currently receives not less than one thousand five hundred periodical titles.

(3) The membership may also include approved public and school library systems which are within the region served by the reference and research library resources system.

(4) A public library in Suffolk or Nassau county that provides service within the area served by the system except that no such public library which is not a member of a public library system shall be eligible for membership in a reference and research library resources system.

(5) A reference and research library resources system may set its own minimum standards for membership consistent with regulations of the commissioner, except that;

(i) any chartered institution of higher education whose library meets the departmental standards shall be eligible for membership, and

(ii) any chartered institution of higher education whose library does not meet the departmental standards may not be eligible for membership unless it submits to the department a five-year plan for the realization of the standards, the plan bearing the signed approval of the head librarian, the president, and the academic dean of the institution, and

(iii) any hospital whose library meets the standards established by the regents in accordance with section two hundred fifty-four of this article shall be eligible for membership, and

(iv) any hospital whose library does not meet the standards established by the regents will not be eligible for membership unless it submits to the commissioner a five year plan for the realization of the standards, such plan bearing the signed approval of the head of the governing board of such hospital.

(6) The member institutions of each reference and research library resources system shall be broadly representative of the chartered educational agencies, nonprofit organizations, hospitals and other special libraries providing library service within the defined area of services of the system.

d. Plan of service.

(1) The reference and research library resources system shall submit a plan of service to the commissioner for approval, in a form to be prescribed by the commissioner to cover resources, needs, proposed

program, budget, contractual agreements, and any other information which the commissioner may require.

(2) The plan of service must show the manner in which the reference and research library resources system will improve the library resources and services presently available in the area to the research community, including improved reader access.

(3) The plan of service shall indicate the manner in which the reference and research library resources system strengthens the library programs of its members and the manner in which the system program is related to appropriate regional programs in higher education.

(4) The plan of service shall identify the resources and needs of each hospital library, or library serving hospitals and show the manner in which the reference and research library resources system will improve hospital library services and in which it will assist each hospital library which does not meet the regents' standards to attain such standards and will assist each non-member hospital library or library serving a hospital to attain membership in the system.

e. The commissioner shall by regulation establish the standard of service to be met by such a reference and research library resources system.

f. Each reference and research library resources system receiving state aid pursuant to this section and section two hundred seventy-three of this article shall furnish such information regarding its library service as the commissioner may from time to time require to discharge his duties under such sections. The commissioner may at any time revoke his approval of a plan of library service if he finds that the library system operating under such plan no longer conforms to the provisions of this section or the regulations promulgated by the commissioner hereunder. In such case a library system shall not thereafter be entitled to state aid pursuant to this section and section two hundred seventy-three of this article unless and until its plan of library service is again approved by the commissioner.

g. In promulgating regulations and approving, rejecting or revoking plans of library service pursuant to this section, consideration shall

be given to:

(1) The prevention of unreasonable discrimination among the persons served by such library system;

(2) The need for regional resources of sufficient size and varied in kind and subject matter;

(3) The need for adequate books, materials (print and non-print) and facilities for research and information;

(4) The need for outlets convenient in time and place for the sharing of library materials;

(5) The need for the economic and efficient utilization of public funds;

(6) The need for full utilization of local responsibility, initiative and support of library service and the use of state aid in their stimulation but not as their substitute.

(7) The need for adequate books, materials, including both print and non-print materials, and facilities for current medical information services to be provided each hospital.

§ 273. Apportionment of state aid to libraries and library systems. 1. Any public library system providing service under an approved plan during a calendar year shall be entitled to receive during that calendar year state aid consisting of the following amounts:

a. An annual grant of:

(1) Ten thousand dollars where the library system serves less than one county, or

(2) Twenty thousand dollars where the library system serves one entire county, or

(3) Where the library system serves more than one county the system shall be entitled to receive twenty-five thousand dollars for each entire county served and/or ten thousand dollars for each county, any part of which is served by the library system. If an entire county is served by two or more library systems, each of which serves a part thereof, each of such library systems shall be entitled to receive a grant of ten thousand dollars and in addition, a pro rata share of an additional sum of ten thousand dollars, such share to be computed in

accordance with the ratio which the population of the area of the county served by such library system bears to the total population of the county, as determined under subdivision one of section two hundred seventy-two of this article.

b. In a library system which submits a plan for further development of and access to central library services, which plan shall be approved by the commissioner pursuant to the commissioner's regulations, the amount of central library services aid shall be:

(1) thirty-two cents per capita of the population within the chartered area of service of such library system with a minimum amount of one hundred five thousand dollars, and

(2) an additional seventy-one thousand five hundred dollars.

(3) Ownership of library materials and equipment purchased with such central library services aid provided by this paragraph shall be vested in the public library system.

c. The sum of one dollar and sixty-two cents per capita of population of the area served.

d. Each public library system with an automation program to support bibliographic control and interlibrary sharing of information resources of member libraries, and to coordinate and integrate the automated system or systems of such member libraries consistent with regulations of the commissioner, shall be eligible to receive an amount equal to two and nine hundred thirty-eight thousandths percent of the amount earned in paragraph (c) of this subdivision, or seventy-six thousand five hundred dollars, whichever is more.

e. The sum of fifty-two dollars per square mile of area served by the library system in the case of library systems serving one county or less. Such sum shall be increased by five dollars for each additional entire county served, provided, however, that no apportionment pursuant to this paragraph shall exceed seventy-two dollars per square mile of area served. If an entire county is served by two or more library systems, each of which serves a part thereof, each of such library systems shall be entitled to receive, in addition to the aid computed in

accordance with the foregoing provisions of this paragraph, a pro rata share of an increase of five dollars to be computed as follows: the sum resulting from the computation of five dollars per square mile of area served by the one of such library systems which would receive the largest amount of aid pursuant to this paragraph shall be pro rated among the library systems serving such county in accordance with the ratio which the population of the area served by each of such library systems bears to the population of the county as determined under subdivision one of section two hundred seventy-two of this article.

f. (1) Local library services aid. Except in cities with a population in excess of one million inhabitants, each chartered and registered public and free association library meeting standards of service promulgated by the commissioner, and each public or free association library serving a city with a population of one hundred thousand or more which merged with the public library system on or before January first, nineteen hundred seventy-six and which meets standards of service promulgated by the commissioner, shall be eligible to receive annually thirty-one cents per capita of the population of the library's chartered service area as on file with the commissioner on January first of the calendar year for which aid is payable, or, thirty-one cents per capita of the population of the city with a population of one hundred thousand or more whose public or free association library merged with the public library system on or before January first, nineteen hundred seventy-six, with a minimum amount of one thousand five hundred dollars, except that no library shall receive less than the amount of local library services aid received in two thousand one. Regulations of the commissioner shall provide a method for establishing changes in chartered service areas or determining populations thereof. Local library services aid shall be paid to the system for distribution within thirty days of receipt to its member libraries in accordance with this subdivision. Notwithstanding any contrary provisions of this subparagraph, the commissioner shall establish procedures under which a public or free association library may apply for a waiver of the requirements of the standards of service; provided, however, that any such waivers may only be granted in the same year in which the commissioner has apportioned a reduction adjustment.

(2) Local services support aid. Except in cities with a population in

excess of one million inhabitants, each public library system operating under an approved plan of service shall be eligible to receive annually local services support aid equal to two-thirds of the total dollar amount paid in local library services aid to the member libraries of the system plus thirty-one cents per capita of the system's population who do not reside within the chartered service area of a member library.

(3) Local consolidated systems aid. In cities with a population in excess of one million inhabitants, each public library system operating under an approved plan of service shall be eligible to receive annually local consolidated system aid equal to the sum of (i) thirty-one cents per capita of the population served by the system, but not less than the amount of local library incentive aid received in nineteen hundred ninety-one as reported on the library's nineteen hundred ninety-one annual report; and (ii) an additional amount equal to two-thirds of the total dollar amount computed for the system pursuant to clause (i) of this subparagraph.

g. In addition to the sums otherwise provided in paragraphs a, b, c, d, e, f, h and i of this subdivision, the New York Public Library shall receive six million four hundred sixteen thousand six hundred dollars for the general support of its research libraries. In addition to any other sums provided to such library, the sum of two million dollars shall be payable annually to the New York Public Library for the general support of library services provided by the New York Public Library to the students of the City University of New York and the sum of one million dollars shall be payable annually to the New York Public Library for the general support of its science, industry and business library.

h. (1) Coordinated outreach services. Each public library system which provides coordinated outreach services, as defined by regulations to be promulgated by the commissioner, to persons who are educationally disadvantaged or who are members of ethnic or minority groups in need of special library services, or who are unemployed and in need of job placement assistance, or who live in areas underserved by a library, or who are blind, physically disabled, have developmental or learning disabilities, or who are aged or confined in institutions, or who are at-risk youth from birth to age twenty-one, shall be entitled to receive

annually forty-three thousand dollars and thirteen cents per capita of the total population of the area served.

(2) In addition, each system serving a population of two million inhabitants or more shall receive an additional amount of forty-six thousand three hundred thirty-three dollars and each system serving a population of four hundred thousand inhabitants and less than two million inhabitants shall receive an additional amount of twenty-three thousand dollars and each system serving a population of less than four hundred thousand inhabitants shall receive an additional amount of fourteen thousand dollars.

i. In addition to any other sums provided for such purposes, the New York Public Library shall receive annually the sum of seven hundred thirty-four thousand dollars for the program of the Schomburg center for research in black culture, and the additional sum of nine hundred eighty-four thousand dollars for the program of the library for the blind and physically handicapped.

j. In addition to any other sums provided to such library, the sum of two hundred fifty thousand dollars shall be paid annually to the New York Historical Society for making its library services available to the public.

k. In addition to any other sums provided to such library the sum of three hundred fifty thousand dollars shall be payable annually to the Brooklyn Public Library for its business library for each calendar year.

l. In addition to any other sums provided to such library, the sum of fifty thousand dollars shall be payable annually to the Buffalo and Erie County Public Library for a continuity of service project approved by the commissioner for each calendar year.

m. In addition to any other sums provided to such library system, the sum of thirty thousand dollars shall be payable annually to the Nassau library system for a continuity of service project approved by the commissioner for each calendar year.

n. The minimum annual grant available to a library system under paragraphs a, c and e of this subdivision shall be six hundred seventy-five thousand dollars.

2. Within the amounts appropriated therefor moneys paid out pursuant to this section shall be paid out of the state treasury on vouchers certified by the commissioner after audit by and upon the warrant of the comptroller.

3. The commissioner may waive the requirement that a public library system serve an entire county to earn the maximum annual grant under subparagraphs two and three of paragraph a of subdivision one of this section and paragraphs b, c, e and h of subdivision one of this section where the commissioner deems reasonable effort has been made by the system to encourage membership by all libraries in the county.

4. Reference and research library resources system. a. (1) Any reference and research library resources system providing service under an approved plan during a calendar year shall be entitled to receive annual state aid consisting of an annual grant of:

(i) Two hundred seventy thousand dollars plus the sum of one dollar and fifty cents per square mile of area served plus the sum of six cents per capita of the population of the area served; and

(ii) Two hundred thousand dollars plus the sum of two cents per capita of the population of the area served.

(2) Each system may annually appropriate funds received under this subdivision to obtain matching funds from the National Endowment for the Humanities and other federal programs.

(3) The annual amount payable to each approved system under this paragraph shall be payable on or before July first, provided that, upon receipt of annual system activity reports satisfactory to the commissioner, the commissioner shall determine the amount of any under- or overpayments and shall apply such adjustment to the next annual payment due such system.

b. The commissioner is hereby authorized to expend up to five hundred six thousand dollars annually in each state fiscal year to provide

formula grants to approved reference and research library resources systems for provision of consumer health and medical information services for all types of libraries and library systems. Such grants shall assist libraries in providing access to timely and accurate medical and health information for medical personnel and for the general public. In addition to any other sum provided in this subdivision, each reference and research library resources system providing service under an approved plan with a consumer health and medical library information services program for all types of libraries and library systems shall be eligible to receive an annual formula grant. Such formula grants shall be determined on the basis of criteria to be prescribed by the commissioner. The commissioner shall provide the annual amount payable to each approved system under this paragraph in the following manner:

(1) Funds shall be available to each reference and research library resources system in such manner as to insure that the ratio of the amount each system is eligible to receive equals the weighted ratio of the total number of institutions as defined in subparagraph two of this paragraph in the region served by the system to the total number of such institutions in the state.

(2) For the purposes of determining the amount of funds available to each system, institutions and their weightings are as follows:

(i) not-for-profit hospitals licensed by the New York state health department, with a weighting of two;

(ii) for-profit teaching hospitals licensed by the New York state health department, with an additional weighting of one; and

(iii) member institutions of a reference and research library resources system, excluding public and hospital libraries, with a weighting of one.

c. (1) The commissioner is hereby authorized to expend up to one million three hundred ninety-six thousand dollars in each state fiscal year to provide formula grants to approved reference and research library resources systems for provision of services to member hospital libraries in not-for-profit hospitals licensed by the New York state health department, or to member libraries serving such hospitals. Such formula grants shall be determined on the basis of criteria to be developed by the commissioner and shall assist member hospital libraries

or member libraries serving hospitals in meeting the standards established by the regents in accordance with section two hundred fifty-four of this article. Such formula grants shall support integration of member hospital libraries or member libraries serving hospitals into existing networks.

(2) The commissioner shall provide grants to the reference and research library resources systems in the following manner:

(a) an amount equal to seventy-five cents per square mile of area served by the reference and research library resource system in furtherance of the purposes of this paragraph, and

(b) the remainder for library services to hospitals in accordance with regulations of the commissioner adopted for such purpose.

5. Coordinated collection development program for public and nonprofit independent colleges and universities.

a. Libraries of public and nonprofit independent colleges and universities are entitled to receive annual funding for a coordinated collection development grant if they meet the following conditions:

(1) Membership in a reference and research library resources system,

(2) Their resources are made available to the public, through full participation in the interlibrary loan and other resource sharing programs of the reference and research library resources system of which they are members, and

(3) They meet the requirements set forth in regulations adopted by the commissioner including but not confined to

(a) maintenance of effort,

(b) relationships between reference and research library resources systems' programs and the regional higher education master plan,

(c) submission of interlibrary loan statistics, and such other reports as may be required by the commissioner.

b. Public and nonprofit independent colleges and universities with libraries which meet the criteria of paragraph a of this subdivision are eligible for annual grants as follows:

(1) Four thousand four hundred dollars for each institution, and

(2) One dollar and four cents for each full-time equivalent student

enrolled in each qualifying institution, in the academic year completed prior to the state fiscal year. For purposes of this section, a full-time equivalent shall be calculated as follows:

(i) one full-time undergraduate student shall be considered one full-time equivalent student;

(ii) one part-time undergraduate student shall be considered one-third of a full-time equivalent student;

(iii) one part-time graduate student shall be considered one full-time equivalent student; and

(iv) one full-time graduate student shall be considered one and one-half of a full-time equivalent student.

c. Funds for the support of this program shall be appropriated to the department, except that funds for the state-operated institutions of the state university of New York and the senior colleges of the city university of New York, shall be appropriated to the state university of New York out of any moneys in the state treasury in the general fund to the credit of the state purposes fund not otherwise appropriated, and funds shall be appropriated to the city university of New York out of any moneys in the state treasury in the general fund to the credit of the local assistance fund not otherwise appropriated, and shall be subject to the same distribution formula as provided in paragraph b of this subdivision.

6. Conservation and preservation of library research materials. a. The commissioner shall award in any academic year, an annual formula grant of one hundred fifty-eight thousand dollars for a program of conservation and/or preservation of library research materials to each of the following comprehensive research libraries: Columbia university libraries, Cornell university libraries, New York state library, New York university libraries, university of Rochester libraries, Syracuse university libraries, the research libraries of the New York public library, state university of New York at Albany library, state university of New York at Binghamton library, state university of New York at Buffalo library, and state university of New York at Stony Brook library.

b. To be eligible for such formula grants, each such comprehensive research library must submit both a five-year plan and an annual program budget. The plan must satisfy criteria to be established by the commissioner in regulations relating to the identification of library research materials, the need for their preservation, and the means of their conservation.

c. Other agencies and libraries, as defined in regulations promulgated by the commissioner, which are not eligible for funding under paragraph a of this subdivision, may receive separate grants the sum of which shall not exceed five hundred thousand dollars in any academic year to support the preservation and/or conservation of unique library research materials. Such agencies and libraries shall submit project proposals. Approval of such project proposals, and determination of funding level, shall be based upon, but not limited to, factors such as: the research value of materials to be preserved and/or conserved; appropriateness of conservation and preservation techniques in accordance with statewide planning and national standards; institutional capacity for successful completion of the project, including facilities, experience, and technical expertise; availability of staff with appropriate training and expertise; contribution of the institution to the project in matching funds and staff resources; and the volume of interlibrary lending and access to holdings by the public. Ninety percent of each such grant shall be payable upon approval by the department and the remaining ten percent shall be payable upon project completion.

d. Funds made available under the provisions of this section may be used by comprehensive research libraries and other agencies eligible for funding to obtain matching funds from the national endowment for the humanities preservation program and other federal programs.

e. The commissioner shall establish an office for coordination of conservation and/or preservation of library research materials to identify the conservation and/or preservation needs of libraries within the state, to assess the technology available for such conservation and preservation, and to coordinate the conservation and preservation efforts resulting from this legislation.

7. New York state talking book and braille library. The New York state talking book and braille library shall be entitled to receive annually an amount equal to the product of the aid ceiling multiplied by the number of registered borrowers of such materials of such library as of the November report for the November immediately preceding the state fiscal year for which the payment will be made. Such amount shall be used to improve the quality of services provided to such borrowers. For aid payable in each state fiscal year, the aid ceiling per registered borrower shall be nineteen dollars. Notwithstanding any other provision of law, the New York state talking book and braille library shall be the successor in interest to the New York state library for the blind and visually handicapped for all purposes, or the library for the blind and physically handicapped, and the change in name shall not affect the rights or interests of any party. Except where the context indicates a contrary intent, any reference in any other general or special law to the New York state library for the blind and visually handicapped or the library for the blind and physically handicapped shall be deemed a reference to the New York state talking book and braille library.

8. State aid for a coordinated program of library and archival services at The Center for Jewish History, Inc. a. In addition to any other sums provided to The Center for Jewish History, Inc., the commissioner shall award in any state fiscal year an annual grant of two hundred thousand dollars for a coordinated program of library and archival services that will increase public access to the library and archival collections of The Center for Jewish History, Inc. and its member institutions.

b. The Center for Jewish History, Inc. is hereby admitted to the University of the State of New York and shall, as a condition of continued receipt of aid, maintain such status in accordance with regulations of the commissioner. Such regulations may include submission of a five-year plan and annual program budget.

9. State aid for summer reading programs. The commissioner is hereby authorized to expend the funds of the love your library fund,

established in section ninety-nine-l of the state finance law, which shall provide grants for participation in statewide summer reading programs as coordinated by the state library to public library systems on the basis of criteria to be developed by the commissioner. Upon a determination by the commissioner that there is adequate revenue available for a grant program in the upcoming fiscal year, grants shall be awarded as follows:

a. sixty percent of the funds appropriated pursuant to this section shall be made available to public library systems for use by member libraries by the commissioner in such manner as to insure that the ratio of the amount received within each system to the whole of the aid made available pursuant to this paragraph is no greater than the ratio of the population served by such system to the population of the state; and

b. forty percent of the funds appropriated pursuant to this section shall be made available to library systems for use by their member libraries within each system by the commissioner in such manner as to insure that an equal amount is received within each system in the state.

10. Notwithstanding any other provision of law to the contrary, each year commencing with the two thousand six calendar year, no library or library system shall receive less aid pursuant to this section or section two hundred seventy-one or two hundred seventy-two of this part than it would have been eligible to receive for the two thousand one calendar year solely by reason of a decrease in the population of the area served as a result of the latest approved federal census.

11. The commissioner is hereby authorized to expend funds annually for formula grants to public library systems, reference and research library resources systems, and school library systems operating under an approved plan of service. Such formula grants shall be provided for the period commencing July first and ending on June thirtieth next following. Such formula grants will be distributed in the following manner:

a. Each public library system established pursuant to sections two

hundred fifty-five and two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive annually thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received for the current year by such system under paragraphs a, c, d, e and n of subdivision one of this section;

b. Each reference and research library resources system established pursuant to section two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive annually thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received for the current year under clause (i) of subparagraph one of paragraph a of subdivision four of this section; and

c. Each school library system established pursuant to section two hundred eighty-two of this part and operating under a plan approved by the commissioner is entitled to receive annually thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received for the current year by such system under paragraphs a, b, c, d, e and f of subdivision one of section two hundred eighty-four of this part.

§ 273-a. State aid for library construction. 1. State aid shall be provided for up to fifty percent of the total project approved costs, excluding feasibility studies, plans or similar activities, for projects for the installation and infrastructure of broadband services, and for the acquisition of vacant land and the acquisition, construction, renovation or rehabilitation, including leasehold improvements, of buildings of public libraries and library systems chartered by the regents of the state of New York or established by act of the legislature subject to the limitations provided in subdivision six of this section and upon approval by the commissioner, except that state aid may be provided for up to ninety percent of the total project approved costs for buildings of public libraries that are located in an economically disadvantaged community. Provided however that the state

liability for aid paid pursuant to this section shall be limited to funds appropriated for such purpose. Aid shall be provided on approved expenses incurred during the period commencing July first and ending June thirtieth for up to six years, or until the project is completed, whichever occurs first. Fifty percent of such aid shall be payable to each system or library upon approval of the application by the department. Forty percent of such aid shall be payable in the next state fiscal year. The remaining ten percent shall be payable upon project completion.

2. Each single building project application for state aid shall be submitted by the board of trustees of the library or library system responsible for the operation of the subject building to the commissioner for the commissioner's review and approval, after having been reviewed and approved by the governing board of the public library system of which such library is a member. Each single building project application shall:

a. demonstrate that resources are or shall be available to provide for maximum utilization of the project if approved;

b. contain verification in such form as may be acceptable to the commissioner that the total cost of the project, exclusive of state aid, has been or will be obtained;

c. demonstrate that library operations would be made more economical as a consequence of approval;

d. be limited to one project concerning such building, provided that no building shall be the subject of more than one single building project application per year;

e. contain documentation, where such an application requests state aid in an amount greater than seventy-five percent, demonstrating how the project will address the service needs of one or more economically disadvantaged communities. Such documentation may demonstrate need through poverty rates, concentrations of English language learners, low

high school graduation rates, limited fiscal capacity or other relevant factors; and

f. provide such other information as may be required by the commissioner.

3. Coordinated applications for state aid allocated under paragraph b of subdivision six of this section shall be submitted by the public library system. The public library system shall be responsible for managing all coordinated projects. Each coordinated project application shall be approved by the board of trustees of each participating library and library system responsible for the operation of the said buildings. Coordinated project applications shall be submitted to the commissioner for the commissioner's review and approval, after having been reviewed and approved by the governing board of the public library system of which such libraries are members. Each coordinated project application shall:

a. demonstrate that resources are or shall be available to provide for maximum utilization of the project if approved;

b. contain verification in such form as may be acceptable to the commissioner that the total cost of the project, exclusive of state aid, has been or will be obtained;

c. demonstrate that library operations would be made more economical as a consequence of approval;

d. provide that no one building shall be the subject of more than one coordinated project application per year;

e. contain documentation, where such an application requests state aid in an amount greater than seventy-five percent, demonstrating how the project will address the service needs of one or more economically disadvantaged communities. Such documentation may demonstrate need through poverty rates, concentrations of English language learners, low high school graduation rates, limited fiscal capacity or other relevant

factors; and

f. provide such other information as may be required by the commissioner.

4. In approving any single or coordinated building project application that would receive state aid beyond seventy-five percent of the total project approved costs, the board of trustees of the library system shall give particular attention to addressing the library service needs of economically disadvantaged communities as provided for in paragraph e of subdivision two of this section or paragraph e of subdivision three of this section, as applicable.

5. In approving any new single building or coordinated project application the commissioner shall consider the condition of existing libraries and, where appropriate, the needs of isolated or economically disadvantaged communities, provided that no application shall be approved for a project that is deemed by the commissioner to have been completed prior to the date of the application.

6. Aid shall be distributed pursuant to this section as follows:

a. sixty percent of the funds appropriated pursuant to this section shall be made available to libraries within each system by the commissioner in such manner as to insure that the ratio of the amount received within each system to the whole of the aid made available pursuant to this paragraph is no greater than the ratio of the population served by such system to the population of the state;

b. forty percent of the funds appropriated pursuant to this section shall be made available to library systems or libraries within each system by the commissioner in such manner as to insure that an equal amount is received within each system in the state;

c. any funds made available pursuant to paragraph a or b of this subdivision which by April first of each succeeding fiscal year, are declined by such libraries or library systems for any reason, or which

cannot otherwise be used by such libraries or library systems for any reason, shall be made available by the commissioner to other eligible libraries within such system, or if no such library can use such funds shall be reallocated among the other library systems and their libraries in a manner that will to the extent possible provide from such reallocated funds an equal amount to each such system.

7. The commissioner shall adopt rules and regulations as are necessary to carry out the purposes and provisions of this section.

8. The commissioner shall submit to the temporary president of the senate and the speaker of the assembly an annual report describing those projects that have received state funding of greater than fifty percent of project costs and the communities to be served by those projects.

§ 274. Use and care of school library. The school library shall be a part of the school equipment and shall be kept in the school building at all times. Such library shall be devoted to the exclusive use of the school, except as otherwise provided by the rules of the commissioner of education and except in a district where there is no free library, in which case such school library shall be a circulating library for the use of the residents of the district.

The commissioner of education shall prescribe rules regulating

1. The purchase, recording, safekeeping and loaning of books in school libraries, and the use of such books by pupils and teachers in the public schools.

2. The conditions under which books in a school library may be used by the public in a district in which a free library is situated.

3. The management of school libraries and their use as circulating libraries by the residents of the district in which they are situated.

4. The contents and submission of reports of school librarians,

teachers and other school authorities as to school libraries.

§ 275. Librarians of school libraries. In a school district maintaining an academic department or high school the board of education may employ, and fix the compensation of, a person to act as school librarian who may be engaged for all or a part of the time in performance of the duties of the position as may be directed by the said board. The person so employed, who may be the librarian of the free library, shall be possessed of the qualifications prescribed by the commissioner of education. In all other districts the trustees or board of education may appoint a competent person to act as librarian. In case of a failure of a city or union free school district maintaining an academic department or high school to employ a librarian as above provided, the teacher of English in such school shall be the librarian. In case of a failure to appoint a librarian in any other district, the teacher, or if there be more than one teacher the principal teacher, shall act as librarian. The trustees or board of education shall report to the commissioner of education the name and address of the person employed or appointed as librarian.

§ 276. Existing rules continued in force. All existing provisions of law and rules established by the commissioner of education for the management of public school libraries shall hold good as to the management of such school libraries until altered by or in pursuance of law.

§ 277. Authority to raise and receive money for school library. Each city and school district in the state is hereby authorized to raise moneys by tax in the same manner as other school moneys are raised, or to receive moneys by gift or devise, for starting, extending or caring for the school library.

§ 278. Authority to transfer school library property to a free

library. The board of education in any city or union free school district or the electors of any other district, by legal vote duly approved by the regents, may give to any free library any of the books or other public school library property not required in such school library, provided such free library is registered by the regents and situated in such city or district; and the school authorities or body making the transfer shall thereafter be relieved of all responsibility pertaining to the property so transferred.

§ 279. Fees. A fee of five dollars shall be paid for each public librarian's certificate or school librarian's certificate issued under part two of this article.

§ 280. Penalty for disobedience to library law, rules or orders. The commissioner of education is hereby authorized to withhold its share of public school moneys from any city or district which uses school library moneys for any other purpose than that for which they are provided, or for any wilful neglect or disobedience of the law or the rules or orders of said commissioner in the premises.

§ 281. Loans and extensions of credit to infants. A contract hereafter made by an infant after he has attained the age of sixteen years in relation to obtaining a loan or extension of credit from an institution of the university of the state of New York in connection with such infant's attendance upon a course of instruction offered by such institution, or from a bank, trust company or national bank having a principal, branch or trust office in this state for the purpose of defraying all or a portion of the expenses of such infant's attendance upon a course of instruction in an institution of the university of the state of New York or any other institution for higher education without this state which is a member of or accredited by an accrediting agency recognized by the department, may not be disaffirmed by him on the ground of infancy.

§ 282. Establishment of school library systems. The commissioner is authorized to approve the establishment of school library systems, each system to be composed of school districts which are located within a board of cooperative educational services area, or a school district serving a city with a population of one hundred twenty-five thousand or more, or combinations thereof. The systems may include non-public school libraries as defined in regulations to be promulgated by the commissioner. Upon establishment, such school library systems shall be governed by either their respective boards of cooperative educational services, by boards of education in school districts serving cities with populations of one hundred twenty-five thousand or more, or by a governing body established under the plan to be submitted to the commissioner in cases of systems serving a combination of areas.

§ 283. Functions of school library systems. The functions of school library systems shall include but not be limited to: (a) creating and developing a union catalog of materials listing the resources of each participating school library; (b) developing a plan which will aid each participating school library in cooperative collection development; (c) adopting and implementing an interlibrary loan policy and program among participating school libraries; (d) assuring a method of effective delivery of library materials within the system; (e) promoting development programs and continuing education for staff of participating schools; (f) encouraging awareness of the resources and services available in participating school libraries; and (g) cooperating with other library systems in resource sharing and other activities.

§ 284. State aid for school library systems. 1. Each school library system established pursuant to section two hundred eighty-two of this part and operating under a plan approved by the commissioner shall be eligible to receive funding under this section consisting of the following amounts:

a. Each school library system with a public and nonpublic school

enrollment of less than one hundred thousand students shall receive a base grant of eighty-three thousand dollars;

b. Each school library system with a public and nonpublic school enrollment of one hundred thousand students but less than two hundred thousand students shall receive a base grant of ninety thousand dollars;

c. Each school library system with a public and nonpublic school enrollment of two hundred thousand students but less than five hundred thousand students shall receive a base grant of one hundred twenty-three thousand dollars; and

d. Each school library system with a public and nonpublic school enrollment of more than five hundred thousand students shall receive a base grant of eight hundred ninety-seven thousand dollars.

e. In addition to the base grant provided in paragraph a, b, c or d of this subdivision, each school library system shall receive annually:

(1) twenty-nine cents per student enrolled in the public and nonpublic schools located within such system, and

(2) five hundred dollars per public school district located within such system, and a minimum of four thousand three hundred dollars per system located within a board of cooperative educational services area, or five thousand dollars per city school district of a city with a population of one hundred twenty-five thousand inhabitants or more, and

(3) two dollars and forty-five cents per square mile of the school library system.

f. In addition to any other sum provided in this subdivision, any school library system formed through an act of merger since January first, nineteen hundred eighty-four shall receive fifty thousand dollars annually for each approved act of merger, provided, however, that any school library system formed through an act of merger on or after April first, two thousand eight shall receive ninety thousand dollars annually for each approved act of merger.

g. In addition to any other sum provided in this subdivision, each

school library system shall be eligible to receive annually an automation grant amounting to ten percent of the total aid produced for that system by adding the base grant provided by paragraph a, b, c or d of this subdivision to the additional aid provided by paragraphs e and f of this subdivision.

2. Before a school library system shall be entitled to receive operating funds, such system shall submit a plan of library service to the commissioner for approval. The commissioner shall establish standards of service for school library systems by regulation. Such regulations shall contain standards relating to: system staffing; union catalog and data-base development; interlibrary loan; communications and delivery; governance and advisory committees; membership criteria and the means of relating district library resources and programs to those of the system; non-public school participation; and procedures for submission and approval of plans and certification of membership.

3. The moneys made available pursuant to this section shall be distributed to each school library system whose plan of service has been approved under the provisions of subdivision two of this section.

4. Each school library system receiving state aid pursuant to this section shall furnish such information regarding its library service as the commissioner may from time to time require to determine whether it is operating in accordance with its plan and the standards of service the commissioner has established. The commissioner may at any time after affording notice and an opportunity to be heard, revoke approval of a plan of library service if the commissioner finds that the school library system no longer conforms to its approved plan, the provisions of this section or the regulations promulgated by the commissioner hereunder; or, in the case of provisional approval, if such school library system no longer conforms to the agreement, plans or conditions upon which such provisional approval was based. In such case a school library system shall not thereafter be entitled to state aid pursuant to this section unless and until its plan of library service is again approved by the commissioner.

§ 285. State aid for cooperation with correctional facilities. 1. Each public library system operating under an approved plan of service which has a state correctional facility or facilities within its area of service shall be awarded an annual grant of nine dollars twenty-five cents per capita for the incarcerated individual population of such facility or facilities to make available to the incarcerated individual population of such facility or facilities, in direct coordination with the correctional facilities libraries, the library resources of such system. The commissioner shall adopt any regulations necessary to carry out the purposes and provisions of this subdivision.

2. The commissioner is authorized to expend up to one hundred seventy-five thousand dollars annually to provide grants to public library systems operating under an approved plan of service for provision of services to county jail facilities. Such formula grants shall assist the library system in making available to the incarcerated individual population of such facility or facilities the library resources of such system. Such grants shall be available to each public library system in such manner as to insure that the ratio of the amount each system is eligible to receive equals the ratio of the number of incarcerated individuals served by the county jail facility to the total number of incarcerated individuals served by county jail facilities in the state as of July first of the year preceding the calendar year in which the state aid to public library systems is to be paid. Incarcerated individual populations shall be certified by the New York state commission of correction. The commissioner shall adopt any regulations necessary to carry out the purposes and provisions of this subdivision.

PART III
FEDERAL FUNDS FOR VOCATIONAL EDUCATION

§ 290. Acceptance of law of the United States. The state of New York hereby accepts all of the provisions and the benefits of an act passed

by the senate and house of representatives of the United States of America, in congress assembled, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February twenty-third, nineteen hundred seventeen.

§ 291. Custodian of funds. The state commissioner of taxation and finance and the state comptroller are hereby constituted and appointed the joint custodians of the moneys paid to the state of New York for vocational education, under the provisions of such act, and such moneys shall be paid out in the manner provided by such act for the purposes therein specified.

§ 292. Board of regents to co-operate with federal board. The regents of The University of the State of New York are hereby designated as the state board for the purpose of carrying into effect the provisions of such act, and are hereby authorized and directed to co-operate with the federal board of vocational education in the administration and enforcement of its provisions, and to perform such official acts and exercise such powers as may be necessary to entitle the state to receive its benefits.

ARTICLE 6

Section 293. Establishment of interstate library district.
294. Appointment of members of governing board of interstate library district.
295. Support of interstate library district.
296. Compact administrator.
297. Withdrawal.

§ 293. Establishment of interstate library district. One or more incorporated public libraries of this state, by majority action of the board of trustees thereof, may enter into an agreement with one or more public library agencies in another state or states which have adopted the interstate library compact for the purpose of establishing and maintaining an interstate library district. For the purposes of this act, a cooperative library system established under article five of this chapter shall be deemed to be a public library.

§ 294. Appointment of members of governing board of interstate library district. (a) The board of trustees of each public library which is a party to an agreement establishing an interstate library district pursuant to section two hundred ninety-three of this article, shall appoint a member or members to represent such library on the governing board of such interstate library district. The number of such representatives shall be determined by the agreement establishing such interstate library district.

(b) The governing board of such interstate library district shall be a body corporate.

(c) Such governing board shall administer such interstate library district as provided in this act.

§ 295. Support of interstate library district. Any library, library system, county, city, village, town or school district of this state may provide funds, including funds received from local taxation for state aid for the support and operation of an interstate library district established as provided herein, in accordance with the terms of the agreement establishing the same provided that such agreement together with the plan of library service thereunder has been approved by the commissioner.

§ 296. Compact administrator. The commissioner of education shall be the administrator for the interstate library compact pursuant to article ten of the compact.

§ 297. Withdrawal. The commissioner of education is hereby designated as the official who is authorized to send and receive the notices provided in article eleven of the compact in the event of withdrawal of this state or any other state from the compact.

ARTICLE 7

COMMISSIONER OF EDUCATION

Section 301. Commissioner of education continued.
302. How chosen.
303. Term of office.
304. Expenses.
305. General powers and duties.
306. Removal of school officers; withholding public money.
307. Acquisition of real property.
308. Other powers.
309. Schools of union free school districts and cities.
309-a. Twenty-first century schools program.
310. Appeals or petitions to commissioner of education and other proceedings.
311. Powers of commissioner upon appeals or petitions, et cetera.
312. Filed papers and copies thereof.
313. Unfair educational practices.
313-a. Prohibition against the use of certain material in questionnaires and applications for admission to educational institutions.
314. State plan for school district reorganization.
315. School district names.
316. Teacher resource and computer training centers.
317. General education development exam.
318. Distribution of surplus computers.
319. Establishment of dual enrollment program policy.
319*2. Center for dyslexia and dysgraphia.

§ 301. Commissioner of education continued. The office of commissioner of education is hereby continued. Subject to the general direction and control of the regents of the university, he shall continue to have, exercise and perform the functions, powers and duties conferred or imposed by law upon the commissioner of education. He shall continue to exercise the judicial functions conferred by law upon the commissioner of education and, subject to rules of the regents, to make, execute and issue in the name of the department such determinations, decisions, orders, notices and certificates as may be required for the exercise and performance of the functions, powers and duties conferred or imposed upon the department. With the approval of the board of regents, he shall continue to prepare the annual estimates and requests for appropriations for operation, maintenance and construction of the New York state school for the blind. All moneys appropriated for the New York school for the blind, or derived from other sources in the course of the administration thereof, shall be expended upon vouchers approved by the commissioner of education, when and in the manner authorized by the board of regents. The regents may adopt rules conferring and imposing upon the commissioner of education such additional powers and duties as may be required for the effective administration of the department and of the state system of education.

§ 302. How chosen. The commissioner of education shall be elected by a majority vote of the regents. Residence without the state of New York shall not disqualify him from election.

§ 303. Term of office. The commissioner of education shall serve during the pleasure of the board of regents.

§ 304. Expenses. The commissioner shall be paid his necessary traveling and other expenses. However, notwithstanding any law, rule, regulation or agreement to the contrary, the commissioner shall not be provided an official residence, nor shall the salary plan for the

president of the university of the state of New York, as provided in subdivision three of section one hundred sixty-nine of the executive law, make provision for an official residence. The commissioner of the office of general services is authorized to sell at fair market value any official residence formerly provided to the commissioner or to the president of the university of the state of New York, as well as all state-owned appurtenances associated with such residence. The proceeds from such sale shall be deposited to the credit of the general fund.

§ 305. General powers and duties. The commissioner of education is hereby charged with the following powers and duties:

1. He is the chief executive officer of the state system of education and of the board of regents. He shall enforce all general and special laws relating to the educational system of the state and execute all educational policies determined upon by the board of regents.

2. He shall have general supervision over all schools and institutions which are subject to the provisions of this chapter, or of any statute relating to education, and shall cause the same to be examined and inspected, and shall advise and guide the school officers of all districts and cities of the state in relation to their duties and the general management of the schools under their control. Additionally, he shall cause to be prepared and distributed to school officers of all districts, nonpublic schools and cities of the state timely notice as to alternate sources of funding for specific programs or purposes such as, but not limited to, grants to be awarded on the basis of competitive proposals by state or federal agencies or from an approved private source. Such notice shall include information as to proposal submission deadlines, eligibility standards and other relevant information to assist school officers in making application for such alternate sources of funding. The commissioner shall not be liable for any damages resulting from failure to give notice under this subdivision.

3. He shall have general supervision of industrial schools, trade schools and schools of agriculture, mechanic arts and home making; he

shall prescribe regulations governing the licensing of the teachers employed therein; and he is hereby authorized, empowered and directed to provide for the inspection of such schools, to take necessary action to make effectual the provisions therefor, and to advise and assist boards of education in the several cities and school districts in the establishment, organization and management of such schools.

4. He shall also have general supervision over the state teachers colleges and state colleges for teachers which have been, or which may hereafter be, established as required by the provisions of this chapter.

5. He shall be ex officio a trustee of Cornell university.

6. He shall be responsible for the safe keeping and proper use of the department and university seal and of the books, records and other property in charge of the regents, and for the proper administration and discipline of the various officers and divisions of the education department.

7. The commissioner may annul upon cause shown to his or her satisfaction any certificate of qualification granted to a teacher by any authority whatever or declare any diploma issued by a state teachers college and state colleges for teachers ineffective and null as a qualification to teach a public school within this state, and the commissioner may reconsider and reverse his or her action in any such matter. In a proceeding brought pursuant to this subdivision on charges against a certified teacher, the commissioner shall also be authorized to impose as a penalty:

a. suspension of a teaching certificate or license:
(1) wholly for a fixed period of time; or
(2) partially, until the teacher successfully completes a course of retraining in the area to which the suspension applies; or
(3) wholly, until the teacher successfully completes a course of therapy or treatment;

b. limitation of the scope of a teaching certificate through

revocation of an extension to teach additional subjects or grades;

c. a fine not to exceed five thousand dollars; or

d. a requirement that the teacher pursue a course of continuing education or training.

The attorney general shall, at the request of the commissioner or the director of the division of the budget, bring an action in the name of the people of the state of New York to enforce and collect any fine imposed pursuant to this subdivision. In any such action, the findings and determination of the hearing officer or hearing panel or of the commissioner shall be admissible evidence and shall be conclusive proof of the violation and the penalty assessed. For purposes of this subdivision, the term "teacher" shall mean any professional educator holding a teaching certificate or license, including but not limited to a classroom teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor or superintendent of schools.

7-a. a. In addition to the authority to revoke and annul a certificate of qualification of a teacher in a proceeding brought pursuant to subdivision seven of this section, the commissioner shall be authorized, and it shall be his or her duty, to revoke and annul in accordance with this subdivision the teaching certificate of a teacher convicted of a sex offense for which registration as a sex offender is required pursuant to article six-C of the correction law or of any other violent felony offense or offenses committed against a child when such child was the intended victim of such offense.

b. As used in this subdivision, the following terms shall have the following meanings:

(1) "conviction" means any conviction whether by plea of guilty or nolo contendere or from a verdict after trial or otherwise;

(2) "sex offense" means an offense set forth in subdivision two or three of section one hundred sixty-eight-a of the correction law, including an offense committed in any jurisdiction for which the

offender is required to register as a sex offender in New York;

(3) "teacher" means any professional educator holding a teaching certificate as defined in subparagraph four of this paragraph, including but not limited to a classroom teacher, teaching assistant, pupil personnel services professional, school administrator or supervisor or superintendent of schools;

(4) "teaching certificate" means the certificate or license or other certificate of qualification granted to a teacher by any authority whatsoever; and

(5) "violent felony offense" means any offense as defined in subdivision one of section 70.02 of the penal law.

c. Upon receipt of a certified copy of a criminal history record showing that a teacher has been convicted of a sex offense or sex offenses or a violent felony offense or offenses committed against a child when such child was the intended victim of such offense or upon receipt of notice of such a conviction as provided in paragraph d of this subdivision, the commissioner shall automatically revoke and annul the teaching certificate of such teacher without the right to a hearing. The commissioner shall mail notice of the revocation and annulment pursuant to this subdivision by certified mail, return receipt requested, and by first-class mail directed to the teacher at such teacher's last known address and, if different, the last address filed by the certificate holder with the commissioner and to the teacher's counsel of record in the criminal proceeding as reported in the notice pursuant to paragraph d of this subdivision. Such notice shall inform the teacher that his or her certificate has been revoked and annulled, identify the sex offense or sex offenses or violent felony offense or offenses committed against a child when such child was the intended victim of such offense of which the teacher has been convicted and shall set forth the procedure to follow if the teacher denies he or she is the person who has been so convicted. If such teacher notifies the commissioner in writing within twenty-five days after the date of receipt of the notice that he or she is not the same person as the convicted offender identified in the criminal record or identified pursuant to paragraph d of this subdivision, provides proof to reasonably support such claim and the commissioner is satisfied the

proof establishes such claim, the commissioner shall, within five business days of the receipt of such proof, restore such teacher's teaching certificate retroactive to the date of revocation and annulment.

d. Upon conviction of a teacher of a sex offense defined in this subdivision, the district attorney or other prosecuting authority who obtained such conviction shall provide notice of such conviction to the commissioner identifying the sex offense or sex offenses or violent felony offense or offenses committed against a child when such child was the intended victim of such offense of which the teacher has been convicted, the name and address of such offender and other identifying information prescribed by the commissioner, including the offender's date of birth and social security number, to the extent consistent with federal and state laws governing personal privacy and confidentiality of information. Such notice shall also include the name and business address of the offender's counsel of record in the criminal proceeding.

e. Upon receipt of proof that the conviction or convictions that formed the basis for revocation and annulment of the teacher's teaching certificate pursuant to this subdivision have been set aside upon appeal or otherwise reversed, vacated or annulled, the commissioner shall be required to conduct a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations prior to making a determination as to whether to reinstate the teacher's original teaching certificate. Such determination shall be made within ninety days after such proof has been received.

f. Except as provided in paragraph g of this subdivision, and notwithstanding any other provision of law to the contrary, a teacher shall be reinstated to his or her position of employment in a public school, with full back pay and benefits from the date his or her certificate was revoked or annulled to the date of such reinstatement, under the following circumstances:

(i) The termination of employment was based solely on the conviction of a sex offense, or conviction of a violent felony offense or offenses

committed against a child when such child was the intended victim of such offense or the revocation or annulment of a certificate based on such conviction, and such conviction has been set aside on appeal or otherwise reversed, vacated or annulled and the commissioner has reinstated the teacher's certification pursuant to paragraph e of this subdivision; or

(ii) The termination of employment was based solely on the conviction of a sex offense or violent felony offense or offenses committed against a child when such child was the intended victim of such offense and it has been determined that the teacher is not the same person as the convicted offender.

g. If a teacher's employment was terminated as a result of a disciplinary proceeding conducted pursuant to section three thousand twenty-a of this chapter or other disciplinary hearing conducted pursuant to any collective bargaining or contractual agreement on one or more grounds other than conviction of a sex offense, or the revocation or annulment of a certificate based on such conviction, then nothing in paragraph f of this subdivision shall require a school district to reinstate employment of such teacher or be liable for back pay or benefits.

h. No provision of this article shall be deemed to preclude the following: (i) the commissioner from conducting a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations; or (ii) a school district or employing board from bringing a disciplinary proceeding pursuant to section three thousand twenty-a or three thousand twenty-b of this chapter; or (iii) a school district or employing board from bringing an alternative disciplinary proceeding conducted pursuant to a collective bargaining or contractual agreement.

i. The commissioner shall be authorized to promulgate any regulations necessary to implement the provisions of this subdivision.

7-b. a. In addition to the authority to revoke and annul a certificate of qualification of a teacher in a proceeding brought pursuant to

subdivisions seven and seven-a of this section, the commissioner shall be authorized, and it shall be his or her duty, to revoke and annul in accordance with this subdivision the certificate of a school administrator or supervisor convicted of an offense listed under subparagraph two of paragraph b of this subdivision.

b. As used in this subdivision, the following terms shall have the following meanings:

(1) "conviction" means any conviction whether by plea of guilty or nolo contendere or from a verdict after trial or otherwise;

(2) "offense" means defrauding the government as defined in section 195.20 of the penal law, and any such offense in any other jurisdiction which includes all of the elements of such felony and for which a sentence to a term of imprisonment in excess of one year was authorized and is authorized in such state, irrespective of whether such sentence was imposed;

(3) "school administrator or supervisor" means any professional school district administrator, school administrator or supervisor, or school business administrator holding a certificate as defined in subparagraph four of this paragraph; and

(4) "certificate" means the certificate or license or other certificate of qualification granted to qualify an individual to serve as a school administrator or supervisor by any authority whatsoever.

c. Upon receipt of a certified copy of a criminal history record showing that a school administrator or supervisor has been convicted of an offense as defined in subparagraph two of paragraph b of this subdivision or upon receipt of notice of such a conviction as provided in paragraph d of this subdivision, the commissioner shall automatically revoke and annul the certificate of such school administrator or supervisor without the right to a hearing. The commissioner shall mail notice of the revocation pursuant to this subdivision by certified mail, return receipt requested, and by first-class mail directed to the school administrator's or supervisor's last known address and, if different, the last address filed by the certificate holder with the commissioner and to the school administrator's or supervisor's counsel of record in the criminal proceeding as reported in the notice pursuant to paragraph

d of this subdivision. Such notice shall inform the school administrator or supervisor that his or her certificate has been revoked and annulled, identify the offense of which the school administrator or supervisor has been convicted and shall set forth the procedure to follow if the school administrator or supervisor denies he or she is the person who has been so convicted. If such school administrator or supervisor notifies the commissioner in writing within twenty-five days after the date of receipt of the notice that he or she is not the same person as the convicted offender identified in the criminal record, or identified pursuant to paragraph d of this subdivision, provides proof to reasonably support such claim and the commissioner is satisfied the proof establishes such claim, the commissioner shall, within five business days of the receipt of such proof, restore such school administrator's or supervisor's teaching certificate retroactive to the date of revocation and annulment.

d. Upon conviction of a school administrator or supervisor of an offense defined in subparagraph two of paragraph b of this subdivision, the district attorney or other prosecuting authority who obtained such conviction shall provide notice of such conviction to the commissioner identifying the offense of which the school administrator or supervisor has been convicted, the name and address of such offender and other identifying information prescribed by the commissioner, including the offender's date of birth and social security number, to the extent consistent with federal and state laws governing personal privacy and confidentiality of information. Such district attorney or other prosecuting authority shall include in such notice the name and business address of the offender's counsel of record in the criminal proceeding.

e. Upon receipt of proof that the conviction or convictions that formed the basis for revocation and annulment of the school administrator's or supervisor's certificate pursuant to this subdivision have been set aside upon appeal or otherwise reversed, vacated or annulled, the commissioner shall be required to conduct a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations prior to making a determination as to whether to reinstate the school

administrator's or supervisor's original certificate. Such determination shall be made within ninety days after such proof has been received.

f. Except as provided in paragraph g of this subdivision, and notwithstanding any other provision of law to the contrary, a school administrator or supervisor shall be reinstated to his or her position of employment in a public school or public school district, with full back pay and benefits from the date his or her certificate was revoked or annulled to the date of such reinstatement, under the following circumstances:

(1) The termination of employment was based solely on the conviction of an offense defined in subparagraph two of paragraph b of this subdivision, or the revocation or annulment of a certificate based on such conviction, and such conviction has been set aside on appeal or otherwise reversed, vacated or annulled and the commissioner has reinstated the school administrator's or supervisor's certification pursuant to paragraph e of this subdivision; or

(2) The termination of employment was based solely on the conviction of an offense defined in subparagraph two of paragraph b of this subdivision and it has been determined that the school administrator or supervisor is not the same person as the convicted offender.

g. If a school administrator's or supervisor's employment was terminated as a result of a disciplinary proceeding conducted pursuant to section three thousand twenty-a of this chapter or other disciplinary hearing conducted pursuant to any collective bargaining or contractual agreement on one or more grounds other than conviction of an offense defined in subparagraph two of paragraph b of this subdivision, or the revocation or annulment of a certificate based on such conviction, then nothing in paragraph f of this subdivision shall require a school district to reinstate the employment of such school administrator or supervisor or be liable for back pay or benefits.

h. No provision of this article shall be deemed to preclude the following: (1) the commissioner from conducting a due process hearing pursuant to subdivision seven of this section and part eighty-three of title eight of the New York codes, rules and regulations; or (2) a

school district or employing board from bringing a disciplinary proceeding pursuant to section three thousand twenty-a of this chapter; or (3) a school district or employing board from bringing an alternative disciplinary proceeding conducted pursuant to a collective bargaining or contractual agreement.

i. The commissioner shall be authorized to promulgate any regulations necessary to implement the provisions of this subdivision.

8. He shall cause to be prepared and keep in his office records of all persons who have received, or shall receive, certificates of qualification to teach or diplomas of the state teachers colleges, and state colleges for teachers, with the dates thereof, and shall note thereon all annulments of such certificates and diplomas, and reversals thereof, with the dates and causes thereof, together with such other particulars as he may deem expedient.

9. The commissioner shall procure with the consent of the federal authorities complete lists giving the names, ages and destination within the state of all noncitizen children of school age and such other facts as will tend to identify them, and shall deliver copies of such lists to the several boards of education and school boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of this chapter relative to the compulsory attendance at school of children of school age.

10. He may administer oaths and take affidavits concerning any matter relating to the duties of his office or pertaining in any way to the schools of the state or any part thereof.

11. He is hereby authorized to furnish, by means of pictorial or graphic representations, additional facilities for instruction in geography, history, science and kindred subjects, to the schools, institutions and organizations under the supervision of the regents. Material collected for this purpose may, under regents' general rules, be lent for a limited time to responsible institutions and organizations for the benefit of artisans, mechanics and other citizens of the several

communities of the state. He may from time to time enter into contracts necessary for carrying out this provision.

12. The commissioner of education is authorized and directed to establish and provide for the maintenance and conduct of courses of study or training in state teachers colleges and state colleges for teachers and in colleges and universities and other educational institutions and in connection with other educational agencies for the purpose of training teachers in principles and methods of instruction, and to give them knowledge to fit them to instruct foreign born and native adults and minors over sixteen years of age in evening, extension, factory, home and community classes. Such courses of study shall be prescribed by the commissioner of education and shall continue for a period of not less than one year. No teacher employed to instruct foreign born and native adults and minors over sixteen years of age shall be employed by the state or compensated in whole or in part by the state, unless he shall have completed such course of study or training or shall have an equivalent thereof to be determined under the regulations of the commissioner of education. A special certificate shall be issued to teachers who have completed such course of study or a course of instruction which is equivalent thereto, provided, however, that temporary permits may be issued by the commissioner of education to teachers who are qualified to give such instruction pending the completion of such a course of study or training.

12-a. The commissioner shall evaluate the effectiveness of all teacher preparation programs in the state, and the timelines and costs of developing or modifying data systems to collect the necessary data. Such study shall consider measuring the effectiveness of such programs based on the academic performance of their students and graduates and through other measures. The commissioner shall consult with the chancellors of the state university of New York and the city university of New York, and other representatives of institutions of higher education. Upon completion of such study, the commissioner shall make recommendations to the board of regents on implementation of such methodologies.

13. The commissioner of education or the board of education or

trustees of any city or school district may provide for the establishment of courses of instruction or study and schools in connection with factories, places of employment, or in such other places as he or they may deem advisable, for the purpose of giving instruction to foreign-born and native adults and minors over the age of sixteen years. Such course of instruction or study shall include instruction in English, history, civics and other subjects tending to promote good citizenship and to increase vocational efficiency. Such course of instruction and study shall be prescribed by the regents of the university of the state of New York, and shall be in conformity with rules to be adopted by them.

14. a. All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in his opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in his opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened

and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation of pupils or a contract for mobile instructional units, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions (1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, (2) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his existing statutory authority to approve or disapprove transportation or maintenance contracts, (i) to reject any extension of a contract beyond the initial term thereof if he finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and (ii) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The

board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

b. Notwithstanding the provisions of paragraph a of this subdivision, in the case of any emergency arising out of an accident or other unforeseen occurrence or condition affecting pupil transportation services within a district, and requiring immediate action which cannot await competitive bidding, interim contracts for pupil transportation services may be let by the board of education or the trustee of such district for a period not to exceed one month, pending the award of a contract for such services in compliance with the provisions of paragraph a of this subdivision.

c. Each board of education, or the trustees, of a school district which elected or elects to extend one or more pupil transportation contracts may extend a contract in an amount which is in excess of the maximum increase allowed by use of the CPI referenced in paragraph a of this subdivision. Such excess amount shall not be greater than the sum of the following: (i) the sum of the actual cost of qualifying criminal history and driver licensing testing fees attributable to special requirements for drivers of school buses pursuant to articles nineteen and nineteen-A of the vehicle and traffic law plus the actual cost of any diagnostic tests and physical performance tests that are deemed to be necessary by an examining physician or the chief school officer to determine whether an applicant to drive a school bus under the terms of the contract has the physical and mental ability to operate a school transportation conveyance and to satisfactorily perform the other responsibilities of a school bus driver pursuant to regulations of the commissioner; (ii) in a school district located in a city with at least one million inhabitants, the actual cost of clean air technology filters

and Global Positioning System (GPS) technology; (iii) in a school district located in a city with at least one million inhabitants, with respects only to any extension beginning in fiscal year two thousand five--two thousand six, the sum of the actual cost of providing school bus attendants including the actual cost of criminal history record checks for school bus attendant applicants and training and instruction for school bus attendants pursuant to section twelve hundred twenty-nine-d of the vehicle and traffic law plus up to five percent of such cost for necessary administrative services; and (iv) the actual cost of equipment or vehicle modification, or training required, by any state or local legislation or regulation promulgated or effective on or after June first, two thousand five. Such costs shall be approved by the commissioner upon documentation provided by the school district and contractor as required by the commissioner.

* d. Notwithstanding the provisions of paragraphs a, b and c of this subdivision, the board of education or the trustee of a district and a contractor providing pupil transportation services to such district may amend a contract for pupil transportation services upon a finding that such amendment is necessary to comply with any federal, state or local law, rule or regulation imposed after the execution of such contract, or to enhance the safety of pupil transportation, as determined by the board or trustee subject to the approval of the commissioner pursuant to regulations which shall require demonstrable enhancements in pupil safety and/or increased savings consistent with maintaining pupil safety. Such amendment shall cause no additional cost to the state, locality or school district. The commissioner shall not approve such an amendment if the commissioner finds that it circumvents the competitive bidding requirements contained in paragraph a of this subdivision, or otherwise violates this section or any other provision of law, or fails to increase or maintain the safety of pupil transportation.

* NB Repealed January 1, 2028

e. Notwithstanding the provisions of any general, special or local law or charter, a board of education or a trustee of a district, pursuant to rules and regulations promulgated by the commissioner, may award a contract for the transportation of pupils or a contract for mobile instructional units involving an annual expenditure in excess of the

amount specified for purchase contracts in the bidding requirements of the general municipal law in compliance with the provisions of paragraph a of this subdivision or subsequent to an evaluation of proposals submitted in response to a request for proposals prepared by or for the board of education or trustee of a district. The commissioner, in addition to his existing statutory authority to approve or disapprove transportation contracts, may reject any award of a transportation contract or a contract for mobile instructional units that is based on an evaluation of proposals submitted in response to a request for proposals if he finds that (1) the contractor is not the most responsive to the request for proposals, or (2) that the best interests of the district will be promoted thereby.

f. When a board of education or a trustee of a school district elects to receive proposals submitted in response to a request for proposals, such board of education or trustee shall evaluate each proposal from a responding contractor according to criteria established by the commissioner. For evaluation of proposals related to contracts for pupil transportation services, such criteria shall include at a minimum (i) the previous experience of the contractor in transporting pupils, (ii) the name of each transportation company the contractor has been an owner or a manager and previous experience, (iii) a description of any safety programs implemented by the contractor, (iv) a record of accidents in motor vehicles under the control of the contractor, (v) driving history of employees of the contractor, (vi) inspection records and model year of the motor vehicles under the control of the contractor, (vii) maintenance schedule of the motor vehicles under the control of the contractor, (viii) financial analysis of the contractor, and (ix) compliance with insurance requirements. For evaluation of proposals related to contracts for mobile instructional units, such criteria shall include at a minimum (1) the previous experience of the contractor in providing mobile instructional units for use by public school districts, (2) the name of each transportation company or manufacturer in which the contractor or any of the contractor's officers has been an owner or a manager or has had a controlling interest, (3) a description of any vehicle safety standards included in the design standards for the mobile instructional units under the control of the contractor that exceed

applicable standards defined in statute or regulations, (4) inspection records and model year of the mobile instructional units under the control of the contractor, (5) maintenance schedule of the mobile instructional units under the control of the contractor, (6) financial analysis of the contractor and (7) compliance with insurance requirements.

g. Notwithstanding the provisions of this subdivision, section one hundred three of the general municipal law, or any other provision of law to the contrary, the board of education shall be authorized to enter into a piggyback contract with another school district that transports students pursuant to a contract with a private transportation contractor, provided that the board finds that the contract cost is appropriate and entry into a piggyback contract will result in a cost savings to the school district. For purposes of this paragraph, a "piggyback contract" means a contract for the transportation of students that: (1) provides transportation to a location outside the students' school district of residence to which another school district is already providing transportation to its own students through an existing contract with a private transportation contractor, other than a cooperatively bid contract; (2) is entered into by the private transportation contractor and each school district involved; and (3) provides for transportation in accordance with the terms and conditions of such existing transportation contract.

15. The extension industrial teacher training courses heretofore established are continued under the jurisdiction and control of the education department. Members of the faculty to teach such courses shall be appointed by the commissioner of education and, subject to the approval of the director of the budget, shall be classified, allocated and paid in accordance with the schedules contained in section three hundred fifty-five-a of this chapter.

16. The commissioner shall cooperate with the commissioner of health to facilitate the timely establishment and maintenance of current records of courses in advanced emergency medical technology.

17. Whenever a mistake has been made, or an honest dispute exists, as to the location of the division line between land owned by the state, which is under the jurisdiction, care, custody or control of the department of education, and adjoining privately owned land, the commissioner of education, acting for and on behalf and in the name of the people of the state of New York, may enter into a boundary line agreement, fixing and determining the division line between such lands, subject to the approval of the attorney general as to form, content and manner of execution.

18. The commissioner shall cooperate with the superintendent of financial services and the commissioner of commerce in the creation of educational programs to be offered in conjunction with and in support of the export finance awareness program of the department of financial services and the department of commerce. Such assistance may include, but shall not be limited to, the development of specific training programs, identification of potential training needs, provision of facilities for training and the identification of potential trainees. Further activity by the commissioner shall require that a designee of the commissioner attend each and every export awareness advisory board meeting, formally report to the commissioner, and have the commissioner contact the superintendent of financial services and the commissioner of commerce so that the superintendent of financial services may coordinate the activities of each of these components in the area of training.

19. The commissioner is authorized and directed to require all elementary and secondary schools to store all chemicals present in their science facilities in locked and secure storage rooms and cabinets. The schools shall provide for the placement, spacing, arrangement, ventilation and fire protection of such stored chemicals in accordance with guidelines promulgated by the commissioner of education. The commissioner shall also require all elementary and secondary schools to prepare at least annually an inventory of such chemicals, including the chemical's name, the chemical abstracts service registry number, a hazard warning code, the generally accepted method or methods of disposal, a compatible storage code, the date received, the scheduled date of disposal, the quantity received, the quantity remaining and its

location. The inventory must be kept in a secure location and be available for inspection by the commissioner.

20. He shall also have and execute such further powers and duties as he shall be charged with by the regents.

21. a. For the purposes of the computation of the apportionment of aid under any of the provisions of this chapter or any other law, the commissioner shall promulgate regulations to provide where not otherwise provided by law, for the use of whole numbers, fractions or decimals. Such regulations shall specify when such numbers shall be rounded or truncated. Such regulations may provide that under each apportionment the amount of aid to be paid pursuant to the applicable section of law may be paid in whole dollars.

b. The commissioner shall periodically prepare an updated electronic data file containing actual and estimated data relating to apportionments due and owing during the current school year and projections of such apportionments for the following school year to school districts and boards of cooperative educational services from the general support for public schools, growth and boards of cooperative educational services appropriations on the following dates: November fifteenth, or such alternative date as may be requested by the director of the budget for the purpose of preparation of the executive budget; February fifteenth, or such alternative date as may be jointly requested by the chair of the senate finance committee and the chair of the assembly ways and means committee; and May fifteenth, or such alternative date as may be jointly requested by the director of the budget, the chair of the senate finance committee, and the chair of the assembly ways and means committee. For the purposes of using estimated data for projections of apportionments for the following school year, when no specific apportionment has yet been made for such school year, but such apportionment has a history of annual reauthorization, the commissioner shall estimate the apportionment at the same level as the preceding school year, subject to the annual approval of the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee.

c. The commissioner shall transmit a report in support of the general support for public schools appropriation to the director of the budget and each such committee chair containing schedules displaying such apportionments then due and owing, including updated data for the current audit year, seven preceding audit years and the estimated year, to coincide with each such update and by September first with respect to payments due for the preceding school year.

d. Notwithstanding any inconsistent provision of law to the contrary, for the purposes of (i) determining the base year level of general support for public schools pursuant to paragraph b of this subdivision for the two thousand seventeen--two thousand eighteen school year and thereafter, the commissioner is directed to include the state-funded grant amounts allocated pursuant to subdivision ten of section thirty-six hundred two-e of this chapter where such state-funded grants had previously been allocated to districts by means other than general support for public schools, and (ii) for the purposes of determining both the base year and current year levels of general support for public schools pursuant to paragraph b of this subdivision for the two thousand nineteen--two thousand twenty school year and thereafter, the commissioner is also directed to include grant amounts pursuant to section thirty-six hundred two-ee of this chapter, provided that, notwithstanding any provision of law to the contrary, such base year grant amounts shall not be included in: (1) the allowable growth amount computed pursuant to paragraph dd of subdivision one of section thirty-six hundred two of this chapter, (2) the preliminary growth amount computed pursuant to paragraph ff of subdivision one of section thirty-six hundred two of this chapter, and (3) the allocable growth amount computed pursuant to paragraph gg of subdivision one of section thirty-six hundred two of this chapter, and shall not be considered, and shall not be available for interchange with, general support for public schools.

e. Notwithstanding any inconsistent provision of law to the contrary, in preparing an electronic data file pursuant to paragraph b of this subdivision, for the purposes of using estimated data for projections of

apportionments for the following school year, the commissioner shall (i) calculate the negative difference, if any, of the allowable growth amount computed pursuant to subdivision one of section thirty-six hundred two of this chapter less the preliminary growth amount pursuant to such subdivision, and (ii) include such negative difference as the "growth cap adjustment" in any file that aggregates apportionments of general support for public schools for the purpose of determining the amounts necessary in the state fiscal years associated with the school year estimates, provided that the commissioner shall not allocate any amount of such growth cap adjustment to any school district.

22. The commissioner shall establish the procedures for a statewide system of assigning unique student identification numbers for all students in public and nonpublic schools within the state for purposes of student tracking and for state reporting purposes. Students shall retain their numbers until they attain the age of twenty-one. As new students enter schools in New York, they shall be assigned a unique number. The commissioner shall include in such system appropriate procedures for insuring security and confidentiality of student information. The commissioner shall adopt regulations to provide for the implementation of such statewide system by school districts and nonpublic schools.

23. The commissioner shall have primary responsibility for the development and implementation of integrated employment opportunities including short-term and intensive supported employment services and, as appropriate, long-term extended support services and shall coordinate with the commissioner of social services, the commissioner of the office of mental health and the commissioner of the office for people with developmental disabilities under an integrated employment implementation plan, pursuant to article twenty-one of this chapter.

24. Notwithstanding any inconsistent provision of this chapter, the commissioner may, by regulation, provide for a system whereby schools, school districts and municipalities submit required certifications electronically or in any other media form which the commissioner reasonably determines offers the same degree of accountability and

control provided by paper certifications. The certifications described in this subdivision shall constitute written instruments, computer data or statements within the meaning of articles one hundred seventy, one hundred seventy-five and one hundred seventy-six of the penal law.

25. The commissioner shall conduct periodic fiscal audits of boards of cooperative educational services as defined in section nineteen hundred fifty of this chapter and, to the extent sufficient resources are provided the department for such purpose, shall assure that each such board of cooperative educational services is audited at least once every three years.

26. The commissioner is authorized and directed to promulgate rules and regulations to require that any statement prepared to satisfy the provisions of sections sixteen hundred eight, seventeen hundred sixteen and twenty-six hundred one-a of this chapter, any district-wide mailing distributed which in whole or part related to such statement, and any report prepared to satisfy the requirements of sections sixteen hundred ten, seventeen hundred twenty-one and twenty-five hundred twenty-eight of this chapter, commencing in the nineteen hundred ninety-seven--ninety-eight school year, be in plain language and that categorization of and format for revenue including payments in lieu of taxes, property tax refunds from certiorari proceedings, expenditure, transfer, and fund balance information and changes in such data from the prior year and, in the case of a resubmitted or amended budget, changes in such information from the prior year's submitted budget, shall be complete and accurate and set forth in such a manner as to best promote public comprehension and readability.

27. The commissioner shall promulgate regulations in consultation with the New York state energy research and development authority concerning the development and approval of energy performance contracts for school districts and boards of cooperative educational services in accordance with subdivision eight of section 9-103 of the energy law.

28. On or before April first, two thousand, the commissioner shall develop and implement an automated board of cooperative educational

services state aid reporting system for the purpose of tracking and reporting state and local expenditures for aidable shared services pursuant to subdivision five of section nineteen hundred fifty of this chapter. Such system shall track state and local expenditures in the manner prescribed by the commissioner, provided that, at a minimum, such system shall report such expenditures by board of cooperative educational services, by type of cooperative service agreement (CO-SER) and by component school district. In addition, such system shall report expenses and aid totals, as well as expenditures and aid per resident weighted average daily attendance.

29. The commissioner shall develop a program whereby any veteran of the armed forces who served in world war II and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29-a. The commissioner shall develop a program whereby any veteran of the armed forces who served in the Korean conflict and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29-b. The commissioner shall develop a program whereby any veteran of the armed forces who served in the Vietnam war and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

29-c. The commissioner shall develop a program whereby any veteran of the armed forces who has served on active duty in the United States Armed Forces, and who was unable, for any reason, to complete a secondary education, may be awarded a high school diploma based on knowledge and experience gained while in service.

30. (a) The commissioner, in cooperation with the division of criminal justice services and in accordance with all applicable provisions of law, shall promulgate rules and regulations to require the

fingerprinting of prospective employees, as defined in section eleven hundred twenty-five of this chapter, of school districts, charter schools and boards of cooperative educational services and authorizing the fingerprinting of prospective employees of nonpublic and private elementary and secondary schools, and for the use of information derived from searches of the records of the division of criminal justice services and the federal bureau of investigation based on the use of such fingerprints. The commissioner shall also develop a form for use by school districts, charter schools, boards of cooperative educational services, and nonpublic and private elementary and secondary schools in connection with the submission of fingerprints that contains the specific job title sought and any other information that may be relevant to consideration of the applicant. The commissioner shall also establish a form for the recordation of allegations of child abuse in an educational setting, as required pursuant to section eleven hundred twenty-six of this chapter. No person who has been fingerprinted pursuant to section three thousand four-b of this chapter or pursuant to section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law and whose fingerprints remain on file with the division of criminal justice services shall be required to undergo fingerprinting for purposes of a new criminal history record check. This subdivision and the rules and regulations promulgated pursuant thereto shall not apply to a school district within a city with a population of one million or more.

(b) The commissioner, in cooperation with the division of criminal justice services, shall promulgate a form to be provided to all such prospective employees of school districts, charter schools, boards of cooperative educational services, and nonpublic and private elementary and secondary schools that elect to fingerprint and seek clearance for prospective employees that shall:

(i) inform the prospective employee that the commissioner is required or authorized to request his or her criminal history information from the division of criminal justice services and the federal bureau of investigation and review such information pursuant to this section, and provide a description of the manner in which his or her fingerprint cards will be used upon submission to the division of criminal justice services;

(ii) inform the prospective employee that he or she has the right to obtain, review and seek correction of his or her criminal history information pursuant to regulations and procedures established by the division of criminal justice services.

(c) The prospective employer shall obtain the signed, informed consent of the prospective employee on such form supplied by the commissioner which indicates that such person has:

(i) been informed of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information;

(ii) been informed of the reason for the request for his or her criminal history information;

(iii) consented to such request for a report;

(iv) supplied on the form a current mailing or home address for the prospective employee;

(v) been informed that he or she may withdraw his or her application for employment pursuant to this section, without prejudice, at any time before employment is offered or declined, regardless of whether the prospective employee or employer has reviewed such prospective employee's criminal history information;

(vi) where the applicant is to be fingerprinted pursuant to section three thousand thirty-five of this chapter, the process for seeking a waiver of the fees associated with conducting a criminal history records check, pursuant to paragraph (b) of subdivision four of section three thousand thirty-five of this chapter,

(vii) been informed that in the event his or her employment is terminated and such person has not become employed in the same or another school district, charter school, board of cooperative educational services, or nonpublic or private elementary or secondary school within twelve-months of such termination, the commissioner shall notify the division of criminal justice services of such termination, and the division of criminal justice services shall destroy the fingerprints of such person. Such person may request that the commissioner notify the division of criminal justice services that his or her fingerprints shall be destroyed prior to the expiration of such twelve month period in which case the commissioner shall notify the division of criminal justice services and the division shall destroy the fingerprints of such person promptly upon receipt of the request; and

(viii) been informed of the manner in which he or she may submit to the commissioner any information that may be relevant to the consideration of his or her application for clearance including, where applicable, information in regard to his or her good conduct and rehabilitation.

(d) The commissioner shall develop forms to be provided to all school districts, charter schools, boards of cooperative educational services, and to all nonpublic and private elementary and secondary schools that elect to fingerprint their prospective employees, to be completed and signed by prospective employees when conditional appointment or emergency conditional appointment is offered.

(e) The commissioner may promulgate rules and regulations regarding the conditional appointment and emergency conditional appointment of a prospective employee.

* 31. The commissioner shall direct that each school district, charter school, and private elementary and secondary school appoint a designated educational official for the purposes set forth in section 380.90 of the criminal procedure law, subdivision seventeen of section 301.2 and subdivision three of section 380.1 of the family court act. In addition, the commissioner shall promulgate rules and regulations, in consultation with the office of court administration, to facilitate electronic access by the courts to the names and addresses of such designated educational officials.

* NB There are 2 sub 31's

* 31. The commissioner shall cooperate with the commissioner of agriculture and markets in establishing a farm-to-school program and coordinating New York Harvest For New York Kids Week as described in subdivision five-b of section sixteen of the agriculture and markets law. The commissioner's responsibilities shall include, but not be limited to, compiling information for the department of agriculture and markets from school districts and other educational institutions under the department's jurisdiction interested in purchasing New York farm products and disseminating to those districts and institutions information from the department of agriculture and markets about the availability of New York farm products, and contact information for farmers and other businesses marketing such products. The commissioner shall report to the legislature about the need for changes in law to

facilitate the purchase of such products by schools and other institutions.

* NB There are 2 sub 31's

34. The commissioner is hereby authorized and directed to apply school bus safety practices instruction and retraining requirements prescribed pursuant to the provisions of section thirty-six hundred twenty-four of this chapter to drivers who operate transportation which is owned, leased or contracted for by private and parochial schools to the same extent as such requirements shall apply to drivers who operate transportation which is owned, leased or contracted for by public school districts. The chief school administrator of every private and parochial school shall approve the employment of each driver for each school bus operated for such private or parochial school and shall ensure that each such driver shall meet the school bus safety practices instruction and retraining requirements prescribed pursuant to section thirty-six hundred twenty-four of this chapter. Nothing in this subdivision shall be construed to apply such provisions to volunteer drivers who transport pupils on other than a regularly established route on an occasional basis.

* 35. The commissioner shall develop guidelines by which school districts may establish a program to make available to parents or persons in parental relation of children attending schools in such districts, an internet based electronic communications system to provide for the transmission of individual personalized messages or group communication over the internet, to communicate with the teachers of such children.

* NB There are 2 sb 35's

* 35. The commissioner shall, in cooperation with the commissioner of mental health, develop guidelines for voluntary implementation by school districts, that incorporate social and emotional development into elementary and secondary school educational programs as prescribed in paragraph (b) of subdivision one of section three of the children's mental health act of 2006.

* NB There are 2 sb 35's

36. The commissioner shall ensure that by July first, two thousand

eight, a student progress report, written in plain English and in a form prescribed by the commissioner, is prepared for all students. Such progress report shall provide parents or persons in parental relation with information on their child's performance on state assessments over multiple years of testing and shall also explain the process by which parents or persons in parental relation may inquire further about their child's progress. All school districts and charter schools shall prepare and disseminate the student progress report to parents or persons in parental relation in a timely manner.

37. The commissioner shall develop methods to support educators in the use of performance data to assist in student learning, which shall be periodically improved based on feedback from educators.

38. The commissioner shall develop informational materials to assist parents or persons in parental relation and teachers in understanding the regents learning standards and the results of state assessments.

39. The commissioner shall develop a school leadership report card and a separate school progress report card to assist boards of education, the state and the public in assessing the performance of school leaders, including superintendents of schools and building principals, and the schools that they lead. The report cards shall include an assessment of the school's progress in achieving standards of excellence. By January first, two thousand nine, the commissioner shall develop such standards of excellence which shall include, but not be limited to, parent involvement, curriculum, teacher quality, and accountability measures as set forth in section two hundred eleven-a of this title. The commissioner shall promulgate regulations requiring the trustees or boards of education of every common, union free, central, central high school and city school district, and the chancellor of a city school district in a city of one million or more inhabitants, to attach copies of such report cards to the statement of estimated expenditures pursuant to section sixteen hundred eight or seventeen hundred sixteen of this chapter, where applicable, and to otherwise make the report cards publicly available in the same manner as a school district report card.

40. The board of regents shall explore the development of a prekindergarten through postsecondary (P-16) data system that tracks student performance from prekindergarten through attendance at public colleges in this state and links students to teachers or instructors. The commissioner shall consult with other relevant state departments, agencies and instrumentalities of the state about the feasibility of linking the system to other data collection systems containing information relevant to the education of children, including but not limited to social services information; and to identify barriers to the exchange of data between the P-16 system and social services and other systems under their control and collaborate to facilitate the free exchange of data. Such data system shall be maintained consistent with applicable confidentiality requirements, so as to prevent disclosures that would constitute an unwarranted invasion of personal privacy. The commissioner shall report to the board of regents on activities conducted pursuant to this subdivision.

41. The commissioner shall establish a program to evaluate various methods used by schools to identify students receiving a free or reduced price meal under programs authorized by the National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended. The commissioner shall identify methodologies and practices utilized by schools and school districts, within the state and nationally, to:

a. simplify student access to meal programs; and

b. identify students through an electronic payment system, or through other means, in order to eliminate the overt identification of students receiving a free or reduced price meal.

On or before July first, two thousand nine, the commissioner shall disseminate detailed information on the best practices utilized by such schools and school districts which simplify access and eliminate the distinction between students receiving a free or reduced price meal and those paying full price so as to more effectively operate the program. The commissioner shall also submit a report containing such information to the legislature on or before such date.

42. a. The commissioner, in conjunction with the commissioner of health, shall promulgate and review as necessary rules and regulations relating to pupils who suffer mild traumatic brain injuries, also referred to as a "concussion," while receiving instruction or engaging in any school sponsored or related activity. In developing such rules and regulations, the commissioner shall consider comments from stakeholders and other interested parties including but not limited to parents, teachers, students, school administrators, school athletic trainers, sport coaches, medical and health professionals, the public schools athletic league (PSAL), the New York state public high school athletic association (NYSPHSAA), and other athletic associations. Such regulations shall include, but not be limited to:

(i) requiring a course of instruction relating to recognizing the symptoms of mild traumatic brain injuries and monitoring and seeking proper medical treatment for pupils who suffer mild traumatic brain injuries. Such course of instruction shall be required to be completed on a biennial basis by all school coaches, physical education teachers, nurses and athletic trainers. The course of instruction required by this subparagraph shall include, but not be limited to, the definition of a "concussion," signs and symptoms of mild traumatic brain injuries, how such injuries may occur, practices regarding prevention, and the guidelines for the return to school and to certain school activities after a pupil has suffered a mild traumatic brain injury regardless of whether such injury occurred outside of school. Such training may be completed by means of courses of instruction, including but not limited to, courses provided online and by teleconference approved by the department;

(ii) providing that the department and the department of health shall post on their internet websites information relating to mild traumatic brain injuries, which shall include but not be limited to, the definition of a "concussion," signs and symptoms of mild traumatic brain injuries, how such injuries may occur, and the guidelines for the return to school and to certain school activities after a pupil has suffered a mild traumatic brain injury regardless of whether such injury occurred outside of school. Schools shall be required to include such information in any permission form or parent or person in parental relation consent form or similar document that may be required for a pupil's

participation in interscholastic sports and shall also include such information, or reference how to obtain such information from the department and the department of health internet websites, on the school's internet website, if one exists;

(iii) requiring the immediate removal from athletic activities of any pupil believed to have sustained or who has sustained a mild traumatic brain injury. In the event that there is any doubt as to whether a pupil has sustained a concussion, it shall be presumed that such pupil has been so injured until proven otherwise. No such pupil shall resume athletic activity until such pupil shall have been symptom free for not less than twenty-four hours, and has been evaluated by and received written and signed authorization from a licensed physician or a certified nurse practitioner. Such authorization shall be kept on file in the pupil's permanent health record. Furthermore, such rules and regulations shall provide guidelines for limitations and restrictions on school attendance and activities for pupils who have sustained mild traumatic brain injuries, consistent with the directives of the pupil's treating physician or a nurse practitioner.

(iv) authorizing each school or school district, in its discretion, to establish a concussion management team which may be composed of the athletic director (if any), a school nurse, the school physician, a coach of an interscholastic team, an athletic trainer or such other appropriate personnel as designated by the school or school district. The concussion management team shall oversee the implementation of the rules and regulations promulgated pursuant to this subdivision as it pertains to their associated school including the requirement that all school coaches, physical education teachers, nurses and athletic trainers that work with and provide instruction to pupils engaged in school sponsored athletic activities complete training relating to mild traumatic brain injuries. Furthermore, every concussion management team may establish and implement a program which provides information on mild traumatic brain injuries to parents and persons in parental relation throughout each school year.

b. The rules and regulations established pursuant to this subdivision shall be deemed to be the minimum standards that must be complied with by every public school and nonpublic school relating to mild traumatic

brain injuries. Nothing in this subdivision shall prohibit any public school or nonpublic school from adopting and implementing more stringent standards.

43. The commissioner shall make available, on the department internet website, materials on problem gambling among school-age youth identified or developed by the office of alcoholism and substance abuse services in consultation with the department, pursuant to subdivision (j) of section 19.07 of the mental hygiene law.

44. The commissioner shall prohibit the administration of traditional standardized tests, as defined in regulations issued by the commissioner, in pre-kindergarten programs and in grades kindergarten through second grade; provided, however, that nothing herein shall prohibit assessments in which students perform real-world tasks that demonstrate application of knowledge and skills or assessments that are otherwise required to be administered by federal law.

45. The commissioner shall provide that no school district or board of cooperative educational services may place or include on a student's official transcript or maintain in a student's permanent record any individual student score on a state administered standardized English language arts or mathematics assessment for grades three through eight, provided that nothing herein shall be construed to interfere with required state or federal reporting or to excuse a school district from maintaining or transferring records of such test scores separately from a student's permanent record, including for purposes of required state or federal reporting.

46. The commissioner shall provide that any test results on a state administered standardized English language arts or mathematics assessment for grades three through eight sent to parents or persons in parental relation to a student include a clear and conspicuous notice that such results will not be included on the student's official transcript or in the student's permanent record and are being provided to the student and parents for diagnostic purposes.

47. The commissioner shall provide that no school district shall make any student promotion or placement decisions based solely or primarily on student performance on the state administered standardized English language arts and mathematics assessments for grades three through eight. However, a school district may consider student performance on such state assessments provided that the school district uses multiple measures in addition to such assessments and that such assessments do not constitute the major factor in such determinations. In addition, the commissioner shall require every school district to annually notify the parents and persons in parental relation to the students attending such district of the district's grade promotion and placement policy along with an explanation of how such policy was developed. Such notification may be provided on the school district's website, if one exists, or as part of an existing informational document that is provided to parents and persons in parental relation.

* 48. The commissioner shall issue regulations:

a. allowing students with disabilities who are not eligible for the New York state alternate assessment and whose cognitive and intellectual disabilities preclude their meaningful participation in chronological grade level instruction to be assessed based on instructional level rather than chronological age;

b. allowing English language learners to be assessed with a state-administered assessment that measures the English language development of such students rather than the English language arts exam for their first two years of enrollment; and

c. ensuring accountability for the performance of such students in appropriate ways.

* NB Effective upon and to the extent allowed by a federal waiver issued by the U.S. department of education

49. The commissioner shall promulgate such standards and regulations as may be necessary to ensure:

a. that the amount of time devoted to state-administered required

assessments developed by the state directly or by contract for each grade does not exceed, in the aggregate, one percent of the minimum required annual instructional hours for such grade.

b. that, for each school district, the amount of time devoted to standardized assessments that are not specifically required by state or federal law for each grade does not exceed, in the aggregate, one percent of the minimum required annual instructional hours for such grade.

c. that, for each school district, the amount of time devoted to test preparation under standardized testing conditions for each grade does not exceed, in the aggregate, two percent of the minimum required annual instructional hours for such grade.

Time devoted to teacher administered classroom quizzes or exams, portfolio reviews, or performance assessments shall not be counted towards the limits established by this subdivision. In addition, nothing in this subdivision shall be construed to supersede the requirements of a section of the 504 plan of a qualified student with a disability or federal law relating to English Language Learners or the individualized education program of a student with disabilities.

50. The commissioner shall provide instructional tools and outreach materials for parents and families to assist parents and families in understanding the purposes, elements and instructional changes relating to implementation of next generation learning standards as well as how to best support their child's educational progress and outcomes. Such tools and outreach shall include, but not be limited to, online resources with linguistically and culturally appropriate materials, community outreach, and the dissemination of materials through schools, non-profit organizations, libraries, and other partners.

51. The commissioner shall, in order to assist school districts and boards of cooperative educational services in developing next generation training programs for teachers and principals, develop professional development tools, resources and materials that school districts, boards

of cooperative educational services, teachers and principals may utilize. The commissioner may collaborate with the state university of New York, the city university of New York, and independent colleges and universities to offer effective, data-informed professional development and coaching to meet the needs of implementing the next generation learning standards. Such professional development and coaching shall include necessary materials, age appropriate instruction and resources that provide best practices for the effective implementation of the next generation learning standards. Such support shall be available for the purpose of providing professional development for teachers and principals, as well as preparation programs for participating school districts, boards of cooperative educational services, charter schools and communities at large, and may include recommendations for how teachers and principals can collaborate on strategies, including but not limited to study groups and coaching, to improve classroom practices. The commissioner shall also identify regional examples of school districts that have successfully implemented the next generation learning standards, where such examples exist, and shall invite such districts to serve on a voluntary basis as models that principals, teachers and other school professionals within the region may visit and observe. In addition, the commissioner shall include opportunities for teachers and other content-area experts to provide feedback and recommendations for the continuous improvement and development of voluntary next generation curriculum modules offered by the department.

51-a. On or before June first, two thousand fifteen, and each year thereafter, the commissioner shall release the test questions, test answers, and corresponding correct answers from each of the most recently administered English language arts and mathematics examinations in grades three through eight of that year. The commissioner may limit the number of questions and answers released only to the extent necessary to avoid hindering or impairing the validity and/or reliability of future examinations and must provide enough of an overview of each examination so that teachers, administrators, principals, parents and students can be provided with sufficient feedback on the types of questions administered and, by July first, two thousand fifteen, and each year thereafter, the commissioner shall

release the general student success rate in answering such questions correctly.

52. a. The commissioner shall make recommendations to the board of regents relating to the adoption of instruction in cardiopulmonary resuscitation and the use of automated external defibrillators (AEDs) in senior high schools.

b. Prior to making the recommendations to the board of regents, the commissioner shall:

(i) seek the recommendations of teachers, school administrators, teacher educators and others with educational expertise in the proposed curriculum;

(ii) seek comment from parents, students and other interested parties;

(iii) consider the amount of instructional time such curriculum will require and whether such time would detract from other mandated courses of study;

(iv) consider the fiscal impact, if any, on the state and school districts; and

(v) consider any additional factors the commissioner deems relevant.

c. No later than one hundred eighty days after the effective date of this subdivision, the commissioner shall provide a recommendation to the board of regents to either adopt and promulgate appropriate rules and regulations implementing such curriculum or reject the implementation of such curriculum. Upon receiving a recommendation from the commissioner, pursuant to this subdivision, the board of regents shall vote to either accept or reject the commissioner's recommendation no later than sixty days after receiving such recommendation.

d. If the board of regents adopts such curriculum, the curriculum requirement shall take effect no later than the next school year after such curriculum has been adopted.

e. If the board of regents rejects such curriculum, the commissioner shall provide a report as to the determination of the board to the governor, the temporary president of the senate, the speaker of the

assembly and the chairs of the senate and assembly committees on education providing the reasons for such rejection not later than thirty days after the board of regents rejects such curriculum.

53. The commissioner is authorized and directed to establish a content review committee for the purposes of reviewing all standardized test items and/or selected passages used on English language arts and mathematics state assessments for grades three through eight to ensure: (a) they are grade level appropriate, in general; (b) they are presented at a readability level that is grade-level appropriate; (c) they are within grade-level expectations; and (d) they appropriately measure the learning standards approved by the board of regents applicable to such subject and/or grade level. The review of such items and passages shall be conducted prior to their use in such assessments provided however, for the two thousand fifteen--two thousand sixteen school year only, if such requirement would prevent the ability of such assessments to be administered, then items or passages that have not been reviewed may be used. Provided further, the content review committee shall review any new standardized test items and/or selected passages prior to their use in such assessments. Such committee shall also ensure that any new test items and/or selected passages are fair and appropriately measure the learning standards approved by the board of regents applicable to such subject and/or grade level. Such committee shall also ensure that adequate and appropriate time is given to students for the administration of such assessments, provided however that subdivision forty-nine of this section must be complied with. The content review committee shall include classroom teachers and experienced educators in the content area and/or grade level of the items/passages being reviewed, including teachers of students with disabilities and English language learners.

54. Notwithstanding any law, rule or regulation to the contrary, no teacher, principal, or superintendent shall be required to sign a confidentiality agreement with their respective school district, board of cooperative educational services, or the department that prevents such teacher, principal, or superintendent from discussing the contents of any items on the English language arts and mathematics assessments in

grades three through eight after such items have been released by the department pursuant to subdivision fifty-one-a of this section or after such items have been publicly disclosed by the department or other appropriate entity. The commissioner shall amend and/or modify any current confidentiality agreement inconsistent with this subdivision and shall promulgate regulations consistent with this subdivision.

55. The commissioner, in collaboration with the commissioner of health and the commissioner of environmental conservation shall develop instructional tools and materials for school districts and libraries to assist in the education and awareness program to protect children from lyme disease and tick-borne infections. Resources and materials shall be age-appropriate for school-age students and provide information on the identification of ticks, recommended procedures for safe tick removal and best practices to provide protection from ticks. Such materials may include but not be limited to video productions, pamphlets, and demonstration programs to illustrate the various sizes of ticks before and after it has engorged to assist with the identification of a tick and the reaction on the skin that may occur as a result of a tick bite. Materials and instructional tools to advance and promote education awareness on tick identification and protection shall be made available to school districts and libraries upon request at no charge.

* 56. The commissioner shall issue a guidance memorandum in cooperation with stakeholders and other interested parties, to every school district and board of cooperative educational services to inform them of the unique educational needs of students with dyslexia, dyscalculia and dysgraphia and to clarify that school districts may reference or use the terms dyslexia, dyscalculia, and dysgraphia in evaluations, eligibility determinations, or in developing an individualized education program (IEP) under the Individuals with Disabilities Education Act (IDEA) pursuant to part 300 of title 34 of the code of federal regulations, as such regulations may, from time to time, be amended.

* NB There are 4 sb 56's

* 56. The commissioner, in consultation and cooperation with the commissioner of agriculture and markets, may develop guidelines to encourage school districts and institutions of higher education to

donate excess, unused, edible food from meals served at such educational facilities to local voluntary food assistance programs including, but not limited to, community food pantries, soup kitchens, and other community and not-for-profit organizations that distribute food to the poor and disadvantaged. Such guidelines developed concerning donated food shall comply with all federal, state and local public health laws, rules and regulations that govern food safety and food donation.

Such guidelines may include, but not be limited to:

a. a procedure to provide information to school districts, institutions of higher education and local voluntary food assistance programs of the provisions of such guidelines;

b. notification to educational institutions of their ability to elect to donate excess, unused, edible food to local voluntary food assistance programs; and

c. information and technical assistance on how school districts and institutions of higher education may best donate excess food in a safe and sanitary manner.

The commissioner shall coordinate the implementation of such guidelines with the farm-to-school program established pursuant to subdivision five-b of section sixteen of the agriculture and markets law.

* NB There are 4 sb 56's

* 56. a. The commissioner shall consult and collaborate with the commissioner of health and organizations that promote sepsis awareness, prevention and education, as well as other interested parties, to establish and develop a sepsis awareness, prevention and education program within the department. Such program shall be defined by the commissioner in regulations after consultation with the department of health and be designed to educate students, parents and school personnel about sepsis awareness and prevention. Such program shall include, but not be limited to:

(i) age-appropriate model curriculum, exemplar lesson plans, and best

practice instructional resources for students, parents and school personnel designed to promote awareness and prevention methods against sepsis. Such model curriculum, lesson plans and instructional resources shall include but not be limited to guidelines and methods of prevention, including recommendations for the reduction of exposure to sepsis and an appropriate course of action for sepsis treatment;

(ii) instructional tools and materials for students, parents and school personnel developed in collaboration with the commissioner of health, which shall include updated data and information on sepsis awareness and prevention, with a review of such data and information to occur periodically, at intervals deemed appropriate by the commissioner and the commissioner of health; and

(iii) public availability of all materials related to the sepsis awareness, prevention and education program on a dedicated webpage on the department's internet website, and provided at no cost to every school district, board of cooperative educational services, charter school and nonpublic school upon request.

b. The commissioner shall issue a guidance memorandum to every school district, board of cooperative educational services, charter school and nonpublic school, to inform them of the availability of the sepsis awareness, prevention and education program and to encourage them to develop policies and procedures, in consultation with their director of school health services, or the substantial equivalent as determined by the commissioner in regulations, regarding when parents and persons in parental relations are to be notified of illness or injuries occurring in school which affects their child, in accordance with article nineteen of this chapter. The commissioner shall annually remind school districts, boards of cooperative educational services, charter schools and nonpublic schools, of the availability of sepsis awareness and prevention materials as part of sepsis awareness month.

* NB There are 4 sb 56's

* 56. The commissioner shall provide to the council on children and families, in a format identified by the council, information regarding all recipients of grants awarded or administered by the department for the purposes of providing afterschool programs, or extended learning time, including but not limited to grants for such purposes awarded

under section thirty-six hundred forty-one of this chapter. For each program the program's name, the address at which the program is offered, and the phone number for the program will be provided to the council no less than once a year.

* NB There are 4 sb 56's

58. a. No later than June first, two thousand nineteen, the commissioner shall prepare and submit to the governor, the temporary president of the senate and the speaker of the assembly a report that provides an overview of teacher diversity throughout the state. Such report shall:

(i) study the potential barriers to: achieving diversity within teacher preparation programs; obtaining an initial certificate in the classroom teaching service; and obtaining teacher certification as a teacher aide or teaching assistant;

(ii) include available data on race, ethnicity, gender, and age; the efforts higher education institutions with teacher preparation programs are taking to recruit and retain a diverse student population into such programs; and the efforts that the state and schools are taking to attract, hire, and retain certified teachers who reflect the diversity within New York state's schools; and

(iii) make recommendations on programs, practices and policies that may be implemented by schools and teacher preparation programs to improve teacher diversity throughout the state.

b. The commissioner shall consult with stakeholders and other interested parties when preparing such report. The state university of New York, the city university of New York, the commission on independent colleges and universities, and the proprietary college sector with registered teacher education programs in this state shall, to the extent practicable, identify and provide representatives to the department, at the request of the commissioner, in order to participate in the development and drafting of such report.

59. The commissioner shall make available educational materials developed pursuant to subdivision two of section three hundred seventy-c of the social services law to every school district, charter school,

nonpublic school, approved preschool, approved preschool special education program, approved private residential or non-residential school for the education of students with disabilities, state-supported school in accordance with article eighty-five of this chapter, and board of cooperative educational services for the purpose of educating parents, guardians and other authorized individuals responsible for the child's care about adverse childhood experiences, the importance of protective factors, and the availability of services for children at risk for or experiencing adverse childhood experiences. The commissioner shall provide that such educational materials are made available online pursuant to subdivision two of section three hundred seventy-c of the social services law.

* 60. The commissioner, in consultation with institutions of higher education, shall issue guidance for school districts and boards of cooperative educational services to use to develop grow your own initiatives aimed at attracting underrepresented candidates into the teaching profession. Such guidance shall include but not be limited to:

(a) ways to recruit underrepresented candidates, including those who are current teaching assistants and current students in teacher preparation programs;

(b) initiatives aimed at creating an early recruitment pipeline beginning in secondary school;

(c) how to establish partnerships between school districts, community-based organizations, and institutions of higher education to encourage and support underrepresented candidates to enter and remain in the teaching profession; and

(d) ways to identify existing funding sources available to school districts to attract and retain underrepresented candidates into the teaching profession.

* NB There are 2 sb 60's

* 60. The commissioner shall promulgate rules and regulations prohibiting a teacher, administrator, officer, employee or agent of any school within the state from using corporal punishment.

* NB There are 2 sb 60's

61. a. The commissioner shall require each school district to ensure verification of one of the following from the parent or guardian of each

student or from the student if the student is eighteen years of age or older or legally emancipated, during the school year in which the student is a senior enrolled in such school district: (1) completion of either the free application for federal student aid for such student or, if applicable, the Jose Peralta New York State DREAM Act application; or (2) completion of a waiver form promulgated by the department indicating that the parent or guardian or, if the student is eighteen years of age or older or legally emancipated, the student understands what the free application for federal student aid or, if applicable, the Jose Peralta New York State DREAM Act application are and has chosen not to file an application pursuant to the provisions of subparagraph one of this paragraph. For purposes of this subdivision, verification of completion of either the free application for federal student aid or the Jose Peralta New York State DREAM Act application shall not require a parent, guardian, or student to identify which type of application was completed.

b. On and after July first, two thousand twenty-five, each school district shall annually report to the department the following data for all seniors enrolled in such school district, aggregated by high school: (1) the total number of students that have completed either the free application for federal student aid or, if applicable, the Jose Peralta New York State DREAM Act application; (2) the number of students who completed a waiver pursuant to paragraph a of this subdivision; and (3) the total number of seniors enrolled.

c. The commissioner shall promulgate rules and regulations necessary to implement this subdivision, including requiring each school district to notify each high school senior, no less than two times during each school year, of the state-sponsored scholarships, financial aid and assistance available to students attending college or post-secondary education, and to provide referrals for support or assistance to complete the free application for federal student aid or, if applicable, the Jose Peralta New York State DREAM Act application.

d. A student shall not be penalized or punished if the student's parent or guardian or the student, if the student is eighteen years of

age or older or legally emancipated, does not fulfill the requirements of this subdivision and this subdivision shall not affect a student's ability to graduate.

62. a. The commissioner shall promulgate rules and regulations to establish uniform statewide protocols for diapering and toileting of students in public schools. Such protocols shall include but not be limited to: requiring schools to provide students and staff with safe and accessible facilities for diapering and toileting; requiring schools to provide the proper equipment and supplies to maintain a safe and sanitary area for diapering and toileting; and defining basic procedures to promote a safe and healthy environment.

b. For the purposes of this subdivision, "school" shall be deemed to include a school district, public school, board of cooperative educational services, special act school district as defined in section four thousand one of this chapter, approved private residential or non-residential school for the education of students with disabilities including private schools established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, and a state-supported school in accordance with article eighty-five of this chapter.

§ 306. Removal of school officers; withholding public money. 1. Whenever it shall be proved to his satisfaction that any trustee, member of a board of education, clerk, collector, treasurer, district superintendent, superintendent of schools or other school officer is a member of an organization listed as subversive by the board of regents pursuant to the provisions of section three thousand twenty-two of this chapter, or has been guilty of any wilful violation or neglect of duty under this chapter, or any other act pertaining to common schools or other educational institution participating in state funds, or wilfully disobeying any decision, order, rule or regulation of the regents or of the commissioner of education, said commissioner, after a hearing at which the school officer shall have the right of representation by counsel, may, by an order under his hand and seal, which order shall be

recorded in his office, remove such school officer from his office.

2. Said commissioner of education may also withhold from any district or city its share of the public money of the state for wilfully disobeying any provision of law or any decision, order or regulation as aforesaid.

§ 307. Acquisition of real property. 1. The commissioner of education, when an appropriation therefor has been made by the legislature, may acquire any real property which he may deem necessary for the purposes of a state educational institution by purchase or pursuant to the provisions of the eminent domain procedure law the title to which shall be taken in the name of and be vested in the people of the state of New York; provided, however, that no real property shall be so acquired by purchase unless the title thereto shall be approved by the attorney general.

2. Whenever real property is to be so acquired pursuant to the provisions of the eminent domain procedure law, by appropriation, the commissioner of education shall cause to be made by the state department of transportation an accurate acquisition map. With respect to any real property or any easement to be so acquired for state university purposes, the state university trustees may cause the map, description and survey contemplated by this subdivision, and any changes, alterations or modifications in such map contemplated by subdivision five of this section, to be made by the state department of transportation or, with the approval of the director of the budget, by a licensed professional engineer or a licensed land surveyor, and the state commissioner of transportation and the state university trustees may each authorize the state university construction fund to act as agent in making such map, description and survey.

3. On the approval of such map by the commissioner, the original tracing of such map shall be filed in the main office of the department pursuant to the provisions of the eminent domain procedure law. With respect to any real property or easement to be so acquired for state

university purposes, the original tracing of such map shall be filed in the office of the state university trustees.

4. If the commissioner shall determine, prior to the filing of such map in the office of the clerk or register of the county, that changes, alterations or modifications of such map as filed in the main office of the department should be made, he or she shall, subject to the provisions of article two of the eminent domain procedure law, if applicable, direct the preparation by the department of transportation of an amended map. On the approval of such amended map by the commissioner, it shall be filed in the main office of the department and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed. With respect to any real property or any easement to be so acquired for state university purposes, upon the approval of such amended map by the state university trustees, it shall be filed in the office of the state university trustees and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

5. If the commissioner shall determine, prior to the filing of a copy of such acquisition map in the office of the county clerk or register as provided in section four hundred two of the eminent domain procedure law, that such map should be withdrawn, he or she may file a certificate of withdrawal in the offices of the department and of the department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be cancelled and all rights thereunder shall cease and determine.

6. The commissioner shall deliver to the attorney general a copy of such acquisition map, whereupon it shall be the duty of the attorney general to advise and certify to the commissioner the names of the owners of the property, easements, interests or rights described in the said acquisition map, including the owners of any right, title or interest therein, pursuant to the requirements of section four hundred three of the eminent domain procedure law.

7. If, at or after the vesting of title to such property in the

people of the state of New York, as provided in the eminent domain procedure law, the commissioner of education shall deem it necessary to cause the removal of an owner or occupant from any real property so acquired, he may cause such owner or occupant to be removed therefrom by proceeding in accordance with section four hundred five of the eminent domain procedure law. The proceeding shall be brought in the name of the commissioner of education as agent of the state and the attorney general shall represent the petitioner in the proceedings. No execution shall issue for costs, if any, awarded against the state or the commissioner of education, but they shall be part of the costs of the acquisition of the real property and be paid in like manner. Proceedings may be brought separately against one or more of the owners or occupants of any such property, or one proceeding may be brought against all or several of the owners or occupants of any or all such property within the territorial jurisdiction of the same court, justice or judge; a final judgment shall be made for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.

8. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law the commissioner of education or such trustees of the state university of New York, as the case may be, shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his or their property and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property, but not until there shall have been filed with the comptroller a certificate of the attorney general showing the person or persons claiming the amount so agreed upon to be legally entitled thereto.

9. Application for reimbursement of incidental expenses as provided in section seven hundred two of the eminent domain procedure law shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall

deliver a copy thereof to the comptroller together with a certificate stating the amount due thereof, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from monies appropriated for the acquisition of property under this section.

10. The commissioner of education and the trustees of the state university of New York, with the approval of the director of the budget, shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commissioner of education and the trustees of the state university of New York; and actual reasonable expenses in searching for a replacement business or farm; or in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only the term "business" means any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the commissioner of education and the trustees of the state university of New York and made a part of such rules and regulations. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of commercial property who relocates or discontinues his business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business,

no such fixed relocation payment shall be made unless the commissioner of education or, in the case of an acquisition, for the purposes of the state university, the trustees of the state university of New York find and determine that the business cannot be relocated without a substantial loss of its existing patronage, and that the business is not a part of a commercial enterprise having at least one other establishment, which is not being acquired by the state or the United States, which is engaged in the same or similar business. In the case of a business which is to be discontinued but for which the findings and determinations set forth above cannot be made, the commissioner or the trustees of the state university of New York may prepare an estimate of what the actual reasonable and necessary moving expenses, exclusive of any storage charges, would be if the business were to be relocated and enter into an agreed settlement with the owner of such business for an amount not to exceed such estimate in lieu of such actual reasonable and necessary moving expenses. Application for payment under this subdivision shall be made to the commissioner of education or, in the case of an acquisition for the purposes of the state university, to the trustees of the state university of New York and shall be accompanied by such information and evidence as the commissioner or such trustees, as the case may be, may require. Upon approval of such application, the commissioner or such trustees, as the case may be, shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used in this subdivision the term "commercial property" shall include property owned by an individual, family, partnership, corporation, association or a nonprofit organization and includes a farm operation. As used in this subdivision the term "business" means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property; for the sale of services to the public; or by a nonprofit organization.

11. Authorization is hereby given to the commissioner of education or in the case of an acquisition for the purposes of the state university

to the trustees of the state university of New York to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by the commissioner of education or such trustees, as the case may be. The commissioner of education and the trustees of the state university of New York may, with the approval of the director of the budget, establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed fifteen thousand dollars. Such payment shall be the amount, if any, which, when added to the acquisition payment equals the average price, established by the commissioner of education or such trustees, as the case may be, on a class, group or individual basis, required to obtain a comparable replacement dwelling that is decent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the

replacement dwelling is located. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he is required to move from the dwelling acquired pursuant to this section or the date on which he receives from the state final payment of all costs of the acquired dwelling, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiations for the acquisition of such property, such payment to such individual or family shall not exceed four thousand dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment, but shall not exceed four thousand dollars, or to make the down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, but shall not exceed four thousand dollars, except if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down

payment. Such payments may be made in installments as determined by the commissioner of education or such trustees, as the case may be. Application for payment under this subdivision shall be made to the commissioner of education or such trustees, as the case may be, and shall be accompanied by such information and evidence as the commissioner or such trustees, as the case may be, may require. Upon approval of such application, the commissioner or such trustees, as the case may be, shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section.

12. The owner of any real property so acquired may present to the court of claims, pursuant to section five hundred three of the eminent domain procedure law, a claim for the value of such property acquired and for legal damages caused by such acquisition, as provided by law for the filing of claims with the court of claims. Awards and judgments of the court of claims shall be paid in the same manner as awards and judgments of that court for the acquisition of lands generally and shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property.

13. If the commissioner of education shall determine subsequent to the acquisition of a temporary easement in any real property that the purposes for which such easement right was acquired have been accomplished and that the exercise of such easement is no longer necessary, he shall make his certificate that the exercise of such easement is no longer necessary and that such easement right is therefore terminated, released and extinguished. The commissioner of education shall cause such certificate to be filed in the office of the department of state and upon such filing all rights acquired by the state in such property shall cease and determine. The commissioner of education shall cause a certified copy of such certificate as so filed in the office of the department of state to be mailed to the owner of the property affected, as certified by the attorney general, if the place of residence of such owner is known or can be ascertained by a

reasonable effort and such commissioner of education shall cause a further certified copy of such certificate to be filed in the office of the recording officer of each county in which the property affected or any part thereof is situated. On the filing of such certified copy of such certificate with such recording officer, it shall be his duty to record the same in his office in the books used for recording deeds and to index the same against the name of the people of the state of New York as grantor.

14. Whenever the state university trustees determine that property under their jurisdiction, heretofore or hereafter acquired for state university purposes pursuant to this section, or any interest therein, is unnecessary for the present or foreseeable future needs of the state university and that any such property or interest may be sold, exchanged or released on terms beneficial to the state to the former owner from whom such property or interest was acquired or, in the case of an interest in such property, to the owner of the servient estate, or to their respective heirs, successors in interest or assigns, the state university trustees may sell, exchange or release such property or interest, to such owner, his heirs, successors in interest or assigns, with the approval of the director of the budget and notwithstanding the provisions of any general, special or local law, at the fair market value thereof or in partial or full settlement of any claim which such owner, or his heirs, successors in interest or assigns, may have for damages resulting from the acquisition of such property or interest. In order to carry any such sale, exchange or release into effect, the state university trustees are hereby authorized to exchange and deliver in the name of the people of the state of New York a quitclaim of, or a grant in and to, any such property or interest. Each such instrument of conveyance or release shall be prepared by the attorney general and before delivery thereof, shall be approved by him as to form and manner of execution.

§ 308. Other powers. The commissioner of education shall also have power and it shall be his duty to cause to be instituted such proceedings or processes as may be necessary to properly enforce and

give effect to any provision in this chapter or in any other general or special law pertaining to the school system of the state or any part thereof or to any school district or city. He shall possess the power and authority to likewise enforce any rule or direction of the regents.

§ 309. Schools of union free school districts and cities. The schools of every union free school district and of every city in all their departments shall be subject to the visitation of the commissioner of education. He is charged with the general supervision of their boards of education and their management and conduct of all departments of instruction.

§ 309-a. Twenty-first century schools program. 1. Twenty-first century schools plans. The commissioner is authorized to designate as "twenty-first century schools," schools which are implementing approved plans to achieve substantial improvement in student achievement. Applications for designation as a twenty-first century school may be submitted on behalf of an individual school, a subset of schools within a school district or all schools within a school district. Each application for designation as a twenty-first century school shall be made in a form prescribed by the commissioner and shall set forth a five-year plan to enable all students to achieve levels of educational achievement that are competitive with high international standards through implementation of innovative instructional strategies and restructuring of school management and programs. Such application shall be submitted by April first next preceding the school year in which operation as a twenty-first century school would commence. The twenty-first century school plan shall be developed through consultation with teachers, administrators, parents and other interested parties and shall be approved by the board of education at a public meeting. Such consultation shall be conducted in accordance with plans for school-based planning and shared decision making adopted in accordance with regulations of the commissioner. A school designated as a twenty-first century school may revise its plan, subject to approval by the commissioner and subject to all requirements governing initial

development and approval of a plan. A twenty-first century school plan shall contain such information as the commissioner may require, including but not limited to:

a. identification of the school or schools included within the plan;

b. high, internationally competitive academic content and student achievement standards and mechanisms for assessing student achievement that are fair, reliable and valid, that have been selected or developed in conjunction with teachers, principals, parents and representatives of employers, organized labor, higher education institutions and community organizations and are consistent with standards and assessment practices developed by the department, by national organizations of subject-matter experts or by others;

c. specific actions to be undertaken to assure that all students, regardless of economic background, race, gender, ethnicity, disability or limited English proficiency, will have a fair opportunity to achieve the knowledge and skills described in the student achievement standards pursuant to paragraph b of this subdivision;

d. specific improvements in student achievement that the plan is expected to produce including, but not limited to, improvements in student achievement as reflected in grades, test scores, portfolio assessments and student demonstrations of skills or competencies and improvements in attendance and completion rates;

e. certifications by the superintendent of schools and the principal of each school included in the plan that the school will comply with all requirements of this chapter, rules of the board or regulations of the commissioner listed by the commissioner pursuant to subdivision three of this section;

f. a description of the staff development, training and support for teachers and other personnel that will be necessary to implement the plan;

g. any changes in school governance or management, work rules or assignment restrictions, pursuant to collective negotiations where applicable, needed in order to effectively focus and assist schools in preparing students to meet the achievement standards described in paragraph b of this subdivision;

h. any actions to be undertaken to assist families of students in addressing pressing needs that affect student achievement, including, but not limited to, forming partnerships with public and private agencies to increase the access of students and families to quality coordinated services;

i. any actions to be undertaken to facilitate the transition from school to work or to postsecondary education for all students including, for example, integration of workplace readiness skills and career information into curricula, provision of school-structured work experiences, cooperation with local employers and articulation of school and college programs; and

j. a plan for evaluation of the effectiveness of the program.

2. Criteria for approval. The commissioner may designate a total of up to two hundred fifty twenty-first century schools by the nineteen hundred ninety-nine--two thousand school year. The commissioner shall promulgate criteria for the designation of twenty-first century schools which shall include, but not be limited to:

a. certifications by the commissioner that: (i) the student achievement standards described pursuant to paragraph b of subdivision one of this section represent high, internationally competitive standards for student knowledge and skills, (ii) that the mechanisms for assessing student achievement pursuant to such paragraph b are fair, reliable and valid; and (iii) the plan is designed to provide all students with educational services of a quality at least as high as those offered under existing practices, without regard to economic background, race, gender, ethnicity, disability or limited English proficiency;

b. the potential of the school plan for use as a model to be replicated by other similarly situated schools and the probability of success in substantially improving levels of achievement for all students, without regard to economic background, race, gender, ethnicity, disability or limited English proficiency;

c. evidence and strength of support for the proposal among teachers, parents and staff;

d. use of nationally recognized school restructuring and improvement models and reliance upon research-based strategies for improving student achievement; and

e. changes in local policies to provide the school or schools with additional enhanced flexibility.

The commissioner shall designate twenty-first century schools after consultation with the twenty-first century schools committee established pursuant to subdivision six of this section. The commissioner shall, to the extent practicable, provide for designation of schools located in a mixture of urban, rural and suburban settings. The commissioner shall take specific actions to encourage applications from schools located in economically and socially distressed communities.

3. Exemption from regulation. A school designated as a twenty-first century school shall:

a. be exempt from complying with rules of the board and regulations of the commissioner to the extent necessary to implement an approved twenty-first century school plan and except as provided in paragraphs b and c of this subdivision;

b. be authorized, as part of a twenty-first century school plan or revision thereto, to request approval by the commissioner to be exempted from specific requirements of this chapter except as provided in paragraph c of this subdivision and provided that the school shall

continue to meet the underlying purposes of the statute to the satisfaction of the commissioner and that the exemption shall be granted only to the extent necessary to implement an approved twenty-first century school plan in the affected school or schools and provided further, that within thirty days of granting an exemption pursuant to this paragraph, the commissioner shall provide written notice of such action to the governor, the temporary president of the senate and the speaker of the assembly; and

c. not be exempt from complying with requirements of this chapter, rules of the board or regulations of the commissioner that (i) protect the health, safety and civil rights of students and staff, (ii) implement the requirements of federal law or regulation, (iii) provide for teacher, staff and parent participation and involvement, maintenance of effort or equitable participation of students and staff in nonpublic schools, (iv) require the use of certified teachers, or (v) pertain to attendance of pupils; further, nothing herein shall be construed to exempt a twenty-first century school or its governing district from complying with the provisions of titles two and four of this chapter, with the requirement to offer students the opportunity to meet all the requirements for and receive a regents high school diploma or with requirements to reporting data necessary for the computation of state aid.

On or by October first, nineteen hundred ninety-four, the commissioner shall promulgate and provide to the governor, the temporary president of the senate and the speaker of the assembly a preliminary list of all requirements from which twenty-first century schools shall be required to request specific exemption as provided in paragraph b of this subdivision and with which twenty-first century schools shall be required to comply as provided in paragraph c of this subdivision. The commissioner shall promulgate a final list of all such requirements on November first, nineteen hundred ninety-four. The commissioner shall revise such list as needed and, in each case, shall provide a preliminary revised list to the governor, the temporary president of the senate and the speaker of the assembly at least thirty days prior to promulgating a final revised list.

4. School evaluations and reports. Each school designated as a twenty-first century school shall annually review its effectiveness in improving student performance and enabling all students to achieve to high internationally competitive standards and shall report the results of this review to the commissioner by September first next succeeding each year of operation as a twenty-first century school. Prior to the start of a school's third year of operation as a twenty-first century school, the school and the commissioner shall jointly review the school's performance to identify areas in need of improvement and to develop revisions to the school's twenty-first century school plan to remedy the identified shortcomings. If, as a result of such review, the commissioner determines that the school is unlikely to produce improvement in student achievement, he or she shall commence action to revoke the school's designation as a twenty-first century school in accordance with the provisions of subdivision five of this section. The trustees or board of education of each district operating a twenty-first century school shall arrange for an independent evaluation of such school's effectiveness in substantially improving student achievement. Such independent evaluation shall be completed and transmitted to the commissioner within ninety days after completion of the fourth year of the school's operation as a twenty-first century school. Such independent evaluation shall be conducted by an agency selected by the trustees or board of education of the district and approved by the commissioner.

5. Duties of the commissioner and department. The commissioner shall promulgate guidelines to implement the provisions of this section, shall annually review the performance of all schools designated as twenty-first century schools, shall provide technical assistance and support, as appropriate, to all such schools, and shall submit to the regents, the legislature and the governor, no later than February first, an annual report describing the effectiveness of the twenty-first century schools program, recommending changes in the program and recommending changes in laws and regulations affecting all schools based upon the experiences of twenty-first century schools. The first such report shall be submitted no later than June first, nineteen hundred

ninety-five and shall detail the steps undertaken to implement the provisions of this section. Each such annual report shall list and summarize all exemptions requested, granted and denied pursuant to paragraph b of subdivision three of this section. The commissioner may, acting either upon complaint or upon his or her own initiative, revoke a school's designation as a twenty-first century school for good cause shown and after affording the school an opportunity to present arguments against revocation.

6. Twenty-first century schools committee. There is hereby established the twenty-first century schools committee. The committee shall advise and assist the commissioner in developing guidelines to implement the provisions of this section, selecting schools for designation as twenty-first century schools, reviewing the performance of such schools, evaluating the overall effectiveness of the twenty-first century schools program and recommending changes to the program and to laws, rules and regulations affecting all schools based upon the experiences of twenty-first century schools. The committee shall consist of thirteen members, appointed by the governor, of whom three shall be appointed on the recommendation of the commissioner, two on the recommendation of the temporary president of the senate, two on the recommendation of the speaker of the assembly, one on the recommendation of the minority leader of the senate and one on the recommendation of the minority leader of the assembly. The commissioner shall designate the chair. The appointing authorities shall attempt to assure that the membership of the committee includes representatives of parents, teachers, school board members and school administrators as well as representatives of their own institutions.

§ 310. Appeals or petitions to commissioner of education and other proceedings. Any party conceiving himself aggrieved may appeal by petition to the commissioner of education who is hereby authorized and required to examine and decide the same; and the commissioner of education may also institute such proceedings as are authorized under this article. The petition may be made in consequence of any action:

1. By any school district meeting.

2. By any district superintendent and other officers, in forming or altering, or refusing to form or alter, any school district, or in refusing to apportion any school moneys to any such district or part of a district.

3. By a county treasurer or other distributing agent in refusing to pay any such moneys to any such district.

4. By the trustees of any district in paying or refusing to pay any teacher, or in refusing to admit any scholar gratuitously into any school or on any other matter upon which they may or do officially act.

5. By any trustees of any school library concerning such library, or the books therein, or the use of such books.

6. By any district meeting in relation to the library or any other matter pertaining to the affairs of the district.

6-a. By a principal, teacher, owner or other person in charge of any school in denying a child admission to, or continued attendance at, such school for lack of proof of required immunizations in accordance with section twenty-one hundred sixty-four of the public health law.

7. By any other official act or decision of any officer, school authorities, or meetings concerning any other matter under this chapter, or any other act pertaining to common schools.

§ 311. Powers of commissioner upon appeals or petitions, et cetera. The commissioner, in reference to such appeals, petitions or proceedings, shall have power:

1. To regulate the practice therein.

2. To determine whether an appeal shall stay proceedings, and

prescribe conditions upon which it shall or shall not so operate.

3. To decline to entertain or to dismiss an appeal, when it shall appear that the appellant has no interest in the matter appealed from, and that the matter is not a matter of public concern, and that the person injuriously affected by the act or decision appealed from is incompetent to appeal.

4. To make all orders, by directing the levying of taxes or otherwise, which may, in his judgment, be proper or necessary to give effect to his decision.

§ 312. Filed papers and copies thereof. The commissioner shall file, arrange in the order of time, and keep in his office, so that they may be at all times accessible, all the proceedings on every appeal or petition to him under this article, including his decision and orders founded thereon; and copies of all such papers and proceedings, authenticated by him under his seal of office, shall be evidence equally with the originals.

§ 313. Unfair educational practices. (1) Declaration of policy. (a) It is hereby declared to be the policy of the state that the American ideal of equality of opportunity requires that students, otherwise qualified, be admitted to educational institutions and be given access to all the educational programs and courses operated or provided by such institutions without regard to race, color, sex, religion, creed, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, gender identity or expression as defined in section two hundred ninety-two of the executive law, or national origin, except that, with regard to religious or denominational educational institutions, students, otherwise qualified, shall have the equal opportunity to attend therein without discrimination because of race, color, sex, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, gender identity or expression as defined in section two hundred ninety-two of the executive

law, or national origin. It is a fundamental American right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to effectuate the religious principles in furtherance of which they are maintained. Nothing herein contained shall impair or abridge that right.

(b) It is hereby further declared to be the policy of the state that individuals who withdraw from postsecondary educational institutions in order to serve on active duty in the armed forces of the United States in time of war and who seek to return to such educational institutions shall be allowed to do so without the imposition of any penalty, academic or financial, for their withdrawal, and that any express or implied contractual provision which imposes any such penalty shall be void and unenforceable as against public policy.

(2) Definitions. (a) Educational institution means any educational institution of post-secondary grade subject to the visitation, examination or inspection by the state board of regents or the state commissioner of education and any business or trade school in the state.

(b) Religious or denominational educational institution means an educational institution which is operated, supervised or controlled by a religious or denominational organization and which has certified to the state commissioner of education that it is a religious or denominational educational institution.

(3) Unfair educational practices. It shall be an unfair educational practice for an educational institution after September fifteenth, nineteen hundred forty-eight:

(a) To exclude or limit or otherwise discriminate against any person or persons seeking admission as students to such institution or to any educational program or course operated or provided by such institution because of race, religion, creed, sex, color, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, gender identity or expression as defined in section two hundred ninety-two of the executive law, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination or from giving preference in such selection to such members

or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained. Nothing herein contained shall impair or abridge the right of an independent institution, which establishes or maintains a policy of educating persons of one sex exclusively, to admit students of only one sex.

(b) To penalize any individual because he or she has initiated, testified, participated or assisted in any proceedings under this section.

(c) To accept any endowment or gift of money or property conditioned upon teaching the doctrine of supremacy of any particular race.

(d) With respect to any individual who withdraws from attendance to serve on active duty in the armed forces of the United States in time of war, including any individual who withdrew from attendance on or after August second, nineteen hundred ninety to serve on active duty in the armed forces of the United States in the Persian Gulf conflict: (i) to deny or limit the readmission of such individual to such institution or to any educational program or course operated or provided by such institution because of such withdrawal from attendance or because of the failure to complete any educational program or course due to such withdrawal; (ii) to impose any academic penalty on such person because of such withdrawal or because of the failure to complete any educational program or course due to such withdrawal; (iii) to reduce or eliminate any financial aid award granted to such individual which could not be used, in whole or part, because of such withdrawal or because of the failure to complete any educational program or course due to such withdrawal; or (iv) to fail to provide a credit or refund of tuition and fees paid by such individual for any semester, term or quarter not completed because of such withdrawal or because of the failure to complete any program or course due to such withdrawal.

(e) It shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, creed, sex, color, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, gender identity or expression as defined in section two hundred ninety-two of the executive law, or national origin in the admission of students to such institution or to any of the educational programs and courses operated or provided by such

institution.

(f) No educational institution shall require an individual to provide a copy of his or her criminal history record that he or she obtained pursuant to the rules and regulations of the division of criminal justice services.

(4) Certification of religious and denominational institutions. An educational institution operated, supervised or controlled by a religious or denominational organization may, through its chief executive officer, certify in writing to the commissioner that it is so operated, controlled or supervised, and that it elects to be considered a religious or denominational educational institution, and it thereupon shall be deemed such an institution for the purposes of this section.

(5) Procedure. (a) Any person seeking admission as a student who claims to be aggrieved by an alleged unfair educational practice, hereinafter referred to as the petitioner, may himself, or by his parent or guardian, make, sign and file with the commissioner of education a verified petition which shall set forth the particulars thereof and contain such other information as may be required by the commissioner. The commissioner shall thereupon cause an investigation to be made in connection therewith; and after such investigation if he shall determine that probable cause exists for crediting the allegations of the petition, he shall attempt by informal methods of persuasion, conciliation or mediation to induce the elimination of such alleged unfair educational practice.

(b) Where the commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferential selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.

(c) The commissioner shall not disclose what takes place during such informal efforts at persuasion, conciliation or mediation nor shall he offer in evidence in any proceeding the facts adduced in such informal efforts.

(d) A petition pursuant to this section must be filed with the commissioner within one year after the alleged unfair educational practice was committed.

(e) If such informal methods fail to induce the elimination of the

alleged unfair educational practice, the commissioner shall have power to refer the matter to the board of regents which shall issue and cause to be served upon such institution, hereinafter called the respondent, a complaint setting forth the alleged unfair educational practice charged and a notice of hearing before the board of regents, at a place therein fixed to be held not less than twenty days after the service of said complaint.

Any complaint issued pursuant to this section must be issued within two years after the alleged unfair educational practice was committed.

(f) The respondent shall have the right to answer the original and any amended complaint and to appear at such hearing by counsel, present evidence and examine and cross-examine witnesses.

(g) The commissioner and the board of regents shall have the power to subpoena witnesses, compel their attendance, administer oaths, take testimony under oath and require the production of evidence relating to the matter in question before it or them. The testimony taken at the hearing, which shall be public shall be under oath and shall be reduced to writing and filed with the board of regents.

(h) After the hearing is completed the board of regents shall file an intermediate report which shall contain its findings of fact and conclusions upon the issues in the proceeding. A copy of such report shall be served on the parties to the proceeding. Any such party within twenty days thereafter, may file with the regents exceptions to the findings of fact and conclusions, with a brief in support thereof, or may file a brief in support of such findings of fact and conclusions.

(i) If, upon all the evidence, the regents shall determine that the respondent has engaged in an unfair educational practice, the regents shall state their findings of fact and conclusions and shall issue and cause to be served upon such respondent a copy of such findings and conclusions and an order requiring the respondent to cease and desist from such unfair educational practice, or such other order as they deem just and proper.

(j) If, upon all the evidence, the regents shall find that a respondent has not engaged in any unfair educational practice, the regents shall state their findings of fact and conclusions and shall issue and cause to be served on the petitioner and respondent, a copy of

such findings and conclusions, and an order dismissing the complaint as to such respondent.

(6) Judicial review and enforcement. (a) Whenever the board of regents has issued an order as provided in this section it may apply to the supreme court for the enforcement of such order by a proceeding brought in the supreme court within the third judicial district. The board of regents shall file with the court a transcript of the record of its hearing, and the court shall have jurisdiction of the proceeding and of the questions determined therein, and shall have power to make an order annulling or confirming, wholly or in part, or modifying the determination reviewed. The order of the supreme court shall be subject to review by the appellate division of the supreme court and the court of appeals, upon the appeal of any party to the proceeding, in the same manner and with the same effect as provided on an appeal from a final judgment made by the court without a jury.

(b) Any party to the proceeding, aggrieved by a final order of the board of regents, may obtain a judicial review thereof by a proceeding under article seventy-eight of the civil practice law and rules, which shall be brought in the appellate division of the supreme court for the third judicial department.

(7) Regents empowered to promulgate rules and regulations. The regents from time to time may adopt, promulgate, amend or rescind rules and regulations to effectuate the purposes and provisions of this section.

(8) The commissioner shall include in his annual report to the legislature (1) a resume of the nature and substance of the cases disposed of through public hearings, and (2) recommendations for further action to eliminate discrimination in education if such is needed.

§ 313-a. Prohibition against the use of certain material in questionnaires and applications for admission to educational institutions. No application for admission to any educational institution in the state of New York shall contain any questions requiring the involuntary disclosure of the marital status of the parents of those applying for admission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 315. School district names. Each school district, other than a city

school district, shall, in accordance with the commissioner's regulations, adopt a simplified name as the legal name of the district. Such name shall be submitted to the commissioner for prior approval and when such name shall be adopted it shall be filed with the commissioner. The name of a central school district established or reorganized by an order of the commissioner pursuant to section eighteen hundred one of this chapter may be changed by the board of education of such district, with the prior approval of the commissioner, upon a written request by the board of education filed with the commissioner not later than fourteen days prior to the date of the establishment or reorganization of the district and in accordance with the regulations of the commissioner. The education department shall issue, on request, certificates certifying the name of the district and the names of the towns and counties in which the territory of the district is located, or in the case of school districts other than city school districts, which are wholly or partly located within a city, the names of the city, towns and counties in which the territory of the district is located.

§ 316. Teacher resource and computer training centers. 1. As used in this section, unless another meaning clearly appears from the context:

a. "Teacher resource and computer training center" means any site operated by a school district, board of cooperative educational services or a consortium of school districts and/or boards of cooperative educational services which is specifically established pursuant to this section to provide professional support services to teachers within the state in order to:

(1) assist teachers, diagnose learning needs, experiment with the use of multiple instructional approaches, assess student outcomes, assess staff development needs and plans, and train other school personnel in effective pedagogical approaches;

(2) provide demonstration and training sites where teachers are trained, specifically in the use of computers as teaching aids; the criteria for school acquisition and use of computer equipment and software; and the evaluation of computer-related materials;

(3) develop and produce curricula and curricular materials designed to

meet the educational needs of students being served through application of educational research or new or improved methods, practices, and techniques;

(4) provide training to improve the skills of teachers in order to enable such teachers to meet the special educational needs of the pupils they serve, and to familiarize such teachers with developments in curriculum formulation and educational research, including the manner in which the research can be used to improve teaching skills;

(5) provide a location where teachers may share resources, ideas, methods and approaches directly related to classroom instruction and become familiar with current teaching materials and products for use in their classrooms; and

(6) retrain teachers and other educational personnel to become better qualified to teach in subject areas necessary to prepare students for the developing high technology era, in the disciplines of mathematics, science and computer technology.

b. "Site" for the purposes of this section shall mean the location or locations where the curriculum development and training activities of the teacher resource and computer training center take place.

2. In order to provide the school districts and teachers of the state with an opportunity to develop systematic, ongoing in-service training programs, assure the dissemination and application of educational research developments to classroom instruction and develop new curricula and curricular materials specifically designed to meet the educational needs of the students served, the commissioner shall, within available state appropriations and subject to the procedures established in this section, provide funds to school districts and boards of cooperative educational services to plan, establish and operate teacher resource and computer training centers. Any school district or board of cooperative educational services requesting such funds shall make application therefor at such time, in such manner, and containing or accompanied by such information as the commissioner may through this section or by regulation require. Applications shall be made within the following categories:

(i) a school district with a teacher population of one thousand or

more;

(ii) a school district with a teacher population of five hundred or more but less than one thousand;

(iii) a school district with a teacher population of less than five hundred;

(iv) a board of cooperative educational services; or

(v) a consortium of two or more school districts and/or boards of cooperative educational services.

3. Each such application shall be reviewed by the state professional standards and practices board for teaching. The board shall in each instance recommend to the commissioner action, as appropriate, including specific reasons when it is negative. Any school district, board of cooperative educational services or consortium whose original application is rejected may resubmit a revised application for further review. Notwithstanding any other provision to the contrary, an application to continue a teacher resource center which was in operation prior to the nineteen hundred eighty-four--nineteen hundred eighty-five school year shall be deemed automatically approved.

4. The commissioner shall establish criteria and standards by which applications shall be evaluated which shall include provisions for furnishing technical assistance and information provided by the department through the facilities of the proposed teacher resource center, provided, however, that such criteria and standards shall be consistent with federal regulations which were applicable to teacher resource centers in operation during the nineteen hundred eighty-two calendar year.

5. Any school district, board of cooperative educational services or consortium having an application approved under this section may collaborate, consult and contract with an approved institution of higher education in New York state to carry out activities under or provide technical assistance in connection with such application. Each application shall be reviewed by the professional practices subcommittee of the state professional standards and practices board for teaching.

6. Each teacher resource and computer training center shall be operated by a board, the majority of which shall be composed of elementary and secondary school teachers representative of teachers served by the teacher resource and computer training center. Teacher members shall be designated by the collective bargaining agent of the teachers served by the teacher resource and computer training center. Such board shall also include individuals designated by the school board or board of cooperative educational services served by such center and at least one representative designated by the institutions of higher education located in the area served by such center. Such board shall also include at least one parent of an elementary or secondary school pupil and at least one representative of a business or industry that uses, produces or is involved with computer equipment and software.

7. The powers and duties of each teacher resource and computer training center board shall include policy formulation, the employment of staff or consultants, budget control and expenditure of funds to accomplish the purposes of this section, recommendations for subcontracting to secure technical and other kinds of assistance, and any other appropriate managerial or supervisory activities not otherwise prohibited by state or local law or regulations of the commissioner.

7-a. Notwithstanding any other provision of law, a teacher resource and computer training center board may collaborate, consult and contract with a school district or board of cooperative educational services which is included in the application for the establishment of such teacher resource and computer training center for the assignment of teachers employed by such school district or board of cooperative educational services; provided, however, in such case such teacher shall continue to accrue all employment rights and benefits, including seniority, with the employing school district or board of cooperative educational services and the teacher resource and computer training center board shall reimburse such school district or board of cooperative educational services for the services of such teacher.

8. Funds provided each school year to school districts and boards of cooperative educational services by the commissioner to plan, establish

and operate teacher resource and computer training centers shall not exceed two million dollars per center, except that for the city school district for the city of New York such center shall not exceed sixteen million eight hundred thousand dollars and provided further that each approved center shall receive not less than twenty thousand dollars. In any year in which there is a statewide increase in funding for teacher resource and computer training centers, such increase shall be distributed proportionately among existing centers that have satisfactorily fulfilled the requirements of such centers' current grant. A portion of the increase shall be made available to new applicants to establish new teacher centers, and to current teacher centers to develop and implement regional and statewide teacher center activities.

9. Evaluation and annual reports. a. Teacher resource and computer training centers shall provide data annually as prescribed by the commissioner.

b. The commissioner shall prepare and submit to the governor, the temporary president of the senate and the speaker of the assembly, not later than May first, nineteen hundred ninety-nine and by the first day of January in each year thereafter, a report detailing the financial and programmatic information for teacher resource and computer training centers. Such report shall, at a minimum, set forth with respect to the preceding school year: cost information for individual services provided by such centers; numbers of teachers and other staff served, summarized in the aggregate, by elementary and secondary school levels, and by home school district; lists of programs and courses offered, including identification of those with credit toward college graduate degrees and those which relate to specific academic areas and higher learning standards; and aggregate expenditure data for the following categories: administration, staff development services, rent and other facilities costs, and other services; and such other information as deemed appropriate by the commissioner to assist the commissioner in identifying cost-effective services and programs which may be successfully replicated in other centers, school districts and boards of cooperative educational services (BOCES). The format for the report

shall be developed by the commissioner in consultation with school district officials, and teacher resource center officials, provided that all information in such report shall be displayed on both a statewide and individual center basis. Such report shall include changes from the year prior to the report year for each such item for all teacher resource and computer training centers and shall be made available to other interested parties upon request.

c. Funds provided under the teacher resource and computer training centers program may be used to contract with educational organizations for the purpose of conducting a statewide program evaluation. The professional practices subcommittee of the professional standards and practices board shall review and approve grant applications submitted for this purpose.

§ 317. General education development exam. Notwithstanding any provision of law, no fee shall be established for admission to the general education development exam.

§ 318. Distribution of surplus computers. 1. General definitions. As used in this section:

(a) "Computer" means a computer central processing unit (CPU) and, where attached to a CPU, such computer cases, computer memory, cards and other peripheral devices as may reasonably be viewed functionally as one unit.

(b) "Computer software" means executable computer programs and related data files on computer-related media, including but not limited to floppy disks, hard disks, optical and magneto-optical computer data storage devices.

(c) "Computer equipment" means computers, computer memory, cards, and associated peripheral devices, including but not limited to floppy disk drives, hard disk drives, printers, modems, computer-related cables and networking devices, scanners, computer monitors and computer software.

2. The commissioner and the commissioner of general services shall,

within one hundred eighty days of the effective date of this section, in consultation with members of the computer industry, representatives of school boards associations, and teachers' organizations, develop guidelines by which the monetary value of surplus computer equipment can be compared with its potential educational value, in order to assist the commissioner of general services to implement the provisions of section one hundred sixty-eight of the state finance law.

3. The commissioner shall, within one hundred eighty days of the effective date of this section, and with the advice and counsel of the office of general services:

(a) develop guidelines governing distribution of state owned surplus computer equipment to learning institutions involved in the repair and restoration of such computer equipment; such guidelines shall identify technical educational programs in the colleges and schools within the state with the capacity to repair and restore computer equipment and which may use the repair of such equipment in the technological training of their students;

(b) develop guidelines under which repaired and restored computer equipment shall be equitably distributed, subject to the following guidelines:

(i) distribution of state-owned surplus computer equipment shall be provided to public schools, the division for youth, public libraries, and other public and private institutions for secular educational use, and to not-for-profit institutions for use by individuals with disabilities, upon proof of need, and subordinate to the requirements of the public schools, the division for youth and libraries of New York state;

(ii) distribution of surplus computer equipment shall be based on competitive proposals from schools, the division for youth, libraries, and other public and private educational programs for secular educational use, including not-for-profit institutions serving persons with disabilities, which shall demonstrate need and specific plans for the use of such equipment; and

(iii) the department shall assist applicants in preparing such proposals.

4. (a) The commissioner is hereby authorized to seek and to accept the transfer of title of surplus computer equipment of educational value from agencies of the state and from the office of general services for further distribution consistent with the purposes of this section and pursuant to the guidelines developed under subdivisions two and three of this section. Such distribution shall be performed by the office of general services upon the request of the commissioner. Any transportation costs for shipping such surplus equipment shall be borne by the office of general services.

(b) The department shall periodically distribute copies of an inventory of surplus computer equipment that is available for distribution contemplated by this section to educational institutions under its supervision and to such other institutions as the commissioner shall have designated, and make it known that those institutions may submit proposals to obtain such computer equipment. Upon a proposal having been approved pursuant to this section, the office of general services shall deliver such computer equipment to the recipient pursuant to paragraph (c) of this subdivision.

(c) The office of general services may charge reasonable fees to the final recipients of such computer equipment for shipping and handling, including costs associated with shipping such computer equipment to institutions authorized pursuant to this section to repair or restore such computer equipment, provided that such fees shall not exceed one-half the value of the computer equipment as determined pursuant to subdivision two of this section, provided that such fees are published, updated, and distributed with the inventories to the department, and provided that requests for proposals for such computer equipment contain a summary of accompanying fees. Nothing herein shall be construed to prohibit such institutions involved in the repair and restoration of such computer equipment from arranging for the shipping and handling of such computer equipment to and/or from such institution on its own.

5. The commissioner may accept any and all donations of money, equipment, supplies, materials or services, from any person, firm, association, foundation, or corporation, and may receive and utilize the same in fulfilling the purposes and provisions of this section. Any donation so accepted shall be reported in the report required by

subdivision six of this section. Such report shall include the nature and amount of the donation and the identity of each donor, except where such donor has requested anonymity in writing.

6. The commissioner shall:

(a) Keep inventory of computer equipment distributed under this section to educational facilities based on information provided to the commissioner by the office of general services; and

(b) In collaboration with the commissioner of general services, report every two years to the governor, the temporary president of the senate, the speaker of the assembly, the inspector general and the state comptroller. The initial report shall be submitted on the first of July, not more than two years after the date on which this section shall have become law. The report shall include but not be limited to current inventories of surplus computer equipment in the possession of the department and of the office of general services, inventories of surplus computer equipment that have been distributed to educational institutions, summaries of requests and deliveries to the various institutions, the criteria used in determining which institutions received what equipment, and recommendations for more effective means of carrying out their duties under this section.

7. To promote the purposes of this section, the commissioner shall examine alternative methods for service, repair, and distribution of computer equipment and may apply for and utilize such state and federally funded programs as may appear effective and consistent with the purposes of this section. Any grant or services accepted under this part shall be reported in the biennial report required by subdivision six of this section. Such report shall include the nature, amount and source of each grant or services.

8. Nothing in this section shall limit the authority of the commissioner or the commissioner of general services to establish mechanisms by which donated or state-owned surplus property that is not computer equipment, but has educational usefulness for enhancing technological and scientific literacy that substantially exceeds its monetary value, may be provided to public and private institutions for

educational use.

9. In developing and carrying out guidelines under this section, the commissioner of general services and the commissioner shall ensure that software will not be transferred pursuant hereto if such transfer would cause a breach of a computer software license agreement or an infringement of a copyright.

*** § 319. Establishment of dual enrollment program policy.** 1. For purposes of this section:

(a) "Dual enrollment program" means any program that is a partnership between at least one school and at least one institution of higher education that provides high school students with the opportunity to enroll in college courses and earn transferable college credit from the institution or institutions while completing high school graduation and diploma requirements.

(b) "School" means a charter school, a school district, or a board of cooperative educational services.

2. The commissioner shall adopt a statewide policy outlining the definition of dual enrollment programs in New York state and guidelines for participation and data reporting.

3. The policy established pursuant to subdivision two of this section shall require that schools and higher education institutions annually submit to the department data regarding participation in and outcomes of dual enrollment programs in a form and manner determined by the commissioner pursuant to subdivision five of this section. The department shall annually publish such data on its public website no later than January first in the school year following the school year for which the data is applicable.

4. The policy established pursuant to subdivision two of this section shall require that, by September first, two thousand twenty-six, all schools participating in a dual enrollment program shall submit to the department a partnership agreement with the institution or institutions

of higher education with which they are partnered. Such partnership agreements shall establish the scope and terms of the dual enrollment program, as well as a protocol for collecting, sharing, and reporting any data required by the commissioner pursuant to this section. Partnership agreements shall be consistent with the policy adopted by the commissioner pursuant to subdivision two of this section, and shall contain such other provisions as may be required by the commissioner. The partnership agreements shall be updated and resubmitted no less than once every five years. The commissioner shall develop and make publicly available the required partnership agreement form for schools and higher education institutions no later than January first, two thousand twenty-six.

5. On or before January first, two thousand twenty-six, the commissioner, the chancellor of the state university of New York, the chancellor of the city university of New York, and the governor shall jointly establish data points to be submitted pursuant to this section.

* NB There are 2 § 319's

*** § 319. Center for dyslexia and dysgraphia.** 1. As used in this section, unless another meaning clearly appears from the context:

a. "Center" shall mean the center for dyslexia and dysgraphia established under this section.

b. "Director" shall mean the executive director of the center.

c. "Guidebook" shall mean the comprehensive guidebook on dyslexia and dysgraphia created by the center under paragraph h of subdivision three of this section.

d. "Local education agencies" shall mean school districts, boards of cooperative educational services, and other educational services providers designated as such by the director.

2. There is hereby established within the department the center for

dyslexia and dysgraphia. The center shall be led by the executive director of the center who shall be appointed by the commissioner.

3. The center's duties shall include, but not be limited to:

a. Establishing a definition of dyslexia and dysgraphia in consultation with nationally recognized dyslexia and dysgraphia advocacy groups, physicians and scientists who specialize in dyslexia and dysgraphia, and educators who specialize in remediating dyslexia and dysgraphia.

b. Collecting data to inventory, synthesize, and publicize best practices for serving students with dyslexia, dysgraphia, and other related reading or writing difficulties.

c. Developing and disseminating of informational tools and briefs on dyslexia and dysgraphia.

d. Setting explicit standards and requirements for peer-reviewed evidence-based teacher preparation programs and certifications that address dyslexia and dysgraphia.

e. Setting explicit standards for annual peer-reviewed evidence-based universal screening for all students in grades kindergarten through fifth and new entrants to schools within the state for reading and writing difficulties and for screening students identified as at risk for dyslexia and/or dysgraphia.

f. Setting explicit standards for peer-reviewed evidence-based dyslexia and dysgraphia interventions and other educational supports for use by local education agencies.

g. Issuing a public report on the state's progress on implementing policies and practices regarding dyslexia and dysgraphia screenings, interventions, and supports within two years from the effective date of this section and every two years thereafter.

h. Creating a comprehensive guidebook on dyslexia and dysgraphia for professional development providers, leaders of local education agencies, school administrators, educators, and specialists.

i. Perform any other duties the commissioner or the director deems necessary to identify students as at risk for dyslexia and/or dysgraphia or to reduce barriers to education for those with dyslexia and/or dysgraphia.

4. The guidebook shall be created within two years of the effective date of this section and shall be updated at least every five years. The center shall release a draft version of the guidebook for public comment sixty days prior to its publication. The guidebook shall include, but not be limited to, information related to:

a. Definitions regarding dyslexia and dysgraphia.

b. Legal responsibilities of the local education agencies and school to address the needs of students with diagnosed or suspected dyslexia and/or dysgraphia.

c. Universal screening policies, procedures, and evidence-based practices.

d. Dyslexia and dysgraphia screening policies, procedures, and evidence-based practices.

e. Screening modifications and adaptations for English language learners and multilingual learners and students with disabilities that impact oral language development and/or graphomotor skill development.

f. Appropriate use of data to guide practices and protocols for local education agencies.

g. Regulations, guidance, and support for communicating and meeting with parents or guardians to share and discuss screening results, options for next steps, and making data-based decisions about

interventions aligned with identified reading and/or writing difficulties.

h. Classroom instruction and interventions grounded in the science of reading and structured literacy.

i. Development of effective individualized education plans goals, progress monitoring, and accommodations for students with diagnosed or suspected dyslexia and/or dysgraphia and related reading and/or writing difficulties.

j. Professional development opportunities.

k. Decision criteria and steps from universal screening through supports and progress monitoring.

* NB There are 2 § 319's

ARTICLE 7-A

STANDARDIZED TESTING

Section 340. Definitions.
341. Background reports.
341-a. Standardized testing; reports.
342. Disclosure of test contents.
342-a. Special administrations.
343. Notice.
344. Disclosure of test scores.
344-a. Pretest questions.
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345. Regulations.
346. Test subject review of computerized test.
346-a. Advisory committee.
347. Violations.
348. Severability.

§ 340. Definitions. As used in this article: 1. "Standardized test" or "test" means any test that is given in New York at the expense of the test subject and designed for use and used in the process of selection for post-secondary or professional school admissions. Such tests shall include, but are not limited to, the Preliminary Scholastic Aptitude Test, Scholastic Aptitude Test, ACT Assessment, Graduate Record Examination, Medical College Admission Test, Law School Admission Test, Dental Admission Testing Program, Graduate Management Admission Test, Miller Analogies Test and the Test for Standard Written English. This article shall not apply to any state, federal, or local civil service test, any test used solely for placement, credit-by-examination or other nonadmission purpose or any test developed and administered by an individual school or institution solely for its own purposes or any test, or portion of a test, designed to evaluate manual skills or other physical abilities.

2. "Commissioner" means the commissioner of education of the state of New York.

3. "Test subject" means an individual to whom a test is administered.

4. "Test agency" means any organization, association, corporation, partnership, or individual or person that develops, sponsors or administers a test.

5. "Part" means each portion of a test for which a score is calculated.

6. "Test form" means the test booklet or instrument used for each part of each test.

7. "Pretest question" means any question or group of questions on a test not used to calculate the reported scores of a test subject, nor used to equate scores for that test.

8. "Test year" means the twelve-month period commencing September first during which the test agency administers a particular test.

9. "Computerized test" means any test form administered to test subjects by means of a computer.

§ 341. Background reports. 1. Whenever any test agency prepares or causes to have prepared research which is used in any study, evaluation or statistical report pertaining to a test operational after January first, nineteen hundred eighty, such study, evaluation or report shall be filed with the commissioner. This section shall apply to any unpublished study, evaluation or statistical report cited in memoranda of support or opposition to legislation or proposed rules and regulations relating to standardized testing written or published by the test agency or its employees in behalf of the test agency on or after July first, nineteen hundred ninety-three.

2. If any reports or other documents submitted pursuant to this section contain information identifiable with any test subject or test user institution, such information shall be deleted prior to filing with the commissioner.

3. All reports or other documents submitted pursuant to this section shall be public records.

§ 341-a. Standardized testing; reports. 1. Definitions. As used in this section and section three hundred forty-six-a of this article, the following words and terms shall have the following meanings:

a. "Test" means a standardized test as defined in section three hundred forty of this article; provided however, that the test of English as a foreign language shall not constitute a test for purposes of this section;

b. "Test subject" means a test subject as defined in section three hundred forty of this article.

2. Not later than July first, nineteen hundred eighty-eight, and for one year thereafter, test agencies shall ask each test subject to report on the test answer sheet, test registration form, or other appropriate means all of the following information:

a. The test subject's race or ethnicity, including the following groups: Black, White, American Indian, Asian, Hispanic or other;

b. The test subject's gender, expressed as male or female; and

c. The test subject's linguistic background, expressed as whether English was the dominant language of the test subject's household.

3. The test agency shall advise all test subjects that they are not required to provide the information requested under paragraphs a and c of subdivision two of this section, that they will not be penalized if they do not provide the information, and that the information provided will be used exclusively for research, recruitment, talent identification and planning purposes.

4. a. Not later than September first, nineteen hundred eighty-nine, the test agency shall prepare and file or cause to be filed with the committee described in section three hundred forty-six-a of this article a report relating to each test administered and disclosed pursuant to section three hundred forty-two of this article by the test agency in New York between July first, nineteen hundred eighty-eight and July first, nineteen hundred eighty-nine. Such report shall be subject to the provisions of subdivisions two and three of section three hundred forty-one of this article.

b. Each such test report shall show by race or ethnicity, linguistic background and gender, the mean-scaled scores of test subjects, the standard deviation of scaled scores, and the distribution of scaled scores.

5. a. Not later than September first, nineteen hundred eighty-nine, the test agency shall prepare and file or cause to be filed with the

committee an item report relating to each question used in calculating the subject's raw score on each test form administered and disclosed pursuant to section three hundred forty-two of this article in New York between July first, nineteen hundred eighty-eight and July first, nineteen hundred eighty-nine. Such report shall be subject to the provisions of subdivisions two and three of section three hundred forty-one of this article.

b. Each such item report shall show for each question used in calculating the test subject's raw score, the item's content area specification, and where disclosed pursuant to section three hundred forty-two of this article, information identifying the text of the item, and the correct answer-rates and R-biserial correlations for all test subjects, combined and separately by race, ethnicity, gender or linguistic background as reported under subdivision two of this section. Such item report shall also calculate the correct answer rates and R-biserial correlations comparing performance by gender and language dominance, within race and ethnic subgroups, including language dominance by the total gender group. Content area specification shall be reported for each exam to indicate area of knowledge, skill or ability that an item purports to measure according to the examination's manufacturer or sponsoring agency. Correct answer-rates shall be calculated by dividing the number of correct answers for a question used in calculating the subject's raw score on all test forms administered and disclosed pursuant to section three hundred forty-two of this article between July first, nineteen hundred eighty-eight and July first, nineteen hundred eighty-nine by the number of test subjects to whom those test forms were administered. R-biserial correlations shall be calculated by correlating performance on a question used in calculating the subject's raw score on each test form administered between July first, nineteen hundred eighty-eight and July first, nineteen hundred eighty-nine with performance on the tests as shown by total scores.

c. The test agency shall not be required to include in such test and item reports under this subdivision and subdivision four of this section information for any group comprising fewer than one hundred test

subjects.

d. The test report will also include data showing measures of differential item functioning on individual questions that take into account differences in overall test performance. Data will be provided for test items which contribute to the candidate scores and for which differential item data are available. Differential item functioning data shall be reported for comparative purposes between the following pairs of groups: (Black-White), (Hispanic-White), (American Indian-White), (Asian-White), (Other-White) and (Male-Female). Documentation as to the methods by which these data have been calculated will accompany the data. Differential item functioning data shall not be required for pairs of groups comprising fewer than four hundred test subjects in each group.

e. The committee may request additional data, where already available and published, from the test agencies to clarify the data previously reported pursuant to this subdivision and subdivision four of this section.

§ 342. Disclosure of test contents. 1. Within thirty days after the results of any standardized test are released, the test agency shall file or cause to be filed with the commissioner:

a. a copy of all test questions used in calculating the test subject's raw score;

b. the corresponding acceptable answers to those questions; and

c. all rules for converting raw scores into those scores reported to the test subject together with an explanation of such rules.

2. Within ninety days after filing a standardized test pursuant to subdivision one of this section and for a period of not less than ninety days after the offer is made, the test agency shall provide to the test subject the opportunity to secure:

a. a copy of the test questions used to calculate the test subject's raw score;

b. a copy of the test subject's answer sheet, or answer record where there is no answer sheet, together with a copy of the correct answer sheet to the same test with questions used to calculate the test subject's raw score so marked; and

c. a statement of the raw score used to calculate the scores reported to the test subject.

The agency may charge a nominal fee for providing such information, not to exceed the direct cost thereof. Notwithstanding any other provision in this section, a test agency shall permit a test subject to elect in writing this opportunity both at the time the test subject registers to take a test and at the time the test agency reports test scores to the test subject; provided, however, that the provisions of this paragraph shall not apply where either the materials described in paragraph (a) or (b) of this subdivision are provided during the test administration. The form permitting such election shall describe the opportunity offered pursuant to this subdivision in clear and plain English and shall be part of and included in the test registration form and in a form provided to the test subject at the time test scores are reported to the test subject.

3. a. Notwithstanding subdivisions one and two of this section, a test agency may withhold from disclosure any test forms administered in New York in any given test program to not more than five percent of the anticipated test subjects annually or to not more than five thousand test subjects annually, whichever is less.

b. Prior to the beginning of a test agency's testing year, the test agency shall designate the dates upon which test forms to be filed with the commissioner will be used. The test agency shall inform potential test subjects of these dates.

4. Within three years after the administration in New York of a standardized test form not required to be disclosed under subdivision three of this section the test agency shall file the test form and the corresponding acceptable answers with the commissioner.

5. Subdivisions one, two, three, and four of this section shall not apply to the GRE Advanced Tests. With respect to such tests, the test agency shall file with the commissioner the following:

a. a copy of all test questions used in calculating the test subject's raw score from one test form administered during the period set forth below;

b. the corresponding acceptable answers; and

c. all rules for converting raw scores into those scores reported to the test subject together with an explanation of such rules, in accordance with the following schedule:

(1) once every three years for such test administered to forty thousand or more test subjects in New York annually, and

(2) once every five years for such tests administered to five thousand or less than forty thousand test subjects in New York annually, and

(3) once every eight years for such tests administered to fewer than five thousand test subjects in New York annually.

5-a. Subdivisions one, two, three, four, five and six of this section shall not apply to the Medical College Admission Test. With respect to that test, the test agency shall file with the commissioner once every four years the following:

a. a copy of all test questions used in calculating the test subject's raw score from one test form administered during the previous four-year period;

b. the corresponding acceptable answers; and

c. all rules for converting raw scores into those scores reported to

the test subject together with an explanation of such rules.

5-b. Subdivisions one, two, three, four, five, five-a and six of this section shall not apply to SAT Subject Tests. With respect to such tests, the test agency shall maintain on file with the commissioner a complete sample test, reflecting tests currently in use, of each type of SAT Subject Test to be administered in New York and provide to the test subject the opportunity to secure a copy of a representative complete sample test of a Subject Test. Whenever a new Subject Test is added the test agency shall file and publish updated information consisting of descriptions and sample items prior to the administration of any such test in New York. Whenever a substantial change is made in any subject, the test agency shall file and publish updated information consisting of complete sample tests prior to the administration of any such test in New York.

6. Notwithstanding other provisions of this section, if a test agency has administered a standardized test to less than two thousand test subjects in New York annually, the test agency shall file with the commissioner at least once every three years:

a. a copy of all test questions used in calculating the test subject's raw score from one test form administered during that three year period;

b. the corresponding acceptable answers with the commissioner; and

c. all rules for converting raw scores into those scores reported to the test subject together with an explanation of such rules.

7. Documents submitted to the commissioner pursuant to this section shall be public records and, in collecting this material, the State Education Department shall be considered an archive under Title 17 § 108 U.S.C.

8. a. Within sixty days of the receipt of correspondence from a test subject, their representative, or a user institution challenging or questioning the keying, scoring, wording, or any aspect of a test

question or questions used to calculate test subjects' raw scores for standardized tests filed with the commissioner pursuant to subdivision one of this section, the test agency shall place such correspondence in a separately maintained file. Such filed correspondence must contain no information identifiable with any individual or user institution unless authorized by that individual or institution.

b. Within thirty days of the test agency's sending out a response to the test subject, their representative or the user institution, the test agency shall place on file a copy of any of the test agency's written responses to such correspondence clarifying, explaining or defending the test question or questions. Such filed responses must contain no information identifiable with any individual or user institution unless authorized by that individual or institution.

c. Test subjects and any other individual shall be able to gain access to such file by submitting a written request to the test agency. Test agencies shall make copies of any of the requested contents of the file. Test agencies may charge nominal fees to provide copies of any of the contents of the file upon request. Such fees may not exceed the direct costs of administering and maintaining such files and photocopying requested materials.

9. Each test agency shall report the following information to the commissioner annually:

a. the dates of each test administered by the test agency during the testing year;

b. the total number of test subjects who took the test at each administration;

c. the total amount of fees received from test subjects by the test agency for the test for that testing year; and

d. those expenses which are directly attributable to the test and those expenses which are indirectly attributable to the test. The test

agency shall also list expenses indirectly attributable to all activities of the test agency, including expenses not identifiable as attributable to a test.

10. a. Except as provided in paragraphs b, c, d and e of this subdivision, subdivisions one and two of this section shall not apply to any test agency which discloses test forms administered to at least two-thirds of the test subjects in a test year, based on the number of administrations in the most recent test year.

b. Subdivisions one, two, three, four and six of this section shall not apply to the SAT Test during the nineteen hundred ninety-six--ninety-seven test year or to the two thousand eighteen--two thousand nineteen test year so long as the College Entrance Examination Board discloses in each such testing year:

(i) four test forms used to administer the SAT Test in New York, or

(ii) if fewer than four regular SAT Test administrations are offered in New York during a test year, the same number of SAT Test forms as regular SAT Test administrations in New York in that test year.

b-1. Subdivisions one, two, three, four and six of this section shall not apply to the SAT Test during the two thousand nineteen--two thousand twenty test year or any subsequent test year, so long as the college entrance examination board discloses in each such testing year:

(i) if seven or more regular SAT Test administrations are offered in New York during a test year, four SAT Test forms used to administer the SAT Test in New York;

(ii) if four, five or six regular SAT Test administrations are offered in New York during a test year, three SAT Test forms used to administer the SAT Test in New York; or

(iii) if three or fewer regular SAT Test administrations are offered in New York during a test year, the same number of SAT Test forms used to administer the SAT Test in New York.

b-2. Subdivisions one, two, three, four and six of this section shall not apply to the ACT college entrance examination during the two thousand nineteen--two thousand twenty test year or any subsequent test

year, so long as the ACT college entrance examination board discloses in each such testing year:

(i) if seven or more regular ACT college entrance examinations test administrations are offered in New York during a test year, four ACT college entrance examinations test forms used to administer the ACT college entrance examination test in New York;

(ii) if four, five or six regular ACT college entrance examinations test administrations are offered in New York during a test year, three ACT college entrance examinations test forms used to administer the ACT college entrance examination test in New York; or

(iii) if three or fewer regular ACT college entrance examinations test administrations are offered in New York during a test year, the same number of ACT college entrance examination test forms as regular ACT college entrance examination test administrations in New York in that test year.

c. Subdivisions one, two, three, four, and six of this section shall not apply to the Graduate Record Examination ("GRE") General Test during the nineteen hundred ninety-six--ninety-seven test year so long as the Graduate Record Examinations Board discloses in that test year the greater of:

(i) one GRE General Test form administered in New York, or

(ii) one-half the number of GRE General Test forms administered in New York in that test year.

d. Subdivisions one, two, three, four, and six of this section shall not apply to the GRE General Test during the nineteen hundred ninety-seven--ninety-eight test year or any subsequent test year, so long as the Graduate Record Examinations Board discloses in each such test year one-half of the number of GRE General Test forms administered in regular administrations in New York in that test year if it offers at least two regular administrations of that test in New York in that test year.

e. Subdivisions one, two, three, four, and six of this section shall not apply to the Test of English as a Foreign Language ("TOEFL") during the nineteen hundred ninety-six--ninety-seven test year or any

subsequent test year so long as the TOEFL Policy Council discloses in each such test year:

(i) five test forms used to administer the TOEFL in New York, or

(ii) if fewer than five regular TOEFL administrations are offered in New York during a test year, the same number of TOEFL forms as such regular administrations in New York during that test year.

f. Any test agency offering one or more nondisclosed administrations pursuant to this subdivision shall provide to test subjects, in a clear and conspicuous manner in its registration materials, notice of which test administrations will or will not be disclosed.

g. For the purposes of this subdivision, a "regular" administration means a regular Saturday major paper-and-pencil administration of the SAT I or GRE General Test or a regular Friday major paper-and-pencil administration of the TOEFL. A "regular" administration does not include any other administration (whether offered on a Friday or Saturday or otherwise), whether a makeup administration, an administration for Saturday Sabbath observers, or other special-purpose administration, or any individual administration.

11. Notwithstanding subdivision one of this section, a test agency which administered a computerized standardized test in test year nineteen hundred ninety-four shall file with the commissioner:

a. no later than September first, nineteen hundred ninety-six the test item pool used for an operational test administered as of December first, nineteen hundred ninety-four, and the corresponding acceptable answers.

b. no later than September first, nineteen hundred ninety-seven that portion of the test item pool used for an operational test administered during the nineteen hundred ninety-six test year equivalent to one paper-and-pencil test form, and the corresponding acceptable answers.

c. no later than September first, nineteen hundred ninety-eight that portion of the test item pool used for an operational test administered

during the nineteen hundred ninety-seven test year equivalent to two paper-and-pencil test forms, and the corresponding acceptable answers.

d. no later than September first, nineteen hundred ninety-nine that portion of the test item pool used for an operational test administered during the nineteen hundred ninety-eight test year equivalent to six paper-and-pencil test forms, and the corresponding acceptable answers.

§ 342-a. Special administrations. 1. When regular test administrations are given on days of religious observance which prevent attendance by test subjects at such regular administrations special administrations shall be offered with the same frequency as regular administrations as soon after or before as is possible, at comparable times, places and cost.

2. Provided, however, a test agency shall not be required to offer a greater number of special administrations than were offered during the base year commencing August first, nineteen hundred seventy-eight and ending July thirty-first, nineteen hundred seventy-nine unless the number of regular administrations is increased in any subsequent testing year, in which case the provisions of subdivision one shall apply.

3. No test subject shall by reason of religious belief be denied by a test agency, the opportunity to take a test which shall be disclosed pursuant to subdivisions one and two of section three hundred forty-two of this article during any twelve month period.

§ 343. Notice. 1. Each test agency shall provide, along with the registration form or score report for a test, the following information:

a. the purposes for which the test is constructed and is intended to be used;

b. statements designed to provide information for interpreting test results, including but not limited to, explanations of the test score

scale, the standard error of measurement of the test, and a list of available correlations between test scores and grades, successful completion of a course of study and parental income; however, where a range of the correlations of such studies is given, a median correlation must also be provided;

c. how the test scores will be reported, whether the raw test scores will be converted in any way before being reported to the test subject and whether and how the test agency will use the test score in raw or transformed form by itself or together with any other information about the test subject to predict in any way the subject's future academic performance for any post secondary educational institution;

d. a complete description of any promises or covenants that the test agency makes to the test subject with regard to accuracy of scoring, timely forwarding of information, policies for notifying test subjects regarding inaccuracies in scoring or score reporting, any procedures to increase fairness and equity with respect to race, ethnicity and linguistic background and gender for test subjects with regard to test questions and test forms, procedures for reviewing challenges by test subjects, their representatives or user institutions to the keying, scoring, wording or any aspect of a test question or questions used to calculate test subjects' raw scores, and privacy of information relating to the test subject;

e. whether or not the test scores are the property of the test subject, the time period during which the results will be retained by the test agency, and policies regarding storage, disposal and future use of test score data; and

f. how the test subject may obtain the information required to be dislcosed under section three hundred forty-two of this article.

g. how the test subject may obtain information required to be available under section three hundred forty-four-b of this article;

h. a clear, easily understood written description of each section of

the test, including an indication of whether the test contains sections of equating questions together with a statement of the purpose of such, and an indication of whether the test contains sections of pretest questions together with a statement of the purpose of such;

i. a description of all services which will be provided at the location of the test administration to accommodate handicapped or disabled test subjects;

j. a concise summary of test administration procedures which provides essential information to the test subject about the conduct of the test including the duties and responsibilities of the test proctor or supervisor and the actions a test subject may take in the event of any problems which may arise in the course of taking the test;

k. a statement of the test agency's recommendations as to how test scores shall be used by an institution to which scores are reported, including any recommendation regarding the importance that the institution should give to such scores relative to other factors, such as prior academic record, in making any decision affecting a test subject;

l. a description of how test subjects can receive additional information from test sponsors about the appropriate use of test scores;

m. information which clearly describes the test subjects' rights included in section three hundred forty-four-c of this article; and

n. information documenting procedures used by the test agency to insure that the test is fair to all test takers regardless of racial, ethnic, gender or regional background.

2. Any institution which is a test score recipient shall be provided with the information specified in this section. The test agency shall provide such information prior to or coincident with the first reporting of a test score or scores to a recipient institution. Such institution shall be encouraged to provide interpretive processing by qualified

personnel where such personnel are available.

4. Each public postsecondary institution shall include in its catalog or bulletin a statement whether applicants for undergraduate admission are required to submit test scores. Such statement shall clearly state how test scores are used in the decision process, how multiple score reports are treated, whether component scores are summed or averaged, and how test scores are used in placement decisions.

§ 344. Disclosure of test scores. The score of any test subject shall not be released or disclosed by the test agency to any person, organization, corporation, association, college, university, or governmental agency or subdivision unless specifically authorized by the test subject. A test agency may, however, release all scores received by a test subject on a test to anyone designated by the test subject to receive the current score.

This section shall not be construed to prohibit release of scores and other information in the possession of a test agency for purposes of research leading to studies and reports concerning the tests themselves. Such studies and reports must contain no information identifiable with any individual test subject or user institution unless authorized by that individual or institution.

§ 344-a. Pretest questions. The test agency shall cooperate with a study conducted under the auspices of the National Research Council of the effects of pretesting on test subjects' performance. The results of such study shall be made available to the chair of the higher education committee in the senate and the chair of the higher education committee in the assembly.

§ 344-b. Due process. Each test agency shall ensure due process protection of test subjects whose scores are being questioned for suspected inauthenticity or irregularity in test administration.

1. When a test agency is presented with information which renders the test subject's test score suspect, whether that information is in the form of allegations of collusion or cheating, or irregular test administration, or irregular statistical data, or any other form, the test agency is responsible for reviewing the information and determining if withholding the test subject's score is warranted.

2. If the test agency determines that withholding the test subject's score is warranted, the test agency shall give the test subject written notice of the test agency's decision. The notice shall be sent by registered mail not later than five working days after the test agency's decision.

3. The notice to the test subject shall include all of the following:

(a) a complete summary of the information submitted to the test agency and relied upon by the test agency to withhold the score;

(b) a complete summary of the pertinent facts surrounding the investigation;

(c) a statement of the test subject's right to receive, upon request, details supporting the complete summaries referred to in paragraphs (a) and (b) of this subdivision;

(d) the policies and procedures that were followed by the test agency in reviewing and rendering a decision to investigate the test score;

(e) the potential consequences which may result from the investigation, such as withholding or invalidating the test score;

(f) a summary of the information that may be submitted to the test agency by the test subject to support the authenticity of the test score; and

(g) a statement informing the test subject that the opportunity to respond to the notice will be afforded for not more than fifteen working days following the date the notice was delivered. No final decision on the question of suspected irregularity or inauthenticity shall be rendered by the test agency until the test subject under investigation has responded, or the time for doing so has expired, whichever occurs first.

4. After the time period specified in paragraph (g) of subdivision three of this section has expired, the test agency shall review all of the evidence and shall make a good faith effort to render a decision regarding the authenticity of the score, within fifteen working days and notify the test subject immediately. No test agency shall cancel or invalidate a test subject's test scores on the basis of an alleged irregularity or inauthenticity unless, after all evidence has been considered by the test agency, substantial evidence resulting from an investigation conducted pursuant to this section supports the cancellation or invalidation.

5. When the test agency determines that substantial evidence exists to support cancellation or invalidation of a test score, the test agency shall provide the test subject with a choice of the following options:

(a) cancellation of the test scores in question, with full refund of all test fees;

(b) an opportunity to take the test again privately and without charge; or

(c) an opportunity to seek arbitration or judicial review of the matter.

6. The test subject shall have thirty days following receipt of the notice by registered mail to respond to the notice of inauthenticity or irregularity.

7. If the test subject responds to the notice of inauthenticity or irregularity of test scores sent by the test agency within the time period specified by subdivision six of this section, the test agency shall review the contents of the response and comply with one of the following:

(a) If the test subject requests cancellation of the test scores, a full refund of all test fees will be provided within a reasonable period.

(b) If the test subject requests an opportunity to take the test again privately and without charge, the test agency shall make appropriate accommodations that are mutually agreed upon by the test agency and test subject so the test subject has sufficient time to prepare for the

retest. The retest shall be given in a reasonable and timely manner. If the score on the retest is higher, the higher score shall be reported.

(c) Nothing in this section precludes the parties from seeking resolution of the testing problems by either judicial review or arbitration. The test agency and the test subject shall make a good faith effort to complete an arbitration process in no more than thirty days after the election of such option.

8. The test agency shall not release confidential information to any authorized test score recipients regarding a test subject under pending investigation, unless authorized to do so by the test subject.

9. The test agency shall immediately release the test score to the test subject and the test score recipients, if any, where substantial evidence does not exist to render the inauthenticity or irregularity of the test score.

10. The procedures prescribed in this section do not apply to instances where the cancellation of all test scores results from the complete disruption of the administration of the test, such as by natural disasters, national emergencies, inadequate or improper test conditions, answer sheet printing errors, or testing agency errors.

11. Time procedures described in this section shall not apply in those instances where test scores have already been reported to test score recipients.

§ 344-c. Additional test subject rights. A test subject who must retake a test because of an error by the test agency, may not be charged for taking the retest.

§ 345. Regulations. The commissioner shall promulgate regulations to implement the provisions of this article.

§ 346. Test subject review of computerized test. Beginning in the test year two thousand, a test agency which administered a computerized test in test year nineteen hundred ninety-four shall offer test subjects who take a computerized test a process whereby test subjects are afforded the opportunity to review questions and answers from their computerized tests. On or before July first, nineteen hundred ninety-eight, such test agency shall submit to the commissioner a report detailing the implementation of such process. Such report shall set forth in clear language the nature of such opportunity, which shall also be sufficient to meet the demands of such process. The commissioner shall review and comment upon the report no later than September first, nineteen hundred ninety-eight.

§ 346-a. Advisory committee. 1. There shall be created a temporary committee to advise the legislature and make findings and recommendations with respect to the effect of standardized tests used in the process of post secondary admissions on test subjects of varying racial, ethnic, linguistic background and gender and consider other possible analytical methods to assure the fairness and equity of such tests.

2. The committee shall consist of ten members to be appointed as follows: three each shall be appointed by the temporary president of the senate and by the speaker of the assembly, and two each by the minority leader of the senate and the minority leader of the assembly. At least one of the members appointed by each of the four legislative leaders shall be an individual with expertise in measurement and standardized testing. Such committee shall be broadly representative of persons or groups residing in the state of New York interested in and affected by standardized admissions tests which may include, but is not limited to, test subjects, test agencies, representatives of consumers of standardized test, post-secondary administrators and faculty and representatives of civil rights organizations.

3. The committee shall select a chairperson from its membership and may select professional staff, other than the data analysis researchers

or organizations described herein, who shall have expertise in measurement and standardized testing to design and conduct the study. The committee shall prepare a design for the analysis of the data required for collection pursuant to this section. The study design shall be available upon request for comment for a period for thirty days after which time the committee shall select or solicit one or more researchers or organizations to do the data analysis. The analyses shall examine the differences in test performance between the subgroups indicated in section three hundred forty-one-a of this article and consider the impact upon those differences of using alternative methods of item selection. Such professional staff, researchers and organizations shall not have any direct financial ties, within five years prior to the effective date of this section, to standardized testing, nor to any source that has by personal testimony promoted or opposed regulation of standardized testing, or from any source which has been engaged in litigation, within five years prior to the effective date of this section, against any entity engaged in the standardized testing industry. The committee shall meet at least two times annually and shall expire on the first day of September, nineteen hundred ninety-one. The committee members shall receive no compensation for their services, but shall be reimbursed for reasonable expenses actually and necessarily incurred by them in the performance of their duties under this article.

4. The committee may accept any state grants or appropriations, or as agent of the state, any grant, including federal grants, or any gift for any of the purposes of this article; provided however, that the committee shall not accept any grant or gift, directly or indirectly, (a) from the standardized testing industry or from any source currently receiving funds from the standardized testing industry, or (b) from any source that has promoted or opposed regulation of standardized testing or from any source that has been engaged in litigation within five years prior to the effective date of this section against any entity engaged in the standardized testing industry or from any source currently receiving funds from any such sources. Any monies so received may be expended by the committee to effectuate any purpose of this article, subject to standard limitations as to approval of expenditures and

audit.

5. The committee shall report its finding to the state legislature no later than the thirty-first of March, nineteen hundred ninety.

6. The committee shall pursue the aforementioned research if adequate funds have been committed by the first day of July, nineteen hundred eighty-nine to further the purposes of this article. Prior to February first, nineteen hundred eighty-nine, the committee shall notify the chairs of the assembly ways and means and senate finance committees regarding funds received for the purposes of this article and shall submit a request for such appropriations as may be necessary to effectuate the purposes of this section. If no such funds have been committed, the committee shall dissolve.

§ 347. Violations. Any test agency which violates any section of this article shall be liable for a civil penalty of not more than one thousand dollars for each violation.

§ 348. Severability. If any provision of this article shall be declared unconstitutional or invalid, the other provisions shall remain in effect notwithstanding.

ARTICLE 8

STATE UNIVERSITY AND STATE FINANCIAL ASSISTANCE FOR HIGHER EDUCATION

Section 350. Definitions.
351. State university mission.
352. State university of New York established.
352-a. Maritime college; admissions program.
353. State university trustees.
354. Powers and duties of state university trustees-planning functions.
355. Powers and duties of trustees--administrative and fiscal

functions.
355-a. Powers and duties of trustees--personnel functions.
355-b. Investments in designated obligations; indemnifications.
355-c. College opportunity to prepare for employment.
355-d. Educational opportunity centers.
355-e. New York state firearm violence research institute.
356. Councils of state-operated institutions; powers and duties.
357. Statutory or contract colleges.
358. State aid for certain higher educational institutions.
359. Reports of the state university trustees.
360. Powers to regulate traffic on university grounds.
361. START-UP NY program leases.
363. Curing Alzheimer's health consortium.
364. Separability.
365. Construction.

§ 350. Definitions. As used in this article, unless the context shall otherwise require, the following terms shall mean:

1. "State university." The state university created by this article.

2. "Community colleges." Colleges established and operated pursuant to the provisions of article one hundred twenty-six, and providing two-year post secondary programs in general and technical educational subjects and receiving financial assistance from the state.

3. "Statutory or contract colleges." Colleges furnishing higher education, operated by independent institutions on behalf of the state pursuant to statute or contractual agreements; provided, that an institution not otherwise a statutory or contract college shall not become a statutory or contract college because of its receipt of state funds or financial assistance pursuant to section three hundred fifty-eight hereof, or by entering into any contract pursuant to that section.

4. "State-operated institutions." Institutions comprising the state university as provided for in subdivision three of section three hundred fifty-two hereof, but not including statutory or contract colleges.

5. "State university health care facility" shall mean a hospital, as defined in section twenty-eight hundred one of the public health law, operated by the state university, or a clinic, as defined in subdivision six of this section, of a state university health sciences center at Brooklyn, Buffalo, Stony Brook and Syracuse, or the College of Optometry.

6. "Clinic" shall mean a facility located either within or outside of a state university health care facility providing services related to the medical education mission of the university, but shall not include state university student health services.

* 7. "University centers" shall mean the university centers at Albany, Binghamton, Buffalo and Stony Brook.

* NB Repealed July 1, 2027

* 8. "NY-SUNY 2020 challenge grant program" ("NY-SUNY 2020") shall mean a long-term economic and academic plan, which shall include a financial aid program, submitted by each state university of New York university center, subject to the approval by the governor and the chancellor of the state university of New York.

* NB Repealed July 1, 2027

9. "SUNY Challenge Grant Program" shall mean a long-term economic and academic plan submitted by a college, university or community college as defined by this section, excluding university centers as defined by this section, subject to the approval by the Governor and the Chancellor of the State University of New York.

10. "Dormitory facilities revenue fund" means the fund established pursuant to section sixteen hundred eighty-q of the public authorities law.

11. "Dormitory facilities revenues" means all moneys, including rents, fees and charges, derived from the use or occupancy of dormitory

facilities.

12. "Dormitory facility" means a dormitory, as such term is defined in paragraph (a) of subdivision two of section sixteen hundred seventy-six of the public authorities law.

13. "Dormitory facility revenue bond" means any note or bond of the dormitory authority (i) issued on or after the first day of April, two thousand thirteen for the purposes of financing dormitory facilities or refinancing notes or bonds previously issued in connection with dormitory facilities, including notes or bonds issued to pay costs incurred in connection with the issuance of such notes or bonds, to fund any reserve for the payment of debt service on such bonds or notes, to fund any reserve established for the improvement, repair, maintenance or operations of dormitory facilities, or to pay or provide for the payment of any note or bond previously issued for any such purpose, and (ii) is payable from moneys on deposit in the dormitory facilities revenue fund and is not payable from any revenue of the state.

§ 351. State university mission. The mission of the state university system shall be to provide to the people of New York educational services of the highest quality, with the broadest possible access, fully representative of all segments of the population in a complete range of academic, professional and vocational postsecondary programs including such additional activities in pursuit of these objectives as are necessary or customary. These services and activities shall be offered through a geographically distributed comprehensive system of diverse campuses which shall have differentiated and designated missions designed to provide a comprehensive program of higher education, to meet the needs of both traditional and non-traditional students and to address local, regional and state needs and goals. In fulfilling this mission, the state university shall exercise care to develop and maintain a balance of its human and physical resources that:

a. recognizes the fundamental role of its responsibilities in undergraduate education and provides a full range of graduate and

professional education that reflects the opportunity for individual choice and the needs of society;

b. establishes tuition which most effectively promotes the university's access goals;

c. encourages and facilitates basic and applied research for the purpose of the creation and dissemination of knowledge vital for continued human, scientific, technological and economic advancement;

d. strengthens its educational and research programs in the health sciences through the provision of high quality general comprehensive and specialty health care, broadly accessible at reasonable cost, in its hospitals, clinics and related programs and through networks and joint and cooperative relationships with other health care providers and institutions, including those on a regional basis;

e. shares the expertise of the state university with the business, agricultural, governmental, labor and nonprofit sectors of the state through a program of public service for the purpose of enhancing the well-being of the people of the state of New York and in protecting our environmental and marine resources;

e-1. encourage, support and participate through facility planning and projects, personnel policies and programs with local governments, school districts, businesses and civic sectors of host communities regarding the health of local economies and quality of life;

f. promotes appropriate program articulation between its state-operated institutions and its community colleges as well as encourages regional networks and cooperative relationships with other educational and cultural institutions for the purpose of better fulfilling its mission of education, research and service.

§ 352. State university of New York established. 1. There is hereby created in the state education department and within the university of

the state of New York as established under the board of regents a corporation to be known as the state university of New York which shall be responsible for the planning, supervision and administration of facilities and programs in accordance with the plan proposed by the state university trustees as approved by the regents pursuant to section two hundred thirty-seven of this chapter. The state university shall provide for higher education supported in whole or in part with state moneys in accordance with the provisions of section three hundred fifty-eight hereof, and shall perform such other duties as may be entrusted to it by the provisions of this article and any other law. Subject to the terms of any agreement to which it is a party, such corporation shall have the care, custody, control and management of the lands, grounds, buildings, facilities and equipment used for the purposes of the state-operated institutions of the state university, and it shall have power to protect, preserve and improve the same.

2. Whenever such corporation acquires, absorbs, merges or consolidates with or becomes the successor to any higher educational institution, all the right, title and interest in real property held by such predecessor institution shall vest in and be held and enjoyed by the people of the state of New York and state university of New York shall thereupon be deemed to be vested with and become the successor to all right, title and interest in any personal property, or any beneficial interest therein, or any other rights and powers possessed by such institution, whether derived by gift, grant, devise or bequest, in trust or otherwise.

3. The state university shall consist of the four university centers at Albany, Binghamton, Buffalo and Stony Brook, the designated colleges of arts and sciences at Brockport, Buffalo, Cortland, Fredonia, Geneseo, New Paltz, Old Westbury, Oneonta, Oswego, Plattsburgh, Potsdam and Purchase, empire state college, the agricultural and technical colleges at Alfred, Canton, Cobleskill, Delhi, Farmingdale and Morrisville, downstate medical center, upstate medical center, the college of optometry, the college of environmental science and forestry, maritime college, the college of technology at Utica/Rome, the statutory or contract colleges at Cornell university and Alfred university, and such

additional universities, colleges and other institutions, facilities and research centers as have been or hereafter may be acquired, established, operated or contracted to be operated for the state by the state university trustees.

§ 352-a. Maritime college; admissions program. 1. There shall be created an admissions program for the state university of New York maritime college as established pursuant to section three hundred fifty-two of this article in which certain elected officials shall nominate students for placement in such college's regimental/cadet degree system.

2. (a) Maritime college shall have a total of two hundred eighty-four vacancy positions set aside for applicants who are nominated by the governor, a state senator or a member of the assembly. Such vacancy nominations shall increase or decrease based upon the number of senate districts authorized pursuant to article three of the New York state constitution. An applicant who receives such a nomination, is accepted for admission into the college and participates in the regimental program shall receive a scholarship equal to the amount of the state tuition charge after the deduction of any available grant aid for the four consecutive years following his or her admission into the program provided, however, that the student remains in the regimental/cadet degree program and remains at all times in good academic standing as determined by the maritime college administration. In no event shall a student lose his or her scholarship based upon legislative reapportionment or changes in legislative composition or membership. Nothing herein shall be construed to limit or reduce the number of vacancies available to the general population.

(b) To be eligible to receive such nomination and scholarship, the applicant must be a resident of the state. For purposes of this section, a state resident shall be defined as a person who has resided in the state of New York for a period of at least one year prior to the time of nomination, is a graduate or within one year of graduation from an approved high school or has attained a New York state high school equivalency diploma or its equivalent as determined by the commissioner.

3. The vacancy nominations shall be distributed as follows: five for the governor, five for the majority leader of the senate, five for the speaker of the assembly, two for each state senator other than the majority leader of the senate and one for each member of the assembly other than the speaker of the assembly. The governor and each member of the legislature shall provide one principal and three alternative nominations for consideration for admission. Final admission decisions shall remain with the college and within administrative procedures and criteria.

4. The state university of New York shall provide annually by the first day of July and upon request of the chairperson of the senate higher education committee or the chairperson of the assembly higher education committee a report detailing the total vacancies filled, the total vacancies expected for the upcoming academic year, what vacancies each elected official is expected to have pursuant to the provisions of subdivision three of this section and a summary of the previous year's total student enrollment and participation in the program.

5. The scholarships authorized by this section shall be made available so long as funds are made available for such purposes.

6. Any individual receiving a scholarship pursuant to this section shall apply for all other available state, federal, or other educational grant aid at the time of enrollment. Any grant aid or financial assistance received shall be utilized to offset the cost of tuition and the "Summer Sea Term" to the maximum extent possible, except that nothing shall require that aid or assistance received which may be used towards costs other than that of tuition shall be applied toward the cost of tuition.

7. The state university of New York is hereby authorized to promulgate any rules and regulations necessary for the implementation of the provisions of this section.

§ 353. State university trustees. 1. The state university shall be governed, and all of its corporate powers exercised, by a board of trustees. Such board shall consist of eighteen members, fifteen of whom shall be appointed by the governor with the advice and consent of the senate, one of whom shall be the president of the student assembly of the state university, ex-officio and voting, one of whom shall be the president of the university faculty senate, ex-officio and non-voting, and one of whom shall be the president of the faculty council of community colleges, ex-officio and non-voting. Such ex-officio members shall be subject to every provision of any general, special, or local law, ordinance, charter, code, rule, or regulation applying to the voting members of such board with respect to the discharge of their duties, including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements, and prohibiting business and professional activities. One member of the board shall be designated by the governor as chairperson and one as vice-chairperson. Of the members first appointed, two shall be appointed for a term which shall expire on June thirtieth, nineteen hundred fifty-two; one for a term which shall expire on June thirtieth, nineteen hundred fifty-three; two for a term which shall expire on June thirtieth, nineteen hundred fifty-four; one for a term which shall expire on June thirtieth, nineteen hundred fifty-five; two for a term which shall expire on June thirtieth, nineteen hundred fifty-six; one for a term which shall expire on June thirtieth, nineteen hundred fifty-seven; two for a term which shall expire on June thirtieth, nineteen hundred fifty-eight; one for a term which shall expire on June thirtieth, nineteen hundred fifty-nine; two for a term which shall expire on June thirtieth, nineteen hundred sixty; and one for a term which shall expire on June thirtieth, nineteen hundred sixty-one. Vacancies shall be filled for the unexpired term in the same manner as original appointments. The term of office of each trustee appointed on or after April first, nineteen hundred eighty-six shall be seven years, except those of the student member and the faculty members. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article.

2. a. The board may provide for regular meetings, and the chairman, or

the vice-chairman, or any eight members by petition, may at any time call a special meeting of the board of trustees and fix the time and place therefor; and at least seven days notice of every meeting shall be mailed to the usual address of each trustee, unless such notice be waived by a majority of the board. Resolutions for the consideration of the board of trustees must be mailed to the usual address of each trustee no less than seven days prior to a meeting, unless the chair shall make available in writing on the day of the meeting the facts which necessitate an immediate vote. Eight trustees attending shall be a quorum for the transaction of business and, unless a greater number is required by the by-laws, the act of a majority of the members present at any meeting shall be the act of the board. The board shall hold at least two public hearings each year. One public hearing shall be held during the spring semester and one public hearing shall be held in the fall semester. The purpose of such hearings shall be to receive testimony and statements from concerned individuals about university issues. The board shall fix the time, place, duration and format of each hearing. At least three members of the board shall attend each hearing. At least thirty days notice of the hearing shall be given by the chairman of the board to all members of the board, to all presidents of state operated campuses, to the chair of faculty-senate bodies of state operated campuses, to all student government presidents of state operated campuses, to the certified or recognized employee organizations representing employees of the state university and to the media. Such notice shall contain the time and place of the public hearing.

b. The agenda for any such meeting of the board of trustees shall be electronically available on the state university of New York website three days prior to the meetings unless an executive committee meeting has been called in which an agenda must be available twenty-four hours in advance, and shall be considered a public record. A summary of resolutions and board actions for any such meeting of the board of trustees shall be electronically available on the state university of New York website no later than seven days after the meeting and shall be considered a public record. The approved minutes, attendance, voting record and either transcripts or video record for any such meeting must be posted no later than seven days following their approval by the board

or executive committee. Information posted on the state university of New York website regarding board of trustee meetings shall remain on the site as archived data for a minimum of ten years.

c. Any such meeting of the board of trustees shall be conducted in accordance with article seven of the public officers law.

3. The board shall appoint its own officers and staff, prescribe the duties of such employees, and fix their compensation within the appropriations prescribed therefor. Other than those positions included in section one hundred sixty-nine of the executive law, the board shall fix the compensation and benefits of employees in positions in the professional service in the state university which are designated, stipulated or excluded from negotiating units as managerial or confidential as defined pursuant to article fourteen of the civil service law.

4. a. The board may elect an executive committee of not less than five members, who, in intervals between meetings of the board may transact such business of the state university as the board may from time to time authorize, except to grant degrees or to make removals from office. The student member of the board shall be a member of such committee. A majority of the whole of the executive committee, but in any event not less than four members, attending shall be a quorum for the transaction of business and the act of a majority of the members of the executive committee present at any meeting thereof shall be the act of such committee.

b. The agenda for any meeting of any committee and subcommittee of the board of trustees shall be available electronically on the state university of New York website three days prior to the meeting unless an executive committee meeting has been called, in which case an agenda must be available twenty-four hours in advance, and shall be considered a public record. A summary of resolutions and actions by the committee or subcommittee for any such meeting shall be electronically available on the state university of New York website no later than seven days after the meeting and shall be considered a public record. The approved

minutes, attendance, voting record, and either transcripts or video record, for any such meeting must be posted no later than seven days following the approval by the board, committee or subcommittee. Information posted on the state university of New York website regarding such meetings shall remain on the site as archived data for a minimum of ten years.

c. Any such meeting of a committee or subcommittee of the board of trustees shall be conducted in accordance with article seven of the public officers law.

§ 354. Powers and duties of state university trustees-planning functions. 1. The state university trustees shall, once every four years, formulate a long-range state university plan or general revision thereof and make recommendations to the board of regents and the governor for the organization, development, coordination and expansion of the state university and for the establishment of community colleges in areas suitable for and in need of such institutions, which plan and recommendations shall include the following:

a. plans for new curricula;

b. plans for new facilities;

c. plans for change in policies with respect to student admissions;

d. projected student enrollments; and

e. comments upon its relationship to other colleges and universities, public, independent and proprietary, within the state.

f. For informational purposes only, projection standards and overall expenditure projections of capital and operating costs. Prior to transmitting their long-range state university plan or general revision thereof to the board of regents and the governor the state university trustees may, after giving due notice, conduct one or more hearings on

such plan.

1-a. The state university trustees shall organize or cause to be organized at a university or college of the state university an annual conference on the role of the universities, colleges and other facilities on the local economies, social conditions and quality of life of host cities, towns and villages. Such conference shall rotate amongst the individual universities and colleges and shall include but not be limited to:

a. a review of significant partnering between universities, colleges and other institutions of the state university with their host communities;

b. presentations utilizing the expertise of the state university on types of projects, programs and administrative actions that could support the state university's mission stated in subdivision e-1 of section three hundred fifty-one of this article; and

c. roundtable discussions between state university trustees, officers and faculty with county, city, town and local officials, business and civic leaders relating to the purposes of the annual conference.

Each sponsoring university or college shall prepare and distribute a report on the annual conference.

2. During the calendar year nineteen hundred sixty-four and each fourth year thereafter the state university trustees shall transmit their proposed plan or general revision thereof to the board of regents and the governor on or before the first day of June in each such year. Such plan shall be reviewed by the board of regents and shall be subject to approval by such board. As approved by the board of regents and incorporated into the regents plan or general revision thereof for the development of higher education in the state and, upon approval thereafter by the governor, such plan shall guide and determine the development of the state university and its community colleges until such plan is modified or revised in the manner provided herein.

3. By the first day of June in nineteen hundred seventy-four and every fourth year thereafter, the state university trustees shall report in writing to the board of regents, to the governor and to the legislature on the progress made in carrying out their responsibilities under such plan and their general recommendations with respect to public higher education, including recommendations as to modifications of such plan which the trustees deem essential to meet the then current demands upon public higher education. The state university trustees may also at any other time propose modifications which they then deem essential or desirable with respect to such plan. They may, after giving due notice, conduct one or more hearings on such modifications and shall transmit their recommendations therefor to the board of regents and the governor. Such modifications shall be subject to approval by the regents and thereafter by the governor in the same manner as such plan or general revisions thereof.

§ 355. Powers and duties of trustees--administrative and fiscal functions. 1. Subject to the provisions of the plan or general revision thereof proposed by the state university trustees as approved by the regents pursuant to section two hundred thirty-seven of this chapter, the state university trustees shall be responsible for:

a. The over-all central administration, supervision and coordination of state-operated institutions and the general supervision and coordination of the statutory or contract colleges in the state university.

b. The supervision and coordination of state-aided programs in institutions providing higher education pursuant to the provisions of section three hundred fifty-eight hereof.

c. The approval of the establishment of community colleges and four year colleges authorized by article one hundred twenty-six of this chapter, in conformance with the master plan; the provision of standards and regulations covering the organization and operation of their

programs, courses and curricula, financing arrangements, state financial assistance, tuition charges and fees, and such other matters as may be involved in the operation of such colleges.

d. The establishment of health and medical centers, four year liberal arts colleges, professional and graduate schools, research centers and other facilities, as provided in this article.

e. The approval of the appointment of the head of each statutory or contract college and community college by the respective boards of trustees or other governing bodies of such institutions.

f. The promotion of and participation in inter-institutional arrangements among independent and public institutions of higher education and health care facilities and providers and other health-related organizations on a geographical or topical basis to encourage responsible and cost effective use of facilities and academic and health care resources for the enhancement and enrichment of educational experiences and opportunities and promoting high quality health care services in support of the state university's educational mission.

2. The state university trustees are further authorized and empowered, subject to the provisions of the plan or general revisions thereof proposed by the state university trustees as approved by the regents pursuant to section two hundred thirty-seven of this chapter:

* a. To take, hold and administer on behalf of the state university or any institution therein, real and personal property or any interest therein and the income thereof either absolutely or in trust for any educational or other purpose within the jurisdiction and corporate purposes of the state university. The trustees may acquire property for such purposes by purchase, appropriation or lease and by the acceptance of gifts, grants, bequests and devises, and, within appropriations made therefor, may equip and furnish buildings and otherwise improve property owned, used or occupied by the state university or any institution therein. The trustees may acquire property by the acceptance of conditional gifts, grants, devises or bequests, the provisions of

section eleven of the state finance law notwithstanding. Where real property is to be acquired by purchase or appropriation, such acquisition shall be in accordance with the provisions of section three hundred seven of this chapter except that the powers and duties in said section mentioned to be performed by the commissioner shall be performed by the state university trustees. The provisions of section three of the public lands law notwithstanding, the trustees may provide for the lease of state-owned real property under the jurisdiction of the state university that is part of a tax-free NY area approved pursuant to article twenty-one of the economic development law, in such manner and upon such terms as the trustees shall determine, provided such lease is consistent with the approved plan for such tax-free NY area.

* NB Effective until June 30, 2031

* a. To take, hold and administer on behalf of the state university or any institution therein, real and personal property or any interest therein and the income thereof either absolutely or in trust for any educational or other purpose within the jurisdiction and corporate purposes of the state university. The trustees may acquire property for such purposes by purchase, appropriation or lease and by the acceptance of gifts, grants, bequests and devises, and, within appropriations made therefor, may equip and furnish buildings and otherwise improve property owned, used or occupied by the state university or any institution therein. Where real property is to be acquired by purchase or appropriation, such acquisition shall be in accordance with the provisions of section three hundred seven of this chapter except that the powers and duties in said section mentioned to be performed by the commissioner of education shall be performed by the state university trustees.

* NB Effective June 30, 2031

b. To make and establish and from time to time alter and amend such rules and regulations, not inconsistent with law, for the government of the state university and the institutions therein.

c. To provide for the care, custody and management of the lands, grounds, structures, buildings, equipment and facilities of the state university and the institutions therein.

d. To visit and inspect the institutions in the state university, and to distribute to or expend or administer for them such property and funds as the state may appropriate therefor, or as the state university trustees may hold in trust, or as may otherwise come into their possession.

e. To merge any higher educational corporation into the state university with the approval of the governing body of such corporation and statutory approval of the legislature. Any higher educational corporation is authorized and empowered to merge into the state university. Upon the approval of an agreement of merger by the board of regents and subsequent statutory approval by the legislature, and the filing thereof with the regents, the merger shall be deemed complete and all the right, title and interest in real property held by such merged higher educational corporation shall vest in and be held and enjoyed by the people of the state of New York and all the other estate, property, rights, privileges and franchises of such merged higher educational corporation shall vest in and be held and enjoyed by the state university, as fully and entirely and without change or diminution as the same were before held and enjoyed by such merged corporation, and be managed and controlled by the state university, but subject to all liabilities and obligations of such merged corporation and the rights of all creditors thereof; except that the state university shall not thereby acquire power to engage in any activity or to exercise any right, privilege or franchise of a kind which it could not otherwise lawfully engage in or exercise. The state university shall cause a copy of the agreement of merger, certified by the board of regents to be a true and correct copy of the original filed in their office, to be filed in the office of the secretary of state and in the office of the clerk of the county in which the certificate of incorporation of the merged corporation was filed, in each case in which the certificate of incorporation of the merged corporation was filed in the office of the secretary of state; and shall cause a like copy of the merger agreement with the certificate of the board of regents to be recorded in the office of the recording officer of each county in which is located any real property in or to which the merged corporation had any right, title

or interest at the time of the merger; and it shall be the duty of each such recording officer to record such copy and certificate in his office in the books used for the recording of deeds and to index the same against the merged corporation as grantor and the people of the state of New York as grantees. Neither the secretary of state nor the county clerk or the recording officer of any county shall be entitled to demand or collect any fee for filing or recording any such copy of an agreement of merger.

f. To grant all degrees, diplomas and certificates which heretofore have been granted or have been authorized to be granted upon the completion of courses of study in any state-operated institution which now is or hereafter may be in the state university, prior to the acquisition of such institution by the state university, and also such other degrees as the regents may hereafter specifically authorize them to grant. In testimony thereof the state university trustees may give suitable diplomas or certificates under the state university seal including honorary degrees. Every diploma or certificate so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas or certificates of corresponding grade granted by any institution of learning.

f-1. Notwithstanding any law, rule or regulation to the contrary, the state university of New York board of trustees shall pass a resolution by June first, two thousand fifteen, to develop a plan to make available to students enrolled in an academic program of the state university of New York beginning in the two thousand sixteen--two thousand seventeen academic year, approved experiential or applied learning activities. Such experiential or applied learning activities may include completion of activities related to students' program of study, including, but not limited to, service-learning activities completed as part of a course, paid or unpaid internships, faculty-supervised undergraduate projects and activities leading to publication of research in journals or similar publications, production or performance of creative works, and iterative "co-op" partnerships that explicitly link the curricula to a temporary, paid position in industry or the public sector. Such plan, to be completed by June first, two thousand sixteen, shall be developed in

consultation with university faculty senate, the faculty council of community colleges, the SUNY student assembly, and other stakeholders. Such plan shall define approved experiential or applied learning activities, methods of faculty oversight and assessment, responsibilities of business, corporate, non-profit or other entities hosting students, and include a requirement for collecting and reporting data associated with such experiential or applied learning activities. Such plan shall have each college examine the feasibility of including such experiential or applied learning activities as a degree requirement. Such college shall examine its ability to administer and provide such opportunities to students; the local community's capacity to support such experiential or applied learning activities; the impact such requirement would have on the local workforce, if any; potential for such a requirement to enhance learning outcomes for students; and whether adding such a requirement would cause potential delays in graduation for students.

f-2. Notwithstanding any law, rule or regulation to the contrary, the state university of New York board of trustees shall establish a policy authorizing state-operated institutions and community colleges within the state university to grant posthumous degrees to enrolled matriculated students whose death occurs prior to graduation. Such policy shall provide that, upon terms set in the policy, any remaining credit requirements shall be waived for any student who dies and who otherwise would have been eligible for graduation had they been able to complete their academic career.

f-3. Notwithstanding any law, rule or regulation to the contrary, the state university of New York board of trustees shall, by June first, two thousand twenty-five, develop a plan to make available to students enrolled in an academic program of the state university of New York beginning in the two thousand twenty-five--two thousand twenty-six academic year, approved experiential or applied learning activities, as defined in paragraph f-1 of this subdivision. Such plan shall be developed in consultation with university faculty senate, the faculty council of community colleges, the university student assembly, and other stakeholders. Such plan shall define approved experiential or

applied learning activities, methods of faculty oversight and assessment, responsibilities of business, corporate, non-profit or other entities hosting students, and include a requirement for collecting and reporting data associated with such experiential or applied learning activities. Such plan shall have each college examine the feasibility of including such experiential or applied learning activities as a degree requirement. Such college shall examine its ability to administer and provide such opportunities to students; the local community's capacity to support such experiential or applied learning activities; the impact such requirement would have on the local workforce, if any; potential for such a requirement to enhance learning outcomes for students; and whether adding such a requirement would cause potential delays in graduation for students.

g. To appoint the head of each state-operated institution in the state university upon the recommendation made to them by the council of such institution in accordance with the rules and standards established by the state university trustees; or if such recommendation is not made or does not comply with such rules and standards, then to make such appointment as is by them deemed necessary; to prescribe the functions, powers, and duties of the head of each such institution; and to appoint or provide for the appointment of the members of the instructional and administrative staffs, and such other employees as may be necessary, at each state-operated institution upon the recommendation of the head thereof and prescribe or provide for the prescription of their duties.

h. To regulate the admission of students, prescribe the qualifications for their continued attendance, regulate tuition charges where no provision is otherwise made therefor by law, and regulate other fees and charges, curricula and all other matters pertaining to the operation and administration of each state-operated institution in the state university.

(1) Notwithstanding the provisions of any other general, special or local law, rule or regulation, such regulations may permit persons sixty years of age or over to audit courses given therein without tuition, examination, grading or credit therefor upon a space available basis, as determined by the president of each such institution, provided that such

audit attendance does not deny course attendance at a state-operated institution by an individual who is otherwise qualified under the regulations promulgated pursuant to this section.

(2) Such regulations shall also provide that upon request by a student who is an eligible veteran the payment of tuition and other fees and charges, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article thirteen of this chapter, article one hundred thirty of this chapter or any other state or federal aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefit Act of 1966, as amended, are received by the veteran, provided that the veteran has filed a claim for such benefits and presents to the state university proof of eligibility, extent of entitlement to benefits and the need for deferral until the receipt of such benefits.

(3) (i) Such regulations shall further provide that the payment of tuition and fees by any student in any state-operated institution of the state university who is a member or the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and stationed in this state, whether or not a resident of the state, shall be paid at a rate or charge no greater than that imposed for students thereat who are residents of this state.

(ii) Such regulations shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student is enrolled in an institution or educational unit of the state university and is attending such institution or educational unit in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof.

(iii) Such regulations shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater than that imposed for students who are residents of this state if such student is enrolled in an institution or educational unit of the state university and is the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and not stationed in this state

immediately following being stationed therein.

(3-a) Notwithstanding the provisions of any other general, special or local law, rule or regulation, the state university trustees shall be authorized to set a reduced rate of tuition and/or fees, or to waive tuition and/or fees entirely, for students participating in any dual or concurrent enrollment program with no reduction in other state, local, or other support for such students earning college credit that such higher education partner would otherwise be eligible to receive; provided that, for purposes of this provision, a dual or concurrent enrollment program shall mean one or more college courses taken by a high school student through a state-operated institution while such student is still enrolled in high school or boards of cooperative educational services and for which the student may receive both high school and college credit.

* (4) The trustees shall not impose a differential tuition charge based upon need or income. Except as hereinafter provided, all students enrolled in programs leading to like degrees at state-operated institutions of the state university shall be charged a uniform rate of tuition except for differential tuition rates based on state residency. Provided, however, that the trustees may authorize the presidents of the colleges of technology and the colleges of agriculture and technology to set differing rates of tuition for each of the colleges for students enrolled in degree-granting programs leading to an associate degree and non-degree granting programs so long as such tuition rate does not exceed the tuition rate charged to students who are enrolled in like degree programs or degree-granting undergraduate programs leading to a baccalaureate degree at other state-operated institutions of the state university of New York. Notwithstanding any other provision of this subparagraph, the trustees may authorize the setting of a separate category of tuition rate, that shall be greater than the tuition rate for resident students and less than the tuition rate for non-resident students, only for students enrolled in distance learning courses who are not residents of the state. Except as otherwise authorized in this subparagraph, the trustees shall not adopt changes affecting tuition charges prior to the enactment of the annual budget, provided however that:

(i) Commencing with the two thousand eleven--two thousand twelve

academic year and ending in the two thousand fifteen--two thousand sixteen academic year the state university of New York board of trustees shall be empowered to increase the resident undergraduate rate of tuition by not more than three hundred dollars over the resident undergraduate rate of tuition adopted by the board of trustees in the prior academic year, provided however that commencing with the two thousand eleven--two thousand twelve academic year and ending in the two thousand sixteen--two thousand seventeen academic year if the annual resident undergraduate rate of tuition would exceed five thousand dollars, then a tuition credit for each eligible student, as determined and calculated by the New York state higher education services corporation pursuant to section six hundred eighty-nine-a of this title, shall be applied toward the tuition charged for each semester, quarter or term of study. Tuition for each semester, quarter or term of study shall not be due for any student eligible to receive such tuition credit until the tuition credit is calculated and applied against the tuition charged for the corresponding semester, quarter or term.

(ii) Commencing with the two thousand seventeen--two thousand eighteen academic year and ending in the two thousand twenty--two thousand twenty-one academic year the state university of New York board of trustees shall be empowered to increase the resident undergraduate rate of tuition by not more than two hundred dollars over the resident undergraduate rate of tuition adopted by the board of trustees in the prior academic year, provided, however that if the annual resident undergraduate rate of tuition would exceed five thousand dollars, then a tuition credit for each eligible student, as determined and calculated by the New York state higher education services corporation pursuant to section six hundred eighty-nine-a of this title, shall be applied toward the tuition charged for each semester, quarter or term of study. Tuition for each semester, quarter or term of study shall not be due for any student eligible to receive such tuition credit until the tuition credit is calculated and applied against the tuition charged for the corresponding semester, quarter or term. Provided, further that the revenue resulting from an increase in the rate of tuition shall be allocated to each campus pursuant to a plan approved by the board of trustees to support investments in new classroom faculty, instruction, initiatives to improve student success and on-time completion and a

tuition credit for each eligible student.

(iii) On or before November thirtieth, two thousand seventeen, the trustees shall approve and submit to the chairs of the assembly ways and means committee and the senate finance committee and to the director of the budget a master tuition plan setting forth the tuition rates that the trustees propose for resident undergraduate students for the four year period commencing with the two thousand seventeen--two thousand eighteen academic year and ending in the two thousand twenty--two thousand twenty-one academic year, and shall submit any proposed amendments to such plan by November thirtieth of each subsequent year thereafter through November thirtieth, two thousand twenty, and provided further, that with the approval of the board of trustees, each university center may increase non-resident undergraduate tuition rates each year by not more than ten percent over the tuition rates of the prior academic year for a six year period commencing with the two thousand eleven--two thousand twelve academic year and ending in the two thousand sixteen--two thousand seventeen academic year.

(iv) Beginning in state fiscal year two thousand twelve-two thousand thirteen and ending in state fiscal year two thousand fifteen--two thousand sixteen, the state shall appropriate and make available general fund operating support, including fringe benefits, for the state university in an amount not less than the amount appropriated and made available in the prior state fiscal year; provided, however, that if the governor declares a fiscal emergency, and communicates such emergency to the temporary president of the senate and speaker of the assembly, state support for operating expenses at the state university and city university may be reduced in a manner proportionate to one another, and the aforementioned provisions shall not apply.

(v) Beginning in state fiscal year two thousand seventeen--two thousand eighteen and ending in state fiscal year two thousand twenty--two thousand twenty-one, the state shall appropriate and make available general fund operating support, including fringe benefits, for the state university in an amount not less than the amount appropriated and made available in the prior state fiscal year; provided, however, that if the governor declares a fiscal emergency, and communicates such emergency to the temporary president of the senate and speaker of the assembly, state support for operating expenses at the state university

and city university may be reduced in a manner proportionate to one another, and the aforementioned provisions shall not apply; provided further, the state shall appropriate and make available general fund support to fully fund the tuition credit pursuant to subdivision two of section six hundred sixty-nine-h of this title.

(vi) For the state university fiscal years commencing two thousand eleven--two thousand twelve and ending two thousand fifteen--two thousand sixteen, each university center may set aside a portion of its tuition revenues derived from tuition increases to provide increased financial aid for New York state resident undergraduate students whose net taxable income is eighty thousand dollars or more subject to the approval of a NY-SUNY 2020 proposal by the governor and the chancellor of the state university of New York. Nothing in this paragraph shall be construed as to authorize that students whose net taxable income is eighty thousand dollars or more are eligible for tuition assistance program awards pursuant to section six hundred sixty-seven of this chapter.

* NB Effective until July 1, 2027

* (4) The trustees shall not impose a differential tuition charge based upon need or income. All students enrolled in programs leading to like degrees at state-operated institutions of the state university shall be charged a uniform rate of tuition except for differential tuition rates based on state residency. Provided, however, that the trustees may authorize the presidents of the colleges of technology and the colleges of agriculture and technology to set differing rates of tuition for each of the colleges for students enrolled in degree-granting programs leading to an associate degree and non-degree granting programs so long as such tuition rate does not exceed the tuition rate charged to students who are enrolled in like degree programs or degree-granting undergraduate programs leading to a baccalaureate degree at other state-operated institutions of the state university of New York. Notwithstanding any other provision of this subparagraph, the trustees may authorize the setting of a separate category of tuition rate, that shall be greater than the tuition rate for resident students and less than the tuition rate for non-resident students, only for students enrolled in distance learning courses who are not residents of the state. The trustees shall not adopt changes

affecting tuition charges prior to the enactment of the annual budget.

* NB Effective July 1, 2027

(4-a) Notwithstanding any law, rule, regulation, or practice to the contrary and following the review and approval of the chancellor of the state university or his or her designee, the board of trustees may raise non-resident undergraduate rates of tuition by not more than ten percent over the tuition rates of the prior academic year for the following doctoral degree granting institutions of the state university of New York: the state university of New York college of environmental science and forestry as defined in article one hundred twenty-one of this chapter, downstate medical center, upstate medical center, and the college of technology at Utica-Rome/state university polytechnic institute for a four year period commencing with the two thousand twenty--two thousand twenty-one academic year and ending in the two thousand twenty-three--two thousand twenty-four academic year provided that such rate change is approved annually prior to board of trustees action by the chancellor of the state university or his or her designee.

(4-a-1) Notwithstanding any law, rule, regulation or practice to the contrary and following the review and approval of the chancellor of the state university or such chancellor's designee, the board of trustees may annually impose differential tuition rates on non-resident undergraduate and graduate rates of tuition for state-operated institutions commencing with the two thousand twenty-three--two thousand twenty-four academic year and ending in the two thousand twenty-eight--two thousand twenty-nine academic year, provided that such rates are competitive with the rates of tuition charged by peer institutions and that the board of trustees annually provide the reason and methodology behind any rate increase to the governor, the temporary president of the senate, and the speaker of the assembly prior to the approval of such increases.

(4-b) In state fiscal year two thousand twenty-two--two thousand twenty-three and thereafter, the state shall appropriate and make available general fund operating support in the amount of the tuition credit calculated pursuant to section six hundred eighty-nine-a of this chapter annually.

(5) The trustees shall further provide standards for the granting of advanced standing to veterans applying for college admissions at the

state university, who have successfully completed United States Armed Forces Institute or other comparable course work.

(6) Where an undergraduate state-operated institution of the state university is located adjacent to another institution of higher education and students of such undergraduate state operated institution are, under arrangements made by the state university, taking a substantial portion of their courses at such other institution, the state university trustees may permit the students of such undergraduate state-operated institution, subject to such conditions or limitations as they deem advisable, to participate in the extra-curricular activities and utilize services of such other institution if those privileges are extended by such other institution.

(7) In formulating the curriculum of each state-operated institution in the state university for professional education in medicine there shall be required and included in such curriculum and in the plans and recommendations of the state university trustees formulated and transmitted in pursuance of the provisions of section three hundred fifty-four of this chapter, courses and facilities, which in the judgment of the trustees shall be best suited to encourage and to implement the study and preparation, by students desiring the same, for the family practice of medicine. Such courses and facilities shall include: the establishment and maintenance of a department of family practice under the direction of a qualified family practitioner, courses of study under the supervision of qualified family practitioners, a family care program of study and clinical experience, a program of preceptorships, and a program of internships or family practice residencies in the hospital or hospitals affiliated with such respective school.

(8) Such regulations shall further provide that the payment of tuition and fees by any student who is not a resident of New York state, other than a non-immigrant noncitizen within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code, shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student:

(i) attended an approved New York high school for two or more years, graduated from an approved New York high school and applied for attendance at an institution or educational unit of the state university

within five years of receiving a New York state high school diploma; or

(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state and applied for attendance at an institution or educational unit of the state university within five years of receiving a general equivalency diploma issued within New York state; or

(iii) was enrolled in an institution or educational unit of the state university in the fall semester or quarter of the two thousand one--two thousand two academic year and was authorized by such institution or educational unit to pay tuition at the rate or charge imposed for students who are residents of the state.

A student without lawful immigration status shall also be required to file an affidavit with such institution or educational unit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(9) The trustees shall review any proposed community college tuition increase and the justification for such increase. The justification provided by the community college for such increase shall include a detailed analysis of ongoing operating costs, capital, debt service expenditures, and all revenues.

(10) Such regulations shall further provide that any student who is not a legal resident of New York state but is a United States citizen, a permanent lawful resident, an individual who is granted U or T non-immigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000, a person granted temporary protected status pursuant to the Federal Immigration Act of 1990, an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States, or an applicant without lawful immigration status may have the payment of tuition and other fees and charges reduced by state-aided programs, scholarships or other financial assistance awarded under the provisions of articles thirteen, thirteen-A, fourteen and fourteen-A of this chapter, provided that the student meets the requirements set forth in subparagraph (ii) of

paragraph a or subparagraph (ii) of paragraph b of subdivision five of section six hundred sixty-one of this chapter, as applicable.

* (11) (i) For purposes of this subparagraph, "Team USA athlete" means any student athlete who meets the eligibility standards defined and approved by the United States Olympic and Paralympic Committee and by the national governing body for the sport in which the athlete competes.

(ii) Notwithstanding the provisions of any other general, special or local law, rule or regulation and pursuant to an appropriation and funding being made for such purpose, such regulations shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater than that imposed for students who are residents of this state if such student is enrolled in an institution or educational unit of the state university, is a Team USA athlete, and is training in New York State in an elite level program approved by the United States Olympic and Paralympic Committee.

* NB There are 2 sbpar (11)'s

* (11) Notwithstanding any law, rule or regulation to the contrary, such regulations shall provide for eligibility of admission for students who have completed an online high school program which (i) has in excess of ten thousands students per year nationally complete such program, (ii) is located within the United States, and (iii) is accredited in accordance with paragraph four of appendix three hundred two of the Job Corps Policy and Requirements Handbook (Guidelines for the Ongoing Quality Monitoring of Job Corps High School Diploma (HSD) Programs), as amended from time to time;

* NB There are 2 sbpar (11)'s

i. To lease to alumni associations of institutions of the state university a portion of the grounds occupied by any institution of the state university, for the erection thereon of dormitories to be used by students in attendance at such institutions. The terms of any lease and the character of the building to be erected shall be determined by the state university trustees. Such lease, prior to its execution, shall be submitted to the attorney general for his approval as to its form, contents and legal effect. Nothing contained in this paragraph shall affect the provisions of any lease heretofore executed by a board of

visitors of any state-operated institution pursuant to law. The state university trustees may similarly enter into an agreement with an alumni association of an institution of the state university to furnish heat from a central heating plant to any dormitory erected by such alumni association. Any such dormitory shall not be subject to taxation for any purpose.

j. To enter into a boundary line agreement for, on behalf of, and in the name of the people of the state of New York whenever a mistake has been made or an honest dispute exists as to the location of the division line between land owned by the state, which is under the jurisdiction, care, custody or control of the state university trustees, and adjoining land not owned by the state. Such an agreement shall fix and determine the division line between such lands, subject to the approval of the attorney general as to form, content and manner of execution.

k. To enlist and accept the cooperation of municipal authorities in obtaining the use of public buildings, lands, property and other facilities, or portions thereof, under the jurisdiction of such municipal authorities, for the purposes of the state university. Such appropriate municipal authorities are hereby authorized to permit the use of public buildings, lands, property and other facilities or portions thereof under their jurisdiction for the purposes of the state university, with or without rental or other charges.

l. To appoint university police officers who shall have the powers of police officers and to remove such police officers at pleasure; provided, however, that any person appointed a police officer must have satisfactorily completed or complete within one year of the date of his appointment a course of law enforcement training approved by the municipal police training council in consultation with the university. It shall be the duty of such police officers to preserve law and order on the campuses and other property of the university, including any portion of a public highway which crosses or abuts such property. Subject to the approval of the chancellor, the president of each state-operated campus of the state university shall enter into a written agreement with adjoining law enforcement agencies establishing protocols

for the exercise of authority by such university police officer off-campus, including mutual aid and assistance. Such written protocols shall not be deemed to supersede the authority of other police officers. The provisions of this paragraph shall not apply to any of the state institutions and property referred to in section five thousand seven hundred nine of this chapter.

m. To name and rename any state-operated institution of the state university after consultation with its council.

n. To enter into a contract with the board of education of a city or school district in which a state-operated institution is located for the education by such college, for such period of time as may be agreed upon, of all or part of the children of legal school age residing in such city or school district. A board of education in such a city or school district is hereby authorized and empowered to enter into such contracts with the state university trustees, subject to the approval of the commissioner of education, and to perform all necessary acts to carry out the purposes of this paragraph.

o. To conduct or authorize the conduct of research and experiments at state-operated institutions of the state university in the field or, pursuant to agreements therefor, in industrial and commercial plants, in connection with the educational programs of the state university, including projects involving the care, preservation, utilization and management of natural resources and the disposition of crops and other products incidental thereto.

p. To perform such other acts as may be necessary or appropriate to carry out effectively the objects and purposes of the state university as specified in this article.

q. To prepare and adopt, within the amounts appropriated therefor, plans for land acquisition, state university development and expansion, space needs and uses and for the construction, acquisition, reconstruction, rehabilitation and improvement of academic buildings, dormitories and other facilities required or to be required for the

state-operated institutions and the statutory or contract colleges, and for such planning functions to retain or employ private architects, engineers and artists, or firms thereof, or other and different consultants for proposed projects and for the preparation of space requirements, cost estimates, preliminary plans, budgetary justifications, and construction standards. During the selection of projects for such plans, the trustees shall, where applicable, give due consideration to projects that support improvements in environmental protection, energy and resource management, solar energy and conservation with particular consideration given to a project's potential to generate cost savings over time.

r. To cooperate with and assist the state university construction fund in the construction, acquisition, reconstruction, rehabilitation and improvement of academic buildings, dormitories and other facilities pursuant to article eight-A of this chapter, and to approve the architectural concept of all such construction projects.

s. To lease or make available to the state university construction fund, the dormitory authority or other public benefit corporation, the New York state teachers' retirement system, the New York state employees' retirement system, or a business that intends to locate in a tax-free NY area approved pursuant to article twenty-one of the economic development law, a portion of the grounds or real property occupied by a state-operated institution or statutory or contract college for the construction, acquisition, reconstruction, rehabilitation or improvement of academic buildings, dormitories or other facilities thereon pursuant to article eight-A of this chapter and for the purpose of facilitating such construction, acquisition, reconstruction, rehabilitation or improvement, to enter into leases and agreements for the use of any such academic building, dormitory or other facility in accordance with the provisions of section three hundred seventy-eight of this chapter; provided, however, that nothing herein contained shall affect the provisions of any lease or agreement heretofore executed by the state university with the dormitory authority. The state university trustees may also enter into agreements with the state university construction fund, the dormitory authority or other public benefit corporation, the

New York state teachers' retirement system, the New York state employees' retirement system or any business that intends to locate in a tax-free NY area approved pursuant to article twenty-one of the economic development law, to furnish heat from a central heating plant to any academic building, dormitory or other facility erected by them or with moneys supplied by them. Any such academic building, dormitory or other facility shall not be subject to taxation for any purpose.

t. The trustees shall have the power to lease or make available to a not-for-profit corporation or political subdivision of the state, or the state, or the office for the aging, for the purposes set forth in section sixteen hundred seventy-seven of the public authorities law; pertaining to the use of dormitory authority facilities by the aged, facilities or portions thereof located on the grounds or real property occupied by a state-operated institution or statutory or contract college, which facilities are owned by or mortgaged to the dormitory authority. Such leases and agreements shall be upon such terms and conditions as may be agreed upon between the parties thereto, provided that any such lease or agreement shall be subject to the approval of the dormitory authority. Nothing herein contained shall affect the provisions of any lease or agreement heretofore executed by the state university with the dormitory authority, or any other agency.

u. To establish a water conservation program for academic buildings, dormitories and other facilities of the state university. Such program shall include a survey of water use and conservation in such buildings.

v. To cooperate with and assist the state university construction fund in the construction of academic incubator facilities. "Academic incubator facilities" as used in this chapter shall mean facilities providing low-cost space, technical assistance, support services and educational opportunities, including but not limited to central services shared by tenants of the facility, to new high technology companies in the formative stages of development through a partnership with the state university and shall be state university educational facilities under subdivision twenty-eight of section sixteen hundred seventy-six of the public authorities law. Academic incubator facilities shall promote job

creation, entrepreneurship, technology transfer and provide support services to incubator tenants, including, but not limited to, business planning, management assistance, financial-packaging, linkages to financing sources, and coordination with other sources of assistance.

w. When authorized by law, to cooperate with and assist the state university construction fund in the acquisition and development of sites for university-related economic development facilities as defined in section three hundred seventy-two-a of this title.

x. To enter into one or more agreements with the dormitory authority to provide financial assistance on behalf of the state, as provided in subdivision eight of section six thousand three hundred four of this chapter, to the local sponsors of community colleges for the design, acquisition, construction, reconstruction, rehabilitation or improvement of one or more facilities for locally sponsored community colleges including the furnishing and equipping of such facilities pursuant to section six thousand three hundred four of this chapter. Each such agreement shall provide for annual payments to the dormitory authority from the state aid or other financial assistance provided to the local sponsors of such community colleges and paid into the community college tuition and instructional fund pursuant to paragraph (iii) of subdivision two of section ninety-seven-p of the state finance law, and may contain such other terms and conditions as may be agreed upon by the parties thereto, including, but not limited to, provisions relating to the establishment of reserve funds and indemnities. Each such agreement shall be subject to the approval of the director of the budget.

y. To better secure dormitory authority bonds issued in connection with dormitory facilities, including dormitory facility revenue bonds, the state university of New York is hereby authorized, in its own name, to assign or otherwise transfer to the dormitory authority any or all of the state university's rights, title and interest in and to the dormitory facility revenues, and to enter into agreements with the dormitory authority pursuant to subdivision two of section sixteen hundred eighty-q of the public authorities law in furtherance of such assignment or transfer. Any assignment or transfer made pursuant to this

paragraph shall constitute a true sale and absolute transfer of the dormitory facilities revenues. The characterization of such assignment or transfer shall not be negated or adversely affected by the retention by the state university of New York of any ownership interest in the dormitory facilities revenues or of any residual right to payment of any dormitory facility revenues remaining in the dormitory facilities revenue fund after the moneys therein have been applied in accordance with paragraph (b) of subdivision three of section sixteen hundred eighty-q of the public authorities law. All rights, title and interest in and to any moneys paid to or upon the order of the state university of New York pursuant to any agreement by and between the dormitory authority and the state university of New York entered into pursuant to subdivision two of section sixteen hundred eighty-q of the public authorities law or pursuant to any agreement entered into pursuant to paragraph j of subdivision two of section sixteen hundred eighty of the public authorities law shall vest in the state university of New York and be the absolute property of the state university of New York, and the dormitory authority shall no longer have any interest in such moneys.

z. In connection with business/university partnerships in support of the corporate purposes of the state university, to participate in joint and cooperative arrangements with businesses that have located in a tax-free NY area approved pursuant to article twenty-one of the economic development law provided such arrangements are consistent with the approved plan for such tax-free NY area.

2-a. Notwithstanding any other provision of law, rule, or regulation to the contrary, the state university trustees charter school committee, as a charter entity, are further authorized and empowered, to promulgate regulations with respect to governance, structure and operations of charter schools for which they are the charter entity pursuant to section twenty-eight hundred fifty-one of this chapter.

3. The state university trustees shall adopt and implement a patent policy for research conducted in university facilities which is consistent with the university's mission of education, scholarly

research and public service. Such policy shall be designed to encourage research activities which produce new knowledge which is of benefit to the public and which may result in the development of new products and processes which are likely to improve the quality of life and the standard of living of the people of the state, contribute to increased productivity and advance the public health, safety and welfare. Such policy shall also provide appropriate incentives for participation by private sector business concerns in efforts to develop and utilize patents orginated in conjunction with such research and to commercialize new products and processes based on the results of such research. The trustees, when it is deemed necessary to fulfill the objectives of this subdivision, shall adopt and implement appropriate modifications to such policy. The trustees shall include in the annual report required by section three hundred fifty-nine of this chapter an evaluation of the effectiveness of the policy adopted pursuant to this subdivision together with a synopsis of any changes in that policy adopted during the previous year.

4. Notwithstanding the provisions of section forty-four, fifty, or fifty-one of the state finance law or any other provision of law to the contrary, the state university trustees are authorized and empowered:

a. To review and coordinate the budget and appropriation requests of all state-operated institutions and statutory or contract colleges and combine these requests with the fiscal requirements for institutions of higher education specified in section three hundred fifty-eight hereof into a university program budget for submission to the governor together with appropriate comments by the trustees of the independent institutions operating statutory or contract colleges on behalf of the state regarding the portion of the program budget which relates to such colleges. Such submission shall be made pursuant to the provisions of section twenty-two of the state finance law.

b. To expend all lump sum or consolidated appropriations and other appropriations made for the state university, including all moneys derived from other sources in the course of the administration thereof. Within aggregate funds available for expenditure pursuant to section

forty-nine of the state finance law, the state comptroller shall draw warrants for the payment of all vouchers approved by the chancellor of the state university, as the chief administrative officer of the state university, or by such authority or authorities in the state university as shall be designated by the chancellor by a rule or written direction filed with the state comptroller, when and in the manner authorized by the state university trustees. Such lump sum or consolidated appropriations made for personal service, or for maintenance and operation or for non-personal service, or maintenance undistributed including personal service, other than appropriations from proprietary or fiduciary funds, shall be available for payments for personal service, or maintenance and operation or for non-personal service, or for maintenance undistributed including personal service upon the filing of a schedule of positions and salaries provided, however, that the salary of the chancellor shall be in accordance with section one hundred sixty-nine of the executive law and that the portions of the salaries funded from state appropriations for the presidents and senior staff shall not exceed that of the chancellor and the amounts to be available for other personal service classes of expenditure, and for the expenses of maintenance and operation, or for non-personal service with the director of the budget, chairman of the senate finance committee, chairman of the assembly ways and means committee, and the state comptroller. Any such schedule may be amended and such amendment shall be filed with the officers named above. The state comptroller is authorized to pay any amounts required for the salaries and related employment benefits of state university employees from any appropriations or other funds available therefor. In regard to the state university, the budget director shall exercise the authority granted under section forty-nine of the state finance law by establishing an aggregate amount available for expenditure for the state university from the aggregate appropriations made, by funding source, for the state university in the state operations appropriations act, rather than by making the specific approvals and by filing the certificates of such approvals authorized by section forty-nine of the state finance law. The schedule of positions and salaries required to be filed by the budget director pursuant to section forty-nine of the state finance law shall be replaced by the schedule of positions and salaries filed by the state

university pursuant to this paragraph. If the director of the budget, pursuant to section forty-nine of the state finance law, shall establish as available for expenditure an aggregate amount less than that contained in the appropriations made for the state university in the state operations appropriations act, the board of trustees shall within thirty days of the action of the director of the budget file with the comptroller, with an informational copy to the budget director and to the chairs of the assembly ways and means and senate finance committees, a certificate allocating such lesser amount in no greater detail than provided for in the state operations appropriations act. In the event that the board has failed to file such certification within such thirty day period, the budget director may issue a certificate of availability for the state university reflecting such amount in no greater detail than provided for in the state operations appropriations act.

c. To increase or decrease appropriations by transfer or interchange as follows:

(1) Amounts appropriated for the programs or purposes or for any item or items within such programs or purposes of any individual state-operated institution and the statutory or contract colleges of the state university, including state university central administration within the schedules of such units or for any individual hospital within the schedule of hospitals of the state university from a particular fund or funds in a fiscal year may be interchanged between such programs or purposes of such unit or hospital of state university, or between items within the same program or purpose, or with other items appropriated from such fund not in the same program or purpose, but which are contained in the state comptroller's classification of items as last promulgated pursuant to a certificate of allocation. Such certificate shall be submitted by such units to the board of trustees of the state university. Such certificate shall be submitted by the board of trustees to the state comptroller with copies to be sent to the chairs of the senate finance committee and the assembly ways and means committee and the director of the budget for informational purposes only. The total amount appropriated for any program or purpose may be decreased by not more than the aggregate of five percent of such appropriation for a program or purpose with the approval of the units or hospitals or such

amounts may be decreased by more than the aggregate of five percent of such appropriation with the approval of the state university trustees.

(2) Amounts appropriated to state-operated institutions and statutory or contract colleges within the schedule of such units or to hospitals within the schedule of hospitals of the state university from a particular fund or funds in a fiscal year for the programs or purposes of such units or hospitals of the state university may be transferred between and among such units or hospitals pursuant to a certificate of allocation, submitted directly by the state university to the state comptroller, with copies of such certificates to be sent to the chairs of the senate finance committee and the assembly ways and means committee and the director of the budget for informational purposes only. The total amount appropriated for any unit may not be decreased by more than the aggregate of three percent of an appropriation for a unit or the aggregate of ten percent of an appropriation for a hospital.

(3) Amounts appropriated for programs or purposes, or for any item within such programs or purposes, within the university-wide program schedule of state university from a particular fund or funds in a fiscal year shall not be decreased by means of transfer or interchange by more than the aggregate of four percent of an appropriation for a program or purpose within such schedule.

(4) Amounts appropriated for hospitals within the hospital schedule of the state university from a particular fund or funds in a fiscal year for programs or purposes of such hospitals shall not be increased or decreased by means of transfer or interchange from the amounts appropriated to the state-operated institutions and the statutory or contract colleges, university-wide programs, or central administration of the state university. The aggregate appropriation for the hospital schedule shall not be increased or decreased by such transfers of appropriations.

(5) Amounts appropriated for the central administration of the state university within the central administration schedule from a particular fund or funds in a fiscal year for programs or purposes including, but not limited to, administration of state-operated institutions and statutory or contract colleges, university-wide programs, and hospitals of the state university shall not be increased by means of transfer or interchange by more than five percent of the aggregate appropriation

within such schedule.

(6) Notwithstanding the foregoing provisions of this subdivision, whenever the director of the budget, pursuant to section forty-nine of the state finance law, shall establish an aggregate amount less than that contained in the state operations appropriations act, the trustees may transfer or interchange any or all of such lesser amount among any of the programs or purposes or items without regard to the restrictions provided in this subdivision.

(7) On the fifteenth day of October, January, April and July of each year, the state university shall provide the chair of the senate finance committee and the assembly ways and means committee, the state comptroller and the director of the budget with quarterly reports of all transfers or interchanges made by the state university pursuant to this section, with such reports to include the program impact of each transfer or interchange. The allocation of lump sum appropriations from a fund or funds made to the state university for later distribution to state operated institutions, statutory or contract colleges, hospitals and/or central administration of the state university or the allocation of lump sum appropriations made to all state departments and agencies for later allocation for specific programs or purposes or units of the state university shall not be deemed to be part of any total increase or decrease authorized by this section.

5. Notwithstanding the provisions of subdivision two of section one hundred twelve and sections one hundred fifteen, one hundred sixty-one, and one hundred sixty-three of the state finance law and section three of the New York state printing and public documents law or any other law to the contrary, the state university trustees are authorized and empowered to:

a. (i) purchase materials, proprietary electronic information resources including but not limited to academic, professional, and industry journals, reference handbooks and manuals, research tracking tools, indexes and abstracts; and equipment and supplies, including computer equipment and motor vehicles, where the amount for a single purchase does not exceed seventy-five thousand dollars, (ii) execute contracts for services and construction contracts to an amount not

exceeding seventy-five thousand dollars, and (iii) contract for printing to an amount not exceeding seventy-five thousand dollars, without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the state university board of trustees after consultation with the state comptroller. In addition, the trustees, after consultation with the commissioner of general services, are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any articles, categories of articles, services, or commodities from these limits;

b. establish cash advance accounts for the purpose of purchasing materials, supplies, or services, for cash advances for travel expenses and per diem allowances, or for advance payment of wages and salary. The account may be used to purchase such materials, supplies, or services where the amount of a single purchase does not exceed one thousand dollars, in accordance with such guidelines as shall be prescribed by the state university trustees after consultation with the state comptroller;

c. establish guidelines in consultation with the commissioner of general services authorizing participation by the state university in programs administered by the office of general services for the purchase of available New York state food products. The commissioner of general services shall provide assistance to the state university necessary to enable the university to participate in these programs; and

d. award contract extensions for campus transportation without competitive bidding where such contracts were secured either through competitive bidding or through evaluation of proposals however such extensions may be rejected if the amount to be paid to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the New York, New York-Northeastern, New Jersey area, based upon the consumer price index for all urban consumers (CPI-U) during the preceding twelve-month period. At the time of any contract extension, consideration shall be given to any

competitive proposal offered by a public transportation agency. Such contract may be increased for each year of the contract extension by an amount not to exceed the regional consumer price index increase for the New York, New York-Northeastern, New Jersey area, based upon the consumer price index for all urban consumers (CPI-U), during the preceding twelve-month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

Guidelines promulgated by the state university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price, including consideration of prices available through other state agencies, consistent with quality requirements, and as will best promote the public interest. Such purchases may be made directly from any contractor pursuant to any contract for commodities let by the office of general services or any other state agency.

6. To enter into any contract or agreement deemed necessary or advisable after consultation with appropriate state agencies for carrying out the objects and purposes of the state university without prior review or approval by any state officer or agency other than the state comptroller and the attorney general including contracts with non-profit corporations organized by officers, employees, alumni or students of the state university for the furtherance of its objects and purposes. Contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder, shall not be subject to the requirements of section forty-one of the state finance law; provided, however, that the state shall not be liable for any portion of any defaults which it has agreed to assume pursuant to any such agreement in an amount in excess of money appropriated or otherwise lawfully available therefor at the time the liability for payment arises.

* 6-a. The state university trustees shall adopt guidelines for

foundations of state-operated campuses that require each foundation to adopt a conflict of interest policy applicable to such foundation and its affiliated corporations. Among other items, the state university trustees' guidelines shall require such foundation policies to provide: (a) that service as a board member or officer thereof shall not be used as a means for private benefit or inurement for the board member or officer, a relative thereof, or any entity in which the board member or officer, or relative thereof, has a business interest; (b) no board member or officer who is a vendor of goods or services to the foundation or its affiliated corporation, or who has a business interest in such vendor, or whose relative has a business interest in such vendor, shall vote on, or participate in the foundation's administration of, any transaction with such vendor; and (c) a board member or officer shall advise the chair of the foundation or its affiliated corporation of his or a relative's business interest in any such existing or proposed vendor with the foundation or its affiliate. The state university trustees' guidelines shall define the nature of a business interest and the closeness of a personal relation that bring a relationship within the purposes of this subdivision.

* NB Repealed July 1, 2027

7. To refund or credit moneys paid to the state university for tuition or any other fee or charge imposed or received by the state university trustees (1) where such moneys were not required by law or trustees' rule, to the extent of the amount paid; (2) where such moneys were in excess of the amount required by law or trustees' rule, to the extent of such excess; (3) where registration or attendance at a state university institution is canceled or terminated prior to the expiration of an academic term otherwise than by dismissal, to the extent prescribed by rule or otherwise by the state university trustees; provided, however, that no moneys shall be refunded or credited unless application therefor is made within three years after receipt of such moneys by the state university.

8. Except as otherwise provided herein, all moneys received by the state university of New York and by state-operated institutions thereof from appropriations, tuition, fees, user charges, sales of products and

services and from all other sources, including sources and activities of the state university which are intended by law to be self-supporting may be credited to an appropriate fund or funds to be designated by the state comptroller. The amounts so paid into such fund or funds which were received by or for the state university shall be used for expenses of the state university in carrying out any of its objects and purposes and such amounts received by or for state-operated institutions of the state university shall be used for expenses of the state university under regulations prescribed by the state university trustees. Notwithstanding the foregoing provisions of this subdivision, all dormitory facilities revenues transferred to the dormitory authority by assignment or otherwise pursuant to paragraph y of subdivision two of this section shall upon receipt by the state university acting as agent for the dormitory authority be transferred and immediately paid without appropriation thereof to the commissioner of taxation and finance pursuant to subdivision four of section four of the state finance law for deposit to the dormitory facilities revenue fund.

8-a. All monies received by state university health care facilities from fees, charges, and reimbursement and from all other sources shall be credited to a state university health care account in a fund to be designated by the state comptroller. Notwithstanding the provision of any law, rule or regulation to the contrary, a portion of such monies credited may be transferred to a state university account as requested by the state university chancellor or his or her designee. Monies to establish reserves for long-term expenses of state university health care facilities and to fulfill obligations required for any contract for health care services authorized pursuant to subdivision sixteen of this section may be designated by the state university as a reserve and transferred to a separate contractual reserve account. The amounts in such accounts shall be available for use in accordance with paragraph b of subdivision four and subdivision eight of this section. Monies shall only be expended from the state university health care account and the contractual reserve account pursuant to appropriation. Notwithstanding any provision of this chapter, the state finance law or any other law to the contrary, such appropriations shall remain in full force and effect for two years from the effective date of the appropriation act making

the appropriation. Monies so transferred may be returned to the state university health care account; provided, however, that funds in such contractual reserve account must be sufficient to meet the obligations of all such contracts.

8-b. Notwithstanding the provision of any law, rule or regulation to the contrary, the state university shall be entitled to annually receive an apportionment and payment of state assistance equal to all moneys derived as a result of the tuition increase, calculated as the difference in the amount generated using the tuition rates authorized by the state university trustees for the two thousand seven--two thousand eight academic year and the amount generated using the tuition rates authorized by state university trustees for the two thousand nine--two thousand ten academic year, pursuant to the following schedule: for the two thousand nine--two thousand ten academic year, the state university shall receive an amount equal to twenty percent of such tuition increase; for the two thousand ten--two thousand eleven academic year, the state university shall receive an amount equal to thirty percent of such tuition increase; for the two thousand eleven--two thousand twelve academic year, the state university shall receive an amount equal to forty percent of such tuition increase; and for the two thousand twelve--two thousand thirteen academic year, the state university shall receive an amount equal to fifty percent of such tuition increase. Such apportionment shall be for the enhanced investment in the state university of the state of New York and shall be used to supplement, not supplant, state gross general fund support, unless the director of the budget determines that state fiscal conditions preclude such an outcome and, in which case, the director shall submit a report regarding the recommended funding levels and whether the tuition increase apportionment provisions of this subdivision have been complied with for the state university of the state of New York to the chairs of the senate finance committee and the assembly ways and means committee and the chairs of the senate higher education committee and the assembly higher education committee no later than fifteen days following the release of the executive budget.

9. Notwithstanding any other provision of this section, the state

university trustees may assign to the state university construction fund for the corporate purposes of the fund all or any portion of any moneys received or to be received by the state university and by the state-operated institutions which are not required by a donor or grantor to be used for other state university purposes.

10. The state university trustees may authorize the chief administrative officer of each medical center of the state university operating in-patient or out-patient hospital facilities or clinic facilities to compromise any claim which the state may have for care, maintenance or treatment received or furnished to patients in such facilities, in proper cases, where substantial justice will best be served thereby. Any such compromise shall be subject to the prior written approval of the attorney general.

11. Notwithstanding any provision of law, rule or regulation to the contrary, the state university trustees may authorize the chief administrative officer of each medical center of the state university operating in-patient or out-patient hospital facilities or clinic facilities to establish a system for the billing of patients for the care, maintenance or treatment received or furnished to patients in such facilities, which in proper cases or in the exercise of prudent fiscal discretion may allow for the payment of such charges by means of a credit card or similar device. Such system may allow for the payment of such reasonable administrative fees as may be regularly imposed by a banking institution or other credit service organization for the use of such credit devices. In establishing such system the chief administrative officer shall seek the assistance of the state comptroller who shall assist in developing such system so as to ensure that state funds allocated to such medical centers shall be utilized in an economically feasible method.

12. The state comptroller, or a legally authorized representative of the state comptroller, may accept from the state university in lieu of an examination of the books and accounts of state university, including its receipts and disbursements and any other matters relating to its financial standing, an external examination of its books and accounts

made at the request of state university.

13. Master capital plan. On or before November fifteenth of each year, the trustees of the state university of New York shall approve and submit to the chairmen of the assembly ways and means committee and the senate finance committee and to the director of the budget a master capital plan setting forth the projects proposed to be constructed, reconstructed, rehabilitated or otherwise substantially altered pursuant to appropriations enacted or to be enacted during the succeeding five years. Such plan shall specify the name, location, estimated total cost at the time the project is to be bid, the anticipated date or dates on which the design of such project is to commence, the proposed method of financing and the estimated economic life of each project. Such plan shall further specify whether proposed projects constitute new construction, substantial rehabilitation, moderate rehabilitation or minor rehabilitation and shall indicate how projects support improvements in environmental protection, energy and resource management, solar energy and conservation. Such criteria for each method of financing shall include, but not be limited to: (i) an analysis of private enterprise, federal and any other appropriate financing standards, (ii) the consideration of the period of economic life of projects as related to the method of financing, and (iii) project cost ranges for the methods of financing. Such plan specification and categories of construction shall be defined by the trustees, in consultation with the state university construction fund.

Such capital master plan report shall also include, for each project over one-million dollars, a description of the project; expected construction start date; any changes to the previously reported start or expected completion dates; any changes to the expected cost of the project; the total cash encumbered for the project for the year and the total to date for the project; and the total cash expended for the project for the year and the total to date for the project.

All projects that are reported under this subdivision shall be identified by campus, the name of the specific facility for which the allocation is provided and a description of what the project is that is

being provided.

14. Notwithstanding the provisions of any general, special or local law or charter, the state university trustees shall prepare or cause to be prepared a development and operation plan for a state university athletic facility, as defined in section sixteen hundred eighty-e of the public authorities law. Such development and operation plan shall be submitted to the director of the budget for approval not later than the fifteenth day of September of the fiscal year of the state. The director of the budget shall file a copy of such plan and approval thereof with the chairpersons of the senate finance committee and the assembly ways and means committee. No proposed amendment to the plan shall be effective until submitted by the state university trustees and approved by, the director of the budget and filed by the director with the chairpersons of the senate finance committee and the assembly ways and means committee.

Such development and operation plan shall include, but not be limited to, provisions concerning the following:

(a) revenue and expense estimates for the succeeding three year period commencing in the year of the completion of construction and beneficial occupancy of the state university athletic facility;

(b) the sources of revenues that are projected to be available to meet all costs of the operation, repair, maintenance and continuing use of the state university athletic facility, and any net income remaining to cover subsequent annual debt service expenses, and evidence satisfactory to the state university of New York and the director of the budget that, consistent with university and community use as set forth in this section, revenues will be maximized and available when needed for the state university athletic facility; and

(c) plans for the development, operation, repair, maintenance and continuing use of the state university athletic facility under the care, custody, and management of the state university to include, but not be limited to, athletic competition of the state university of New York at Buffalo, amateur sports, appropriate community events, and activities that generate support for facility operations.

15. State university fiscal year. Notwithstanding any provision of this chapter, the state finance law, or any other law to the contrary, on and after the first day of July, nineteen hundred ninety-three, the fiscal year of the state university of New York, for the purposes of the budget, appropriations, receipts and disbursements of state moneys and all other revenues of the state university, financial reporting, and all other affairs of the state university which are regulated in accordance with or are based on a fiscal year, shall begin with the first day of July and end with the next following thirtieth day of June. Appropriations made for the state university for whatever purpose on the basis of the state university fiscal year which at the close of such fiscal year shall cease to have force and effect except as to liabilities already incurred thereunder shall as to such liabilities continue in force and effect until the next succeeding thirtieth day of September, on which date such appropriation shall lapse and no money shall thereafter be paid out of the state treasury or any of its funds or any of the funds under its management pursuant to such appropriation.

16. Subject to laws and regulations applicable to the state university as a health care provider the state university trustees may:

a. Notwithstanding section one hundred sixty-three of the state finance law, authorize contracts for a state university health care facility for participation in managed care networks and other joint and cooperative arrangements with public, non-profit or business entities including entering into a maximum of twenty network arrangements per year, as partners, joint ventures, sole member or members of non-profit or for-profit corporations, sole member or members of non-profit or for-profit limited liability companies, as lessor or lessee, as participants in joint operating agreements, and shareholders of business corporations, and the provision of management and administrative services by or for state university; provided, however, that any such contracts with for-profit entities shall be authorized only upon approval by the commissioner of health and the director of the division of the budget of a request by the chancellor demonstrating financial need of a state university health care facility. Any contract for the provision of management services shall be subject to any provision of

the public health law and health regulations applicable to the state university as a health care provider, including any review by the commissioner of health pursuant to 10 NYCRR section 405.3(f). In addition, the commissioner of health shall provide for public comment within thirty days of a submission of any management contract required to be reviewed pursuant to regulation. The trustees may also authorize contracts, including capitation contracts, for a state university health care facility for the provision of general comprehensive and specialty health care services, directly or through contract with other service providers or entities, including state university employees or entities comprised thereof. Contracts authorized hereunder shall be:

(1) consistent with trustee guidelines respecting all terms and conditions necessary and appropriate for managed care and other network, joint or cooperative arrangements, including guidelines for comparative review where appropriate;

(2) subject to laws and regulations applicable to the state university as a health care provider, including with respect to rates and certificates of need; and

(3) subject to article fourteen of the civil service law and the applicable provisions of agreements between the state and employee organizations pursuant to article fourteen of the civil service law.

b. (i) Notwithstanding the provisions of subdivision two of section one hundred twelve of the state finance law relating to the dollar threshold requiring the comptroller's approval of contracts and subdivision six of section one hundred sixty-three of the state finance law, authorize contracts for the purchase of goods and services for state university health care facilities:

(A) for any contract which does not exceed one hundred fifty thousand dollars; or

(B) for joint or group purchasing arrangements which do not exceed one hundred fifty thousand dollars without prior approval by any other state officer or agency in accordance with procedures and requirements found in paragraph a of subdivision five of this section.

(ii) contracts authorized hereunder shall be subject to article fourteen of the civil service law and the applicable provisions of agreements between the state and employee organizations pursuant to

article fourteen of the civil service law. The trustees are authorized to negotiate annually with the state comptroller increases in the aforementioned dollar limits.

c. Authorize contracts for the acquisition, by purchase, lease, sublease, transfer of jurisdiction or otherwise, of facilities suitable for the delivery of health care services and for the construction, repair, maintenance, equipping, rehabilitation or improvement thereof. Such contracts shall be subject to approval by the attorney general as to form and by the director of the budget and the state comptroller. Contracts under this paragraph shall be funded from any moneys lawfully available for the expenses of the health care facilities.

17. Investigation of crimes and crime reporting. a. The board of trustees of the state university of New York shall adopt rules requiring that each institution of the state university, on or before January first, two thousand, adopt and implement a plan providing for the investigation of any violent felony offense occurring at or on the grounds of each such institution, and providing for the investigation of a report of any missing student. Such plans shall provide for the coordination of the investigation of such crimes and reports with local law enforcement agencies. Such plans shall include, but not be limited to, written agreements with appropriate local law enforcement agencies providing for the prompt investigation of such crimes and reports and a requirement that the institution shall notify the appropriate law enforcement agency as soon as practicable but in no case more than twenty-four hours after a report of a violent felony or that a student who resides in housing owned or operated by such institution is missing; provided that each institution shall: (1) inform each victim of a sexual offense of their options to notify proper law enforcement authorities, including on-campus and local police; (2) inform the victim of a sexual offense of the right to report or not to report such offense to local law enforcement agencies; and (3) offer the option to be assisted by campus authorities in notifying such authorities, if the victim of sexual assault so chooses, all in compliance with applicable federal law, including, but not limited to, the federal Campus Sexual Assault Victims' Bill of Rights under Title 20 U.S. Code Section 1092(f).

b. As used in this subdivision, the following terms shall have the following meanings:

(i) "Local law enforcement agencies" means any agency or agencies employing peace officers or police officers for the enforcement of the laws of the state, and which has or have jurisdiction under provisions of the criminal procedure law over offenses occurring at or on the grounds of any institution subject to the provisions of this subdivision.

(ii) "Missing student" means any student of an institution subject to the provisions of this subdivision, who resides in a facility owned or operated by such institution and who is reported to such institution as missing from his or her residence.

(iii) "Violent felony offense" means a violent felony offense as defined in subdivision one of section 70.02 of the penal law.

18. Scholarships for academic achievement. a. (1) Beginning with the two thousand--two thousand one academic year and thereafter, scholarships for academic achievement shall be awarded to full-time students completing their sophomore and junior years of study at all state university state operated campuses. Two thousand five hundred scholarships shall be awarded to students in the junior year of study and two thousand five hundred scholarships shall be awarded to students in the senior year of study.

(2) Scholarships made to students in the junior year shall be to the two thousand five hundred students with the highest cumulative grade point average at the end of such students sophomore year of study. Any student receiving such award shall be a New York state resident and shall have a minimum grade point average of 3.5. Such scholarship shall be awarded at the beginning of the spring semester of such student's junior year.

(3) Scholarships made to students in the senior year will be to the two thousand five hundred students with the highest cumulative grade point average at the end of such students' junior year of study. Any student receiving such award shall be a New York state resident and shall have a minimum grade point average of 3.5. Such scholarship shall be awarded at the beginning of the spring semester of such students'

senior year.

b. Each individual state university of New York state operated campus shall receive no more than its pro rata share of awards than the percentage of such university's juniors and seniors represent of the entire system enrollment in the junior and senior classes.

c. Upon determination of the recipients of the annual awards, the chancellor shall notify the members of the state legislature of all recipients who permanently reside within the district that such members represent.

19. The state university of New York shall provide the chairs of the assembly ways and means committee and the senate finance committee with the formula and/or methodology used in determining state aid allocations to state university of New York state operated campuses and university-wide programs and the specific budget allocation to each campus and university-wide program based on the overall funding level for state-operated campuses and university-wide programs included within the executive budget submission for the state university of New York within forty-five days after the submission of the executive budget and within thirty days after the enactment of the state budget.

20. The state university trustees shall adopt rules requiring that each institution of the state university of New York adopt written policies requiring that all public single-occupancy bathroom facilities be designated as gender neutral for use by no more than one occupant at a time or for family or assisted use. Such gender neutral bathroom facilities shall be clearly designated by the posting of such on or near the entry door of each facility. For purposes of this section, "single-occupancy bathroom" shall have the same meaning as paragraph (d) of subdivision one of section one hundred forty-five of the public buildings law.

21. The state university trustees shall adopt a policy requiring that each institution of the state university of New York collaborate with students, faculty and staff to encourage campuses to eliminate the use

of certain plastic items generally recognized by the public as being designed for single use. Such plastic items may include, but shall not be limited to, tableware, straws, stirrers, cups and food service containers. In establishing such a policy, the trustees shall consider the following:

a. the availability of affordable alternatives;

b. the accessibility of alternatives to all students, faculty, and staff;

c. an evaluation of the effectiveness of reusable alternatives; and

d. benchmarks for assessing progress.

§ 355-a. Powers and duties of trustees--personnel functions. 1. (a) The state university trustees are authorized and empowered to classify and reclassify all positions in the state university determined pursuant to section thirty-five of the civil service law to be in the professional service as defined in subdivision three of this section, except those of the New York state colleges, schools and experiment stations administered by Cornell university and Alfred university.

(b) To the fullest extent possible consistent with its authority under the civil service law, and after consultation with the state university trustees, the state civil service commission shall consider the unique educational mission and operating requirements of the state university when making any determination relating to the jurisdictional classification of positions in the state university in the classified service. The director of the classification and compensation division of the department of civil service shall similarly consider the unique educational mission and operating requirements of the state university when making determinations concerning the classification and reclassification and the allocation and reallocation of the positions in the state university in the classified service.

2. Subject to the approval of the state university trustees, Cornell

university and Alfred university are authorized and empowered to allocate and reallocate positions in the non-professional services of the New York state statutory or contract colleges, schools and experiment stations administered by such universities, as classified and reclassified by the respective universities, in accordance with a schedule of positions and salaries filed by the state university trustees pursuant to subdivision four of section three hundred fifty-five of this chapter.

3. a. The professional service shall include positions requiring the performance of educational functions in teacher education, agriculture, home economics, forestry, ceramics, liberal and applied arts and sciences, engineering, technical skills, crafts, business education, labor and industrial relations, medicine, dentistry, veterinary medicine, pharmacy, nursing, law, public affairs, maritime officer training, academic administration, library service, student activities, student personnel service and other professions required to carry on the work of the state university and of the colleges, schools, institutes, research centers, facilities and institutions comprising it. Each employee in the professional service shall receive an annual salary to be paid over a period of not less than nine months as determined by the state university trustees, or by Cornell university and Alfred university with the approval of the state university trustees for the New York state colleges, schools and experiment stations administered by such universities.

b. The non-professional services shall mean all positions at the New York state statutory or contract colleges, schools and experiment stations administered by Cornell university and Alfred university which are not included in the professional service.

4. New appointments in positions allocated to the nonprofessional services shall be made in accordance with a schedule of positions and salaries filed by the state university trustees pursuant to subdivision four of section three hundred fifty-five of this chapter. Any person who is appointed, promoted, reinstated or transferred from an unallocated position in the nonprofessional services to a position allocated to a

salary grade, the minimum salary of which is equal to or lower than the annual rate of compensation then received by such employee, shall, upon such appointment, promotion, reinstatement or transfer, be paid the minimum salary of the grade of such allocated position plus the number of normal performance advancement payments which corresponds to the number of years of service in such employee's former unallocated position or positions during which that employee received a salary equal to or in excess of the minimum salary of the position to which such employee is appointed, promoted, reinstated or transferred, not to exceed the salary that employee was receiving in such employee's former position immediately prior to the date of such appointment, promotion, reinstatement or transfer and not to exceed the maximum salary of the new position.

5. Nothing contained in this section shall prevent the employment of persons who receive part of their compensation from other than state sources.

6. An employee in the professional service who is assigned to extension session, summer session or part-time service shall be entitled to extra compensation for such service provided such service is in addition to that regularly assigned to his position.

7. Any contribution of food, lodging, or maintenance by the state or any commutation in lieu of maintenance, except traveling expenses and field allowances, shall be considered as part of the salary established in this section. The fair value of such food, lodging, maintenance or commutation shall be determined by the state university trustees and may in their discretion be deducted from the salary established by this section.

8. The state university trustees are further authorized and empowered, and Cornell university and Alfred university so far as concerns the New York state statutory or contract colleges, schools and experiment stations administered by such universities, subject to the approval of the state university trustees, are also further authorized and empowered:

a. To except individual positions or groups, titles or classes of positions from the schedules filed by the state university trustees pursuant to subdivision four of section three hundred fifty-five of this chapter.

b. To determine the procedure by which an employee may be promoted on evidence of continued meritorious service, and to make promotions. If an employee in the non-professional services in a position allocated to a salary grade is appointed or promoted to a position in a higher grade, such employee shall receive a percentage increase in existing basic salary of one and one-half percent plus one and one-half percent times the number of grades by which that employee is so advanced, or shall be paid the minimum salary of the grade of the position to which such employee is appointed or promoted, whichever results in a higher annual salary.

c. To transfer positions from one state-operated institution in the state university to another. Notwithstanding the provisions of the state finance law, the trustees are hereby authorized to transfer positions within a unit of the university without the approval of the director of the budget.

d. To grant leaves of absence to employees for travel, study or other appropriate purposes, not to exceed one year in seven, at the rate of not to exceed one-half the regular salary paid, or with salary at full rate for such leave for one-half year. The balance of salaries appropriated for such persons, or so much thereof as may be necessary, may be applied by the state university trustees, Cornell university or Alfred university, as the case may be, during the period of such absence for the payment of the salaries of substitutes to take the place of the persons to whom leaves of absence have been granted as provided herein.

e. To establish regulations providing for the adjustment and determination of salaries of professional service employees whose professional obligation is changed as between or within calendar years or academic years, or whose conditions of appointment are affected by

any other situation unique to state university positions in the unclassified service.

f. To establish regulations providing for the payment, upon resignation or retirement, or upon death while in service, for salary or remuneration due by reason of the completion of required services, or in settlement for unused vacation, if any, to any incumbent of a position in the professional service. The state comptroller is hereby authorized to make such payments in accordance with such regulations from monies available to state university.

9. The annual salary of a position which is classified or reclassified, or which is allocated or reallocated to a salary grade pursuant to this section shall not be reduced for the incumbent by reason of such allocation, reallocation, classification or reclassification so long as such position is held by such incumbent.

No employee whose salary would be increased by such allocation, reallocation, classification or reclassification shall have any claim for the difference between such increased salary and his former salary for the period prior to the date such change in title or salary grade becomes effective.

The state university trustees are further authorized and empowered, and Cornell university and Alfred university so far as concerns the New York state statutory or contract colleges, schools and experiment stations administered by such universities, subject to the approval of the state university trustees, are also further authorized and empowered to adjust salaries upon the reallocation of positions as follows:

When any position allocated to a salary grade is reallocated to a higher salary grade, the annual salary of an incumbent shall be determined in accordance with the provisions of paragraph b of subdivision eight of this section.

10. Salary, status, and accumulated leave credits of employees whose employment changes as between the classified and the unclassified

service:

a. The incumbent of any position in the classified service which is determined to be in the unclassified service shall, on the effective date of such change, be paid at an annual salary rate not less than the former rate. Such person shall retain the rights and privileges of the classified service jurisdictional classification with respect to discipline, dismissal and suspension for as long as such person remains in the redesignated position.

b. Any employee in the classified service who accepts appointment to an unclassified service position shall thereby relinquish the rights and privileges of such employee's classified service jurisdictional classification during the continuance of such employee's service in an unclassified position and shall acquire the rights and status of such employee's unclassified position.

c. Any employee in the classified service who accepts appointment to a position in the unclassified service pursuant to subdivision (h) of section thirty-five of the civil service law having, as of the effective date of such change, an accrued balance of annual leave or sick leave under the attendance rules for the classified service, shall retain such balances to such employee's credit upon appointment to the professional service, but shall accrue no further annual or sick leave under the attendance rules for the classified service. Thereafter any such employees shall be eligible for annual leave and sick leave as provided for by the state university trustees. Upon resignation or retirement from state service such employee shall be paid in cash for any balance of annual leave in accordance with the regulations applicable to persons in the professional service; provided however, that in the case of death while in service, such payment, if any, shall be made to the beneficiary to whom a survivor's death benefit pursuant to section one hundred fifty-four of the civil service law, if any, would be payable.

Any such employee having accrued overtime or personal leave balance shall forfeit such credit, except that such employee shall be paid in cash for an accrued balance of overtime on the basis of the annual

salary in that employee's classified service position at the time of such employee's appointment to the unclassified service. Hereafter, any such employee shall be subject to the provisions made by the state university trustees with respect to vacation and other leave except as herein provided.

d. Any employee in the unclassified service pursuant to subdivision (h) of section thirty-five of the civil service law who accepts appointment to a classified service position having, as of the effective date of such change, eligibility for vacation or sick leave under the provisions made by the state university trustees shall be credited with such balance under the attendance rules for the classified service; provided however, that not more than thirty days of annual leave and two hundred days of sick leave shall be so credited. Thereafter such employee shall accrue annual leave and sick leave credits in accordance with the attendance rules for the classified service, except that (i) that employee's previous state service shall be considered in determining the rate at which the employee shall accumulate annual leave under such rules and (ii) such service shall be considered in allowing any sick leave at one-half salary for which the employee may be otherwise eligible under such rules. For the purpose of establishing an anniversary date for computing personal leave credit, such employee shall be deemed to have been appointed on the effective date of that employee's appointment to the classified service from the unclassified service. Thereafter such employee shall be subject to the attendance rules for the classified service except as herein provided.

11. Whenever a salary for a position in the professional service results in an annual salary rate in an amount other than a whole dollar amount, said rate shall be increased to the next higher whole dollar.

12. Nothing in this section shall be construed to limit the powers heretofore conferred on Cornell university or Alfred university except as expressly provided for herein.

* 13. The expenditure of moneys appropriated to support a group disability insurance program for employees in the professional service shall not exceed sixty percent of salary plus contributions for annuity

contracts not to exceed the rates of employer contributions pursuant to article eight-B of this chapter plus adjustment for cost of living increases reduced by any amount for which the employee is eligible pursuant to compensation or benefit paid for, by or on behalf of the state or state university and any normal contribution to a retirement program made by the state or the state university on the employee's behalf while eligible for benefits under such program in accordance with regulations of the state university trustees relating to eligibility and other terms, conditions and limitations of coverage and benefits and administration of program.

* NB There are 2 sb 13's

* 13. Notwithstanding subdivisions one through thirteen of section one hundred thirty and section one hundred thirty-five of the civil service law or any other provisions of law, rule or regulations to the contrary:

a. Whenever a representative study of peer institutions in private or other public hospitals in the same geographic area as a state university hospital shows that wage rates and/or pay differentials of nurses employed in such peer institutions are higher than the wage rates and/or pay differentials paid by the state to teaching and research center nurses of the state university, the state university trustees may authorize and prescribe pay differentials which may be added as adjustments to the hiring rate, the job rate and the longevity steps of the salary grade or grades and/or shift differentials for teaching and research center nurses in the classified civil service at the state university hospitals, clinics or other ancillary health care facilities in such areas or locations. In each case, pay differentials under this subdivision shall be percentages or fixed dollar amounts. Such differentials shall be in addition to and not in lieu of an employee's basic annual salary. Any performance advancement payments, performance awards, longevity payments or other rights or benefits to which an employee may be entitled shall be calculated from a combined base of annual salary plus differential payments. Any differential payable pursuant to this subdivision shall be included as compensation for retirement purposes. A pay differential shall be terminated for any employee when the employee ceases to be employed in a position, or area, or location for which such pay differential was authorized. Otherwise, a

pay differential shall remain in effect for each such employee and future pay differentials shall be authorized pursuant to this subdivision.

b. Teaching and research center nurses who on April first, nineteen hundred ninety-five are receiving additional compensation as a result of a previous determination by the director of classification and compensation of the department of civil service to authorize a geographic area pay differential shall continue to receive such additional compensation while employed in the position for which such differential was authorized unless modified pursuant to this subdivision.

c. The state comptroller is hereby authorized to make the payments allowed under this subdivision from monies available to the state university from health care revenues.

d. The compensation described herein is limited to those nurses in the classified civil service employed at university health care facilities at the health science center at Syracuse, university hospital at the health science center at Brooklyn, and university hospital at the state university of New York at Stony Brook.

* NB There are 2 sb 13's

* 14. (a) The use of artificial intelligence systems, as defined by section one hundred three-e of the state technology law, shall not affect (i) the existing rights of employees pursuant to a collective bargaining agreement; or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or

(ii) transfer of duties and functions currently performed by employees of the state university of New York to an artificial intelligence system.

(c) The use of an artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership status of all existing employees of the state university of New York shall be preserved and protected.

* NB Repealed July 1, 2028

§ 355-b. Investments in designated obligations; indemnifications. 1. It is hereby found and declared that obligations of the state of New York, the New York state housing finance agency and the dormitory authority of the state of New York are reasonable, prudent, proper and legal investments in which all gifts, grants, bequests and devises administered as endowments by the state university trustees may be invested by such trustees or any officer, employee or fiduciary thereof. For the purposes of this section such gifts, grants, bequests and devises shall be referred to as endowment funds.

2. Notwithstanding any inconsistent provisions of law, the state university trustees may, in their discretion, purchase obligations designated and found to be reasonable, prudent, proper and legal investments in subdivision one of this section for such endowment funds without regard to the percentage of the assets of such endowment funds invested in such obligations and without regard to the percentage of outstanding obligations of each issuer held or to be held by such funds. The state university trustees in determining investments for such endowment funds in such obligations may consider, in addition to the appropriate factors recognized by law, the extent to which such investments will maintain the credit worthiness of the state of New York and the public benefit corporations identified in subdivision one of this section so as to enable the state and such corporations to finance the construction of capital facilities heretofore and hereafter duly authorized for the state university.

3. Notwithstanding any other provisions of law, including the provisions of section seventeen of the public officers law, the state shall save harmless and indemnify each and every trustee, officer,

employee or fiduciary with responsibility for the custody of endowment funds or the assets thereof or for the approval of the sale or investment of the assets of such endowment funds, and any investment adviser, attorney or accountant who shall have been employed by or who have advised such trustee, officer, employee or fiduciary, from any or all financial loss arising out of or in connection with any claim, demand, suit, action, proceeding or judgment for alleged negligence, waste or breach of fiduciary duty by reason of any investment by any endowment funds in any obligations designated in subdivision one of this section, or resulting from the sale of any assets of any endowment fund to obtain sufficient revenues to make such investments, provided that such trustee, officer, employee, fiduciary, investment adviser, attorney or accountant shall, within five days after the date on which he is personally served with, or receives actual notice of, any summons, complaint, process, notice, demand, claim or pleading, shall give notice thereof to the attorney general. Upon such notice, the attorney general shall assume control of the representation of such trustee, officer, employee, fiduciary, investment adviser, attorney or accountant in connection with such claim, demand, suit, action or proceeding. Each person so represented shall cooperate fully with the attorney general or any other person designated to assume such defense in respect of such representation or defense.

§ 355-c. College opportunity to prepare for employment. 1. The state university is authorized to enter into an agreement with the department of social services for the establishment of the college opportunity to prepare for employment (COPE) program for the development of a program of allowable activities and services for eligible participants in the federal job opportunity and basic skills (JOBS) program.

2. The state university shall identify such funds as necessary, including any private funds provided for the purpose of supporting employment and training services, to be used on a matching basis consistent with federal requirements.

3. Services may include, but are not limited to, high school

equivalency, basic education, job skills training, English-as-a-second language, job readiness training, job placement services, case management, career counseling and assessment, employability planning, supportive services such as child care, and a youth demonstration activity providing an integrated program of high school equivalency, occupational training, work experience, and job placement.

4. The state university shall submit an annual evaluation and report on the college opportunity to prepare for employment program to the governor, the speaker of the assembly, the temporary president of the senate, the chairman of the assembly ways and means committee, the chairman of the senate finance committee, and the chair of the legislative commission on skills development and career education no later than October thirty-first following the program year ending June thirtieth. The evaluation and report shall include, at a minimum, a description of services provided, participant characteristics, data on measures of educational and job skills gains, job development and placement, and retention.

§ 355-d. Educational opportunity centers. 1. There shall be created within the state university of New York a comprehensive system of higher education programs and services that promote the growth and stability of the state's educationally and economically challenged communities as referred to in this section as educational opportunity centers.

2. Such educational opportunity centers shall be managed and supervised by the state university and shall provide programs and services that include, but are not limited to the following, provided that the state university shall have the discretion to determine the programs and services offered at each educational opportunity center:

(a) academic programs leading to and increasing persistence in higher education;

(b) vocational programs leading to career pathways, gainful employment and self-sufficiency;

(c) counseling and guidance services to enhance student retention;

(d) targeted services for business and industry to upgrade the skill

levels of emerging and incumbent workers such that they support increased productivity and the creation and retention of job opportunities;

(e) collaboration with secondary schools to assist in the academic preparation of at-risk youth;

(f) collaborative programs with colleges and universities to increase opportunities for center graduates for advanced placement and receipt of academic credits for academic work completed at such center;

(g) collaboration with other state and local agencies, workforce development boards and charitable organizations to meet emerging state-wide priorities for serving the disadvantaged; and

(h) entrepreneurial training opportunities that may lead to community economic development.

3. The state university shall formulate a plan and guidelines for the organization, development, coordination and operation of educational opportunity centers and may promulgate such rules and regulations necessary to carry out the provisions of this section. Such plan shall include:

(a) definition of academic and economic eligibility;

(b) procedures for the selection of such students for admission to a center;

(c) program objectives including coordination with the university's long range mission and goals; and

(d) program evaluation and reporting.

§ 355-e. New York state firearm violence research institute. 1. Institute formation and goals. Subject to amounts available by appropriation, the New York state firearm violence research institute, hereinafter the "institute", is hereby created within the state university of New York. The purposes of the institute shall include:

(a) advising the governor, governmental agencies, and the legislature on matters relating to firearm violence in New York state;

(b) fostering, pursuing and sponsoring collaborative firearm violence research;

(c) increasing understanding by establishing and reporting on what is

known and what is not known about firearm violence of the state;

(d) identifying priority needs for firearm violence research and inventory work within New York that currently are not receiving adequate attention, and identifying public or private entities that are best situated to address such needs, thereby leading to better coordination of firearm violence research efforts in the state;

(e) promoting awareness of existing and new sources of firearm violence information and firearm violence while educating elected officials, governmental agencies, and the general public on firearm violence issues through such means as it may determine;

(f) organizing and sponsoring meetings on firearm violence topics;

(g) encouraging the establishment of networks of collaborating experts engaged in related aspects of firearm violence research;

(h) raising sensitivity to firearm violence concerns among state and local government agencies, and serving as a forum for enhanced interagency information sharing and cooperation;

(i) recommending priority activities for funding through the firearm violence research fund, created pursuant to section ninety-seven-j of the state finance law;

(j) working on a continuing basis with policymakers in the legislature and state agencies to identify, implement, and evaluate innovative firearm violence prevention policies and programs;

(k) recruiting and providing specialized training opportunities for new researchers, including experienced investigators in related fields who are beginning work on firearm violence, young investigators who have completed their education, postdoctoral scholars, doctoral students, and undergraduates; and

(l) providing copies of their research publications to the legislature and to agencies supplying data used in the conduct of such research as soon as is practicable following publication.

2. Research. The institute shall foster, pursue, and sponsor basic, translational, and transformative research, field studies, and all other such activities to research:

(a) the nature of firearm violence, including individual and societal determinants of risk for involvement in firearm violence, whether as a victim or a perpetrator;

(b) the individual, community, and societal consequences of firearm violence;

(c) the prevention and treatment of firearm violence at the individual, community, and societal levels;

(d) the effectiveness of existing laws and policies intended to reduce firearm violence, and efforts to promote the responsible ownership and use of firearms; and

(e) other research as deemed by the institute to be aligned with its core mission.

3. Education and information transfer programs. To the extent possible, the institute shall foster the collection, transfer, and application of firearm violence information in the state by:

(a) fostering access, compatibility, interchange, and synthesis of data about firearm violence maintained by public entities, academic and research institutions, and private organizations;

(b) employing advanced technology to coordinate for ease of use of the scattered firearm violence resources of the state; and

(c) supporting the preparation and publication of interpretative works that draw upon firearm violence resources.

4. Quinquennial reports. The institute shall prepare and submit a report within one year of the effective date of this section and every five years thereafter to the governor and the legislature describing programs undertaken or sponsored by the institute, the status of knowledge regarding the state's firearm violence, and research needs related thereto.

5. Executive committee. The institute shall be guided by an executive committee. Members of the committee shall be from varying backgrounds with members selected from the scientific community, academic community, as well as from government service. Such committee shall consist of ten members including the commissioner of education, the commissioner of criminal justice services, the commissioner of health, the chancellor of the state university of New York or their designees, two at large members appointed by the governor, two members appointed by the temporary president of the senate, and two members appointed by the

speaker of the assembly. Appointed members shall serve for a term of three years, provided that such members may be reappointed. The executive committee shall:

(a) adopt policies, procedures, and criteria governing the programs and operations of the institute;

(b) recommend to the governor and legislature appropriate actions to reduce firearm violence within the state;

(c) develop and implement the research, education and information transfer programs of the institute;

(d) identify and rate proposals for firearm violence research;

(e) submit to the director of the budget, and the chairpersons of the senate finance committee and the assembly ways and means committee on the first day of October, two thousand twenty-one and on or before August first each year thereafter, a budget request for the expenditure of funds available from the firearm violence research fund, for the purposes established by section ninety-seven-j of the state finance law; and

(f) meet publicly at least twice a year. The committee shall widely disseminate notice of its meetings at least two weeks prior to each meeting. The commissioners on the executive committee and the chancellor of the state university of New York shall aid in such dissemination.

6. Scientific working group. The institute shall appoint a scientific working group consisting of individuals having knowledge and expertise in firearm violence research which shall advise and make recommendations to the institute regarding its research and information programs.

7. Institute director. The institute shall have a director who shall be appointed by the executive committee and shall after appointment be an employee of the state university. The institute director shall serve at the pleasure of the executive committee. The institute director shall serve as chief administrative officer of the institute and provide the necessary support for the executive committee.

8. Compensation. The members of the executive committee and the scientific working group shall serve without additional compensation, but shall be eligible to receive reimbursement for their actual and

necessary expenses from the firearm violence research fund established by section ninety-seven-j of the state finance law, provided however, members of the executive committee representing state agencies may receive reimbursement for their actual and necessary expenses from their respective agencies. Members of the executive committee and scientific working group shall be considered state employees for the purposes of sections seventeen and nineteen of the public officers law.

9. Memorandum of understanding. The state university of New York, the department of health, the department of motor vehicles, and the division of criminal justice services shall enter into a written memorandum of understanding to facilitate the appropriate implementation of the firearm violence research institute and the goals, responsibilities, and programs established by this section.

§ 356. Councils of state-operated institutions; powers and duties. 1. Subject to the general management, supervision and control of and in accordance with rules established by the state university trustees, the operations and affairs of each state-operated institution of the state university shall be supervised locally by a council consisting of ten members, nine of whom shall be appointed by the governor and one of whom shall be elected by and from among the students of the institution. Such voting members shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the voting members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. One member shall be designated by the governor as chairman. Where an undergraduate state-operated institution of the state university is located adjacent to another institution of higher education and students of such undergraduate state-operated institution are, under arrangements made by the state university, taking a

substantial portion of their courses at such other institution, the president or other head of such other institution shall be an ex-officio member of the council for such undergraduate state-operated institution. Initial appointments, other than the student member and ex-officio members, shall be for terms expiring July first, nineteen hundred fifty-four, July first, nineteen hundred fifty-five, July first, nineteen hundred fifty-six, July first, nineteen hundred fifty-seven, July first, nineteen hundred fifty-eight, July first, nineteen hundred fifty-nine, July first, nineteen hundred sixty, July first, nineteen hundred sixty-one and, where there is no ex-officio member, July first, nineteen hundred sixty-two, respectively, and subsequent appointments, other than the student member, shall be for a full term of nine years from the first day of July of the calendar year in which the appointment is made. Vacancies shall be filled for the unexpired term in the same manner as original selections. The term of office for each council member appointed on or after April first, nineteen hundred eighty-six shall be seven years. The term of office for the student member shall be one year commencing July first of the calendar year in which the election is conducted, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred seventy-five and expiring June thirtieth, nineteen hundred seventy-six. In the event that the student member ceases to be a student at the institution, such member shall be required to resign. Members of such councils appointed by the governor may be removed by the governor. Members of such councils elected by the students of the institution may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees. Members of such councils shall receive no compensation for their services but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties hereunder.

2. The councils of state-operated institutions shall provide for regular meetings at least four times annually, and the chair, or any five members by petition, may at any time call a special meeting of the council and fix the time and place therefor. At least seven days notice

of every meeting shall be mailed to the usual address of each member, unless such notice be waived by a majority of the council. Resolutions for the consideration of the councils must be mailed to the usual address of each council member no less than seven days prior to a meeting, unless the chair shall make available in writing on the day of the meeting the facts which necessitate an immediate vote. The agenda for such meetings shall be available three days prior to the meetings and shall be considered public records. Five members attending shall constitute a quorum for the transaction of business and the act of a majority of the members present at any meeting shall be the act of the council.

3. Subject to the general management, supervision, control and approval of, and in accordance with rules established by the state university trustees, the council of each state-operated institution shall, with respect to the institution or institutions for which it serves, exercise the following powers:

a. recommend to the state university trustees candidates for appointment by the state university trustees as head of such institution;

b. review all major plans of the head of such institution for its more effective operation and make such recommendations with respect thereto as it deems appropriate. Such plans shall be submitted for approval by the state university trustees, together with the recommendations of the council with respect thereto. The state university trustees shall determine what constitute such major plans, which are hereby generally defined to include, among others, plans for the appraisal or improvement of the faculty and other personnel, expansion or restriction of student admissions, appraisal or improvement of academic programs and of standards for the earning of degrees, expansion of institutional plants and appraisal or improvement of student activities and housing;

c. make regulations governing the care, custody and management of lands, grounds, buildings and equipment;

d. review the proposed budget requests for such institution prepared by the head thereof and recommend to the state university trustees a budget for such institution;

e. foster the development of advisory citizens committees to render such assistance as the council may request, and to appoint the members of such citizens' committees. Members of such citizens' committees shall receive no compensation for their services but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties;

f. name buildings and grounds;

g. make regulations governing the conduct and behavior of students;

h. prescribe for and exercise supervision over student housing and safety;

i. make an annual report to the state university trustees on or before September first of each year, and report to them from time to time on any matter it believes requires their attention;

j. perform such other powers and duties as may be authorized or required by the state university trustees by general rules or special directives; and

k. make and establish, and from time to time alter and amend, such regulations pertaining to the affairs of its institution, not inconsistent with law or the rules of the state university trustees, as may be necessary or appropriate to carry out effectively the foregoing powers and duties.

§ 357. Statutory or contract colleges. Statutory or contract colleges shall continue to be operated pursuant to the provisions of this chapter but such colleges shall be subject to the general supervision of the state university trustees.

§ 358. State aid for certain higher educational institutions. 1. State financial assistance may be provided for designated shares of capital expenditures or operating expenditures or both to the following types of institutions operating in conjunction with the state university program:

a. Medical schools, dental schools, research centers and similar institutions or facilities operating specified training or research programs or projects pursuant to contracts with the state university. The state university is hereby authorized to enter into such contracts with the city university of New York. The acceptance of any such financial assistance or the making of any such contract by or on behalf of a medical school, dental school, research center or similar institution or facility shall not subject it or its programs to supervision, control or regulation by the state university trustees except to the extent that such supervision, control or regulation are expressly stated in the contract.

b. Community colleges.

c. Post-secondary technical vocational training institutions which are partly supported by a municipality or board of education and partly supported by an educational foundation for an industry chartered by the board of regents.

§ 359. Reports of the state university trustees. 1. The trustees of the state university shall make, on or before January first of each year, an annual report of its activities and such recommendations as it may deem appropriate to the board of regents, the governor, the state comptroller and the legislature. This annual report shall include a summary of state university's (1) operations and accomplishments; and (2) revenues and expenditures, in accordance with the categories or classifications established by the trustees of the state university for operating and capital outlay purposes. A copy of such report shall also

be transmitted to the council of each state-operated institution.

2. On the fifteenth day of September, November, January, March, May and July of each year, the trustees of the state university shall submit to the chairs of the senate finance committee and the assembly ways and means committee and the director of the budget for informational purposes, bi-monthly reports developed in consultation with the aforementioned chairs and director of all receipts and disbursements of the state university. These reports shall include but not be limited to:

a. a comparison of actual receipts and disbursements with the fiscal year expenditure and revenue plan;

b. an allocation of lump sums;

c. an allocation of lump sum positions;

d. the reallocation between campuses of personal service based upon full-time equivalent positions;

e. transfers to other than personal service and temporary service;

f. campus allocation changes; and

g. identification of any revenue shortfalls, deficiencies, surpluses, or budgetary actions by the governor.

3. The trustees of the state university shall submit to the governor, the state comptroller and the legislature, within one hundred twenty days after the close of each state university fiscal year, an annual financial statement which has been audited by an independent certified public accountant and prepared in accordance with generally accepted accounting principles as prescribed by the state comptroller.

4. On the fifteenth day of February, May, August and November of each year, the state university shall provide the chairs of the senate finance committee and the assembly ways and means committee and the

director of the budget with: (a) quarterly reports summarizing all expenditures from and status of the health care account and the contractual reserve account authorized by subdivision eight-a of section three hundred fifty-five of this article; and (b) a list of networks in which state university health care facilities are participating.

6. The state university trustees shall annually report on how the revenue generated has been invested in faculty, instruction, initiatives to improve student success and on-time completion and student financial assistance for the duration of the four year tuition plan. The trustees shall submit the report by September first of each subsequent year.

§ 360. Powers to Regulate Traffic on University Grounds. 1. For the purpose of providing for the safety and convenience of its students, faculty, employees, and visitors within and upon the property, roads, streets, and highways under the supervision and control of the state university, the board of trustees is hereby authorized to:

a. Adopt and enforce such provisions of the vehicle and traffic law, or any rules of the state department of transportation adopted under the authority of that law, as control or regulate vehicular or pedestrian traffic and parking.

b. Adopt and enforce such additional rules and regulations for the control of vehicular or pedestrian traffic and parking as local authorities are permitted to adopt and enforce pursuant to the vehicle and traffic law.

c. Adopt and enforce campus rules and regulations not inconsistent with the vehicle and traffic law relating to parking, vehicular and pedestrian traffic, and safety. Such rules and regulations may include provisions for the disposition of abandoned vehicles, removal by towing or otherwise of vehicles parked in violation of such rules at the expense of the owner, the payment of fees for the registration or parking of such vehicles, provided that such campus rules and regulations may provide that any veteran attending the state university

as a student shall be exempt from any fees for parking or registering a motor vehicle, and the assessment of administrative fines upon the owner or operator of such vehicles for each violation of the regulations. However, no such fine may be imposed without a hearing or an opportunity to be heard conducted by an officer or board designated by the board of trustees. Such fines, in the case of an officer or employee of state university, may be deducted from the salary or wages of such officer or employee found in violation of such regulations, or in the case of a student of state university found in violation of such regulations, the university may withhold his or her grades and transcripts until such time as any fine is paid. For purposes of this subdivision, the term "veteran" shall mean a member of the armed forces of the United States who served in such armed forces in time of war and who (i) was honorably discharged or released under honorable circumstances from such service, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

d. To erect, operate and maintain at the entrance or entrances to any such grounds and at other appropriate points thereon or therein appropriate control lights, signs and signals.

2. A violation of any section of the vehicle and traffic law or of any rule of the state department of transportation made applicable as provided in paragraphs a or b of subdivision one hereof, shall be a misdemeanor or traffic infraction as designated in such law or rules as the case may be, and shall be punishable as therein provided. Such laws, rules and regulations shall be enforced, and violations thereof where designated a misdemeanor or traffic infraction shall be punishable in any court having jurisdiction in the territory in which such violations shall occur.

3. Notice of all such laws, rules, and regulations adopted or made applicable pursuant to paragraphs a and b of subdivision one shall be

given by filing a copy of all such laws, rules and regulations in the office of the secretary of state, the office of the clerk of the city, town, or village where they may be enforced, and in the office of the campus security director or such other location as may be designated by the campus chief administrative officer. Notice of campus rules and regulations adopted pursuant to paragraph c of subdivision one shall be given by filing in the office of the campus security director or such other location as may be designated by the campus chief administrative officer.

4. The persons designated as police officers by the board of trustees, pursuant to paragraph l of subdivision two of section three hundred fifty-five of this chapter, shall have the power among all other police powers to issue a uniform traffic summons and complaint as provided in the vehicle and traffic law and simplified traffic informations as provided for in the criminal procedure law for traffic violations committed within the geographical area of employment of such police officers, such informations to be administered pursuant to the provisions of article two-A of the vehicle and traffic law, where applicable.

§ 361. START-UP NY program leases. 1. Any lease or contract between a state university campus, city university campus or community college as defined in section four hundred thirty-one of the economic development law and a business for the use of vacant land or vacant space owned or leased by such state university campus, community college or city university campus in a tax-free NY area approved pursuant to article twenty-one of the economic development law shall provide:

(a) The term of the lease or contract.

(b) A requirement that any contract to which a campus or college is a party, and any contract entered into by a third party acting in place of, on behalf of and for the benefit of the campus or college therein pursuant to any lease, permit or other agreement between such third party and the campus or college for the use of vacant land or vacant space owned or leased by the state university campus, community college or city university campus for the construction, reconstruction,

demolition, excavation, rehabilitation, repair, renovation, alteration or improvement of a project shall be subject to all of the provisions of article eight of the labor law, including the enforcement of prevailing wage requirements by the fiscal officer as defined in paragraph e of subdivision five of section two hundred twenty of the labor law to the same extent as a contract of the state, and shall be deemed a public work for purposes of such article.

(c) Whenever a party to any lease or contract for projects authorized pursuant to this section on lands leased or owned by the city university of New York, enters into a contract under which employees are employed to perform building service work, as that term is defined in section two hundred thirty of the labor law, such work shall be subject to article nine of the labor law to the same extent as building service work performed pursuant to a contract with a public agency.

(d) A requirement that for the purposes of article fifteen-A of the executive law, any individual, public corporation or authority, private corporation, limited liability company or partnership or other entity entering into a contract, subcontract, lease, grant, bond, covenant or other agreement for a project undertaken by a business authorized pursuant to article twenty-one of the economic development law shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article, except that this paragraph shall not apply to any lease or contract entered into by a community college of the state university of New York or city university of New York.

(e) The metes and bounds or other applicable description that can be easily identified, shared and verified by an independent third party of the vacant land or vacant space subject to the contract or lease.

(f) A requirement that any lease, contract or other agreement shall include an indemnity provision whereby the lessee or sublessee promises to indemnify, hold harmless, and defend the lessor against all claims, suits, actions, and liability to all persons on the leased premises, including tenant, tenant's agents, contractors, subcontractors, employees, customers, guests, licensees, invitees, and members of the public, for damage to any such person's property, whether real or personal, or for personal injuries arising out of tenant's use or occupation of the demised premises.

(g) A requirement that upon the expiration of the lease or agreement covering property owned by the campus or college the demised premises and any improvements thereon shall revert to the campus or college, unless the lease is renewed.

(h) A requirement that in the event the demised premises shall cease to be used for the purposes described in the lease or contract covering property owned by the campus or college, the lease or contract shall terminate on the thirtieth day after notice of such termination is mailed to the business, the demised premises and any improvements thereon shall revert to the campus or college.

(i) A requirement that any and all proceeds relating to the lease or contract shall be allocated by the board of trustees to the campus or college for which such contract or lease applies, deposited in the general fund of such campus or college, and used for purposes including but not limited to student financial aid for students who are eligible to receive a tuition assistance award or supplemental tuition assistance pursuant to section six hundred sixty-seven or six hundred sixty-seven-a of the education law and to support additional full-time faculty positions.

2. For the purposes of this section and for the purposes of any lease or contract authorized pursuant to this section: "project" shall mean capital improvement work on real property under the jurisdiction of the campus or college to be subject to any lease, transfer or conveyance, other than conveyance of title. Such capital improvement work shall include the design, construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration or improvement of real property under the jurisdiction of the campus or college.

3. A party to any lease or contract authorized pursuant to this section may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement pursuant to section two hundred twenty-two of the labor law during and for the work involved with such project when such requirement is part of such party's request for proposals for the project and when the party determines that the record supporting the

decision to enter into such an agreement establishes that the interests underlying the competitive bidding laws are best met by requiring a project labor agreement including: obtaining the best work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the possibility of cost savings; and any local history of labor unrest.

§ 363. Curing Alzheimer's health consortium. 1. There is hereby established within the state university of New York the curing Alzheimer's health consortium. The consortium shall have as its purpose to identify genes that predict an increased risk for developing the disease, collaborating with research institutions within the state university of New York system, and the department of health, in research projects and studies to identify opportunities to develop new therapeutic treatment and cures for Alzheimer's.

2. The state university of New York shall issue a request for proposals to partner with hospitals both within the state university of New York and other not-for-profit article twenty-eight of the public health law hospitals and non-profit higher education research institutions to map the genomes of individuals suffering from or at risk of Alzheimer's.

§ 364. Separability. If any clause, sentence, subdivision, paragraph, section or part of this article be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

§ 365. Construction. The powers enumerated in this article shall be interpreted broadly to effectuate the purposes thereof and shall not be construed as a limitation of powers.

ARTICLE 8-A

STATE UNIVERSITY CONSTRUCTION FUND

Section 370. Definitions.
371. State university construction fund.
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§ 370. Definitions. As used or referred to in this article, unless a different meaning clearly appears from the context:

1. "Comptroller" shall mean the state comptroller.

2. "Director of the budget" shall mean the state director of the budget.

3. "Dormitory" shall mean a housing unit or any emergency temporary housing, with necessary and usual attendant and related facilities and

equipment, for the use of students, faculty and staff, and their families, at a state-operated institution or statutory or contract college under the jurisdiction of the state university.

4. "Facility" shall mean a classroom, lecture hall, library, laboratory or other academic building, a dormitory, or any structure on or improvement to real property of any kind or description, including fixtures and equipment which are an integral part of any such building, structure or improvement, a walkway or roadway, and improvements and connections for water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, at a state-operated institution or statutory or contract college under the jurisdiction of the state university.

5. "Federal government" shall mean the United States of America, and any officer, department, board, commission, bureau, division, corporation, agency or instrumentality thereof.

6. "Fund" shall mean the state university construction fund created by subdivision one of section three hundred seventy-one of this chapter.

6-a. "Large-scale construction project" shall mean any project for which the total estimated cost of the contract or contracts is ten million dollars or more that is:

(a) a project performed under the approved master plan of the state university submitted pursuant to subdivision thirteen of section three hundred fifty-five of this chapter; or

(b) which involves the construction, acquisition, reconstruction, rehabilitation or improvement of academic buildings, dormitories and other facilities, with respect to university-related economic development projects authorized by law pursuant to section three hundred seventy-two-a of this article.

7. "Letting agency" shall mean (i) the dormitory authority or other state agency which by agreement with the fund is to award the contracts for a particular construction, acquisition, reconstruction, rehabilitation or improvement project, or (ii) the fund if it is to

award such contracts.

8. "Real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within the same term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments in every estate, interest or right, legal or equitable.

9. "State" shall mean the state of New York.

10. "State agency" shall mean any officer, department, board, commission, bureau, division, public benefit corporation, agency or instrumentality of the state.

11. "State-operated institutions" shall mean institutions comprising the state university as provided for in subdivision three of section three hundred fifty-two of this chapter but not including statutory or contract colleges.

12. "State retirement systems" shall mean (i) the New York state teachers' retirement system provided for in section five hundred two of this chapter and (ii) the New York state employees' retirement system provided for in section ten of the retirement and social security law.

13. "State university" shall mean the state university of New York as defined in section three hundred fifty of this chapter.

14. "Statutory or contract colleges" shall mean colleges furnishing higher education, operated by private institutions on behalf of the state pursuant to statute or contractual agreements; provided that an institution not otherwise a statutory or contract college shall not become a statutory or contract college because of its receipt of state funds or financial assistance pursuant to section three hundred fifty-eight of this chapter, or by entering into any contract pursuant

to that section.

§ 371. State university construction fund. 1. There is hereby created within the state university the "state university construction fund". The fund shall be a corporate governmental agency constituting a public benefit corporation. It shall be administered by three trustees appointed by the governor, one of whom shall at all times be a state university trustee. The trustees other than the state university trustee shall be appointed with the advice and consent of the senate.

2. The trustees of the fund first appointed by the governor shall serve for terms ending December thirty-first, in nineteen hundred sixty-four, nineteen hundred sixty-six and nineteen hundred sixty-eight, respectively. Persons appointed for full terms as their successors shall serve for six years each commencing as of the January first next following the year in which the term of his predecessor expired. In the event of a vacancy occurring in the office of a trustee by death, resignation or otherwise, the governor shall appoint a successor in the same manner as an original appointment to serve for the balance of the unexpired term. A vacancy shall be deemed to have occurred whenever the trustee of the fund who is a state university trustee ceases to be a state university trustee.

3. The trustees of the fund shall serve without salary, but each trustee shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

4. The trustees of the fund may engage in private employment, or in a profession or business, subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The fund shall, for the purposes of such sections, be a "state agency", the trustees thereof shall be "officers" of the agency for the purposes of said sections, and the trustees, officers and other persons in the employment of the fund shall be "employees" for the purposes of subdivision one of section seventeen of the public officers law.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of accepting appointment as a trustee of the fund.

6. The governor may remove any trustee for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him, and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any trustee shall be removed, the governor shall file with the secretary of state a complete statement of charges made against the trustee, and his findings thereon, together with a complete record of the proceedings.

7. The chairman of the fund shall be designated by the governor, shall preside over all its meetings and shall have such other duties as the trustees may direct. A vice-chairman who shall preside over all meetings of the fund in the absence of the chairman and shall have such other duties as the trustees may direct may be designated from time to time by the trustees from among the other trustees.

8. The powers of the fund shall be vested in and exercised by no fewer than two of the trustees then in office. The fund may delegate to one or more of its trustees, or officers, agents and employees, such powers and duties as it may deem proper; provided, however, that all contracts involving an estimated expense of seventy-five thousand dollars or more and all lease agreements to be entered into pursuant to section three hundred seventy-eight of this article shall be approved prior to execution by no fewer than two trustees of the fund.

9. The fund may appoint such officers, employees and agents as it may deem advisable, including a general manager to be the chief administrative officer of the fund, a counsel and a controller, and may prescribe their duties and fix their compensation.

10. Officers and employees of other state agencies may be transferred to the fund and officers and employees of the fund may be transferred to

other state agencies without examination and without loss of any civil service status or rights. No such transfer, however, may be made except with the approval of the head of the other state agency involved, the director of the budget and the chairman of the fund, and in compliance with the rules and regulations of the state civil service commission.

§ 372. Purposes of fund. The purposes of the fund shall be to provide academic buildings, dormitories and other facilities including academic incubator facilities and a pharmaceutical research, development which may also include a manufacturing facility for the state-operated institutions and contract and statutory colleges under the jurisdiction of the state university, to reduce the time lag between determination of need for such facilities and actual occupancy thereof, to expedite the construction, acquisition, reconstruction, rehabilitation or improvement of such facilities and to assure that the same are ready for the purposes intended when needed and when scheduled under the approved master plan of the state university; with respect to university-related economic development projects authorized by law pursuant to section three hundred seventy-two-a of this article, to act as agent for the state university or for a foundation or other not-for-profit entity created by or for the state university. In addition to any other approval or permit otherwise required by law, the fund shall not construct any new project or facility on a campus of the state university unless the said project or facility has been approved by the state university trustees and has been specifically and expressly authorized by such section.

§ 372-a. University-related economic development facilities. 1. Notwithstanding subdivisions one through six and eight through ten of section three hundred seventy-six of this article, the provisions of this section shall apply to the fund when it acts pursuant to the authorization under this section. Pursuant to the authorization in this section and approval by the trustees of the university, the fund may acquire, design, construct, reconstruct, rehabilitate, improve, lease, manage and/or operate university-related economic development

facilities. University-related economic development facilities, as used in this chapter, shall mean facilities for research, development and commercial enterprises dealing in products and/or services related to the mission or academic specialties of the campus associated with such facilities, or dealing in support products or services for such enterprises which will have a significant economic benefit. Consistent with such authorization, the state university trustees are authorized to enter into contracts or leases for lands and facilities authorized in subdivision two of this section. Such leases or contracts shall be for the development, construction, and operation of such facilities by the fund. Construction, acquisition, rehabilitation, improvement, facilities operation management, mortgaging with any private lender (including other security or financing arrangements incidental or related thereto or customary in connection therewith, leasehold mortgaging or assignment of rents) leasing, subleasing of, providing services for or otherwise assisting or granting of easements, licenses or other arrangements in regard to such facilities and underlying land may be provided from time to time without public bidding or sale by such contracts or leases (and replacements, modifications, substitutions and renewals thereof) and upon such terms as the trustees may approve provided, however, that:

a. No contract or lease for real property shall provide for a fee simple conveyance, or be for a period of greater than thirty years; each such contract or lease shall be approved by the attorney general, as to form, the director of the budget and the comptroller of the state of New York;

b. In the event the real property which is the subject of such lease or contract shall cease to be used for the purposes authorized by this section and at the expiration of such contract or lease in any event, such property and the improvements thereon shall revert to the state university of New York, and any such lease or contract shall be made subject to such conditions, and provide for such reverter;

c. The authorization of any facilities or projects in this section shall expire and be of no further force and effect, unless the approval of the trustees of the university occurs within three years of the

effective date thereof;

d. Any contracts or leases entered into by the trustees of the state university of New York pursuant to this section shall require the lessee or contracting not-for-profit corporation to comply with the requirements of article fifteen-A of the executive law. Any contract or lease for construction, rehabilitation, or other improvement authorized by this section entered into by the trustees shall require the lessee or contractor and/or subcontractor to comply with the requirements of section two hundred twenty, two hundred thirty, two hundred thirty-one, two hundred forty and two hundred forty-one of the labor law, where applicable, as well as sections one hundred one and one hundred three of the general municipal law, where applicable;

e. The benefits to the region, state, and university community by the establishment of a high technology facility at the state university of New York shall be realized with no negative impact upon the employment status of state university of New York employees or collective bargaining units that represent such employees as a result of any contract or lease authorized by this section;

f. Any agreement, contract or lease authorized by this section shall include an indemnity provision whereby the lessee or sublessee promises to indemnify, hold harmless, and defend lessor against all claims, suits, actions, and liability, to all persons on the leased premises, including tenants, tenants' agents, contractors, subcontractors, employees, customers, guests, licensees, invitees, and members of the public, for damage to any such person's property, whether real or personal, or for personal injuries arising out of tenants' use or occupation of the demises premises;

g. Any such lease, contract or agreement authorized by this section must clearly define the purpose for which the land will be used consistent with the mission of the state university of New York and the mission of the campus involved in such lease, contract or agreement; and

h. The fund shall report annually to the state university of New York,

the governor, the speaker of the assembly and the temporary president of the senate, on each of the facilities and projects authorized by this section.

2. Subsequent to the approval of the trustees of the state university, the following facilities are specifically and expressly authorized by law and to the terms and conditions set forth herein:

a. Pharmaceutical technology/manufacturing building and an affiliated academic incubator at state university of New York college at Farmingdale. The state university of New York is authorized to establish an account to receive payments from leases of the pharmaceutical technology/manufacturing building. Any payments deposited into this account may be transferred to the fund for payments related to design, construction, reconstruction, rehabilitation or improvement of the affiliated academic incubator authorized in this paragraph.

§ 373. General powers and duties of fund. The fund shall have the following powers in addition to those specifically conferred elsewhere in this article:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To make and alter by-laws for its organization and internal management;

4. With the approval of the comptroller, to prescribe a system of accounts;

5. To make rules and regulations governing the exercise of its corporate powers and the fulfillment of its corporate purposes under this article, which rules and regulations shall be filed with the secretary of state in the manner provided by section one hundred two of the executive law;

6. To accept jurisdiction over and to hold, use and improve, in accordance with such terms and conditions as the fund and the state university shall determine, any or all real property acquired by the state university trustees in the name of the state for state university purposes, together with such rights and privileges as may be incidental and appurtenant thereto;

7. To purchase, receive, lease or otherwise acquire in accordance with the requirements of article eleven of the state finance law personal property necessary and convenient for its corporate purposes, provided that such personal property shall not be construed to include furnishings and equipment for completed facilities;

8. To design, construct, acquire, reconstruct, rehabilitate and improve academic buildings, dormitories and other facilities for the state university in accordance with sections three hundred seventy-five and three hundred seventy-six of this chapter;

9. In connection with such design, construction, acquisition, reconstruction, rehabilitation and improvement, (i) to install or cause to be installed water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, including appropriate connections, (ii) to construct or cause to be constructed walkways, roadways and other improvements on adjacent real property made available by the state university, and (iii) to landscape adjacent real property or cause the same to be landscaped;

10. To maintain, repair and keep up the real property held by it and the facilities constructed, acquired, reconstructed, rehabilitated or improved pursuant to this article until responsibility therefor is transferred to the state university in accordance with section three hundred seventy-nine of this chapter;

11. Subject to the terms of any lease or agreement with third parties, with respect to approved university-related economic development facilities or approved university related economic development projects

to develop, manage, operate, and/or lease, solely or in cooperation with one or more entities or individuals, or to surrender to the appropriate state official, for other public use or for sale, lease or other disposition in accordance with law, real property made available to the fund for its corporate purposes by the state university whenever the state university trustees determine that such real property is unnecessary for present or foreseeable future needs of the state university;

12. To make and execute contracts, lease agreements, and all other instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this article to an amount not exceeding seventy-five thousand dollars without prior approval by any other state officer or agency; notwithstanding the foregoing, all contracts, lease agreements, and all other instruments exceeding seventy-five thousand dollars in amount shall be subject to section one hundred twelve of the state finance law;

13. To procure insurance against any loss in connection with any facility leased to the fund under section three hundred seventy-eight of this chapter, in such amounts, and from such insurers, as it deems desirable;

14. To act as agent for, or to assist generally, the attorney general and the state commissioner of transportation in making land surveys, topographical surveys and valuation appraisals of real property sought to be acquired by the state university trustees;

15. To engage the services of construction, engineering, architectural, legal and financial consultants, surveyors and appraisers, on a contract basis or as employees, for professional service and technical assistance and advice; and

16. To do any and all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted to it in this article.

* 17. To construct, design/build (using a competitive selection

process with due consideration of cost), develop, manage, lease and/or operate real property and facilities made available to the fund for its corporate purposes by the state university related to academic incubator facilities and a pharmaceutical research, development, which may also include a manufacturing facility located at the state university New York college of technology at Farmingdale.

* NB There are 2 sub 17's

* 17. To construct, design/build, develop, manage and/or operate real property and facilities made available to the fund for its corporate purposes by the state university related to academic incubator and approved university-related economic development facilities;

* NB There are 2 sub 17's

* 18. To receive or acquire by gift, purchase or otherwise, real and personal property, or services or other aid, including any reimbursement allowance offered or made available by any person, government agency or corporation, including, but not limited to, any foundation or other not-for-profit entity and to receive and use money from any source, including, but not limited to the dormitory authority of the state of New York, or any other private or public source for the site acquisition and construction of a pharmaceutical research, development, which may also include a manufacturing facility at the state university of New York college of technology at Farmingdale.

* NB There are 2 sub 18's

* 18. With respect to approved university-related economic development facilities, to act as agent for, and execute the powers of, a foundation or other not-for-profit entity created by or for the state university; and

* NB There are 2 sub 18's

19. To receive or acquire by gift, purchase or otherwise, real and personal property, or services or other aid, including any reimbursement allowance offered or made available by any person, government agency or corporation, including, but not limited to, any foundation or other not-for-profit entity and to receive and use money from any source, including, but not limited to the dormitory authority of the state of New York, or any other private or public source for the site acquisition and construction of approved university-related economic development

facilities as set forth in section three hundred seventy-two-a of this article.

§ 373-a. Jurisdiction in actions by, against or involving the fund. The state supreme court shall have exclusive jurisdiction of any action, where the amount sought to be recovered, exclusive of interest and costs, exceeds ten thousand dollars, brought by or against or involving the fund. The venue of any such action shall be determined in accordance with the provisions of the civil practice law and rules.

§ 374. Relationship with state university. In order the most effectively to carry out its corporate purposes, the fund shall assist and cooperate with and shall make its personnel and services fully available to the state university in matters relating to the discharge of the capital planning responsibilities and land acquisition program of the state university. During the course of construction, acquisition, reconstruction, rehabilitation and improvement of facilities for the state university, the fund shall consult with the state university as the work progresses in matters relating to changes in space requirements, site plans, architectural concept, and detailed plans and specifications and in matters relating to the materials, equipment and supplies needed to furnish and equip completed facilities. The state university for its part shall assist and cooperate with the fund in matters relating to such construction, acquisition, reconstruction, rehabilitation and improvement, including the financing thereof.

§ 375. Capital construction planning. 1. Construction standards. On or before July first, nineteen hundred sixty-two, the state university trustees shall cause to be prepared with the assistance of the fund, the dormitory authority, the state department of transportation and the division of the budget, proposed standards for all facilities or classes of facilities to be constructed, acquired, reconstructed, rehabilitated or improved for the state university pursuant to contracts executed on or after a date thirty days subsequent to the effective date of such

standards. The proposed standards may, in the discretion of the state university trustees, include, among other things, provisions relating to the quality and type of materials to be used in such facilities, provisions for safety, fire protection, health and sanitation, provisions for the installation of fixtures and equipment in such facilities and construction features deemed by the state university to be desirable for academic use or for habitability. The proposed standards shall be reviewed by the state university trustees and shall be subject to their approval, disapproval or modification on or before August first, nineteen hundred sixty-two and in the form approved, shall be forwarded to the governor for his further approval, disapproval or modification within thirty days thereafter. The proposed standards shall be deemed adopted, with or without modifications as the case may be, upon (i) written approval by the governor or (ii) the expiration of thirty days after receipt of the proposed standards by the governor from the state university trustees, whichever occurs first. The effective date of such standards shall be September first, nineteen hundred sixty-two. Such standards, in the form adopted, shall be filed by the state university with the secretary of state in the manner provided by section one hundred two of the executive law.

Changes in the construction standards so adopted may from time to time be formulated and proposed, reviewed, approved, disapproved or modified, adopted and filed in the same manner as the original standards.

2. Design. The fund shall prepare, or cause to be prepared, within the amounts appropriated therefor or otherwise available, the building plans, the exterior drawings or models displaying the architectural concept of the facility, and the detailed plans and specifications for all construction, acquisition, reconstruction, rehabilitation and improvement work to be performed at state-operated institutions or statutory or contract colleges under the jurisdiction of the state university. The fund may cause the building plans, drawings, models and detailed plans and specifications for such work to be prepared under the direction of the letting agency in accordance with the terms of any agreement entered into between the fund and such letting agency pursuant to section three hundred seventy-six of this chapter.

The detailed plans and specifications for any such work to be performed pursuant to a contract executed on or after a date thirty days subsequent to the effective date of the construction standards adopted pursuant to subdivision one of this section shall comply with the standards in effect at the time the contract is executed.

Subject to the terms of any agreement entered into between the fund and the letting agency pursuant to section three hundred seventy-six of this chapter, the fund may from time to time modify, or authorize modifications to, such detailed plans and specifications provided (i) that the plans and specifications as so modified shall comply with the construction standards, if any, adopted pursuant to subdivision one of this section and in effect at the time of the modification, and (ii) that such modifications are made after consultation with the state university, and (iii) that in the event a contingency fund is appropriated to the fund to pay the added costs during the then current state fiscal year of all modifications made in the course of construction, acquisition, reconstruction, rehabilitation and improvement of facilities for the state university, no such modification may be made or authorized in such fiscal year without the approval of the director of the budget unless the cost thereof shall be less than five per centum of the total estimated cost of the facility as set forth in the budget bill referred to in subdivision one of section three hundred seventy-six of this chapter, but in no event shall any such modification be made or authorized in such fiscal year if the cost thereof, plus the cost of all modifications theretofore made or authorized during the same state fiscal year, would exceed the amount of the contingency fund appropriated for the purpose of such modifications, and (iv) that in the event a contingency fund is not appropriated for the purpose of such modifications, no such modification involving an estimated expense of ten thousand dollars or more shall be made or authorized without the prior approval of the director of the budget.

3. Municipal regulations. No county, city, town or village shall have power to modify or change the plans or specifications for facilities to be constructed, acquired, reconstructed, rehabilitated or improved for

state university purposes, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform such work in any other or different manner than that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority or permit from such county, city, town or village as a condition of doing such work, nor shall any condition whatever be imposed by any such county, city, town or village in relation to the work being done pursuant to this article, but such work shall be under the sole control of the supervising architect or engineer in accordance with the drawings, plans, specifications and contracts in relation thereto; and the doing of any such work for the fund by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in such contracts or incidental to the proper enforcement thereof.

§ 376. Letting of construction contracts. 1. After May first, nineteen hundred sixty-two, the fund as agent for the state university shall construct, acquire, reconstruct, rehabilitate and improve, or cause to be constructed, acquired, reconstructed, rehabilitated and improved, all academic buildings, dormitories and other facilities to be constructed, acquired, reconstructed, rehabilitated or improved at state-operated institutions or statutory or contract colleges under the jurisdiction of the state university, provided that legislation or appropriations authorizing the same (i) have been requested by the state university trustees, (ii) have been recommended by the governor in a budget bill relating to a state fiscal year commencing on or after April first, nineteen hundred sixty-two which specifies the facilities to be constructed, acquired, reconstructed, rehabilitated or improved and the total estimated cost for each such facility, and (iii) have been approved by the legislature for such state fiscal year. With respect to state fiscal years commencing on or after April first, nineteen hundred sixty-three, the budget bill referred to in the preceding sentence shall

include in addition to the items stated the date when it is desired that the construction, acquisition, reconstruction, rehabilitation or improvement of each facility referred to therein be completed, and all work for such purposes shall be performed in such manner as to assure completion, so far as practicable, by the dates specified.

2. The fund may construct, acquire, reconstruct, rehabilitate and improve such facilities, other than dormitories, by its own employees, by agreement with a state retirement system or any state agency authorized to perform such work, or by contract awarded pursuant to subdivision eight of this section.

3. The fund may construct, acquire, reconstruct, rehabilitate and improve dormitories only by agreement with the dormitory authority established under title four of the public authorities law, except that if the dormitory authority indicates its unwillingness to enter into such an agreement with the fund for such purpose, the fund may construct, acquire, reconstruct, rehabilitate and improve such dormitories by its own employees, by agreement with a state retirement system or any state agency (other than the dormitory authority) authorized to perform such work, or by contract awarded pursuant to subdivision eight of this section, subject, however, to the rights of holders of outstanding bonds and notes of the dormitory authority with respect to existing dormitories.

4. In the event that the dormitory authority enters into an agreement with the fund for construction, acquisition, reconstruction, rehabilitation or improvement of a facility for the state university, it shall perform the work required or cause the work required to be performed in accordance with the terms of such agreement either by its own employees or by contract awarded pursuant to the provisions of title four of the public authorities law. In the event any state agency other than the dormitory authority enters into an agreement with the fund for such work it shall perform the same either by its own employees or by contract awarded pursuant to subdivision eight of this section.

5. No contract for the construction, acquisition, reconstruction,

rehabilitation or improvement of academic buildings, dormitories and other facilities shall be awarded by any letting agency unless the state university trustees shall have approved the architectural concept of the facility to be constructed, acquired, reconstructed, rehabilitated or improved and unless the fund shall have approved the proposed terms of such contract, including the detailed plans and specifications for such facility.

6. Each contract for the construction, acquisition, reconstruction, rehabilitation or improvement of academic buildings, dormitories and other facilities shall include a provision that the architect who designed the facility, or an architect or engineer, or, for projects authorized by section three hundred seventy-two-a of this article a construction manager or other consultant, retained specifically for the purpose of supervision, shall supervise the work to be performed through to completion and shall see to it that the materials furnished and the work performed are in accordance with the drawings, plans, specifications and contract therefor.

7. Any letting agency may in its discretion award one contract for all the work to be performed in construction, acquisition, reconstruction, rehabilitation or improvement without separate and independent bidding or letting on subdivisions of work to be performed.

8. * All contracts which are to be awarded pursuant to this subdivision shall be awarded by public letting in accordance with the following provisions, notwithstanding any contrary provision of section one hundred thirty-five, one hundred thirty-six, one hundred thirty-nine or one hundred forty of the state finance law or any other law, provided, however, that where the estimated expense of any contract which may be awarded pursuant to this subdivision is less than two hundred fifty thousand dollars, a performance bond and a bond for the payment of labor and material may, in the discretion of the fund, not be required, and except that in the discretion of the fund, a contract may be entered into for such purposes without public letting where the estimated expense thereof is less than one hundred fifty thousand dollars, or where in the judgment of the fund an emergency condition

exists as a result of damage to an existing academic building, dormitory or other facility which has been caused by an act of God, fire or other casualty, or any other unanticipated, sudden and unexpected occurrence, that has resulted in damage to or a malfunction in an existing academic building, dormitory or other facility and involves a pressing necessity for immediate repair, reconstruction or maintenance in order to permit the safe continuation of the use or function of such facility, or to protect the facility or the life, health or safety of any person, and the nature of the work is such that in the judgment of the fund it would be impractical and against the public interest to have public letting; provided, however, that the fund, prior to awarding a contract hereunder because of an emergency condition notify the comptroller of its intent to award such a contract:

* NB Effective until June 30, 2031

* All contracts which are to be awarded pursuant to this subdivision shall be awarded by public letting in accordance with the following provisions, notwithstanding any contrary provision of section one hundred thirty-five, one hundred thirty-six, one hundred thirty-nine or one hundred forty of the state finance law, provided, however, that where the estimated expense of any contract which may be awarded pursuant to this subdivision is less than fifty thousand dollars, a performance bond and a bond for the payment of labor and material may, in the discretion of the fund, not be required, and except that in the discretion of the fund, a contract may be entered into for such purposes without public letting where the estimated expense thereof is less than twenty thousand dollars, or where in the judgment of the fund an emergency condition exists as a result of damage to an existing academic building, dormitory or other facility which has been caused by an act of God, fire or other casualty, or any other unanticipated, sudden and unexpected occurrence, that has resulted in damage to or a malfunction in an existing academic building, dormitory or other facility and involves a pressing necessity for immediate repair, reconstruction or maintenance in order to permit the safe continuation of the use or function of such facility, or to protect the facility or the life, health or safety of any person, and the nature of the work is such that in the judgment of the fund it would be impractical and against the public interest to have public letting; provided, however, that the

fund, prior to awarding a contract hereunder because of an emergency condition notify the comptroller of its intent to award such a contract:

* NB Effective June 30, 2031

a. If contracts are to be publicly let, the letting agency shall advertise the invitation to bid in a newspaper published in the city of Albany and in such other newspapers as will be most likely in its opinion to give adequate notice to contractors of the work required and of the invitation to bid provided, however, that where the estimated expense of any contract which may be awarded pursuant to this subdivision is less than one hundred fifty thousand dollars, the letting agency may advertise the invitation to bid solely through the procurement opportunities newsletter published pursuant to section one hundred forty-two of the economic development law. The invitation to bid shall contain such information as the letting agency shall deem appropriate and a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read.

b. The letting agency shall not award any contract after public bidding except to the lowest bidder who in its opinion is qualified to perform the work required and is responsible and reliable. The letting agency may, however, reject any or all bids, again advertise for bids, or waive any informality in a bid if it believes that the public interest will be promoted thereby.

c. The invitation to bid and the contract awarded shall contain such other terms and conditions, and such provisions for penalties, as the letting agency may deem desirable.

* d. Any contract awarded pursuant to this subdivision shall contain a clause that the contract shall be deemed executory to the extent of the moneys available and that no liability shall be incurred by the fund beyond the moneys available therefor.

* NB Effective until June 30, 2031

* d. The form of any contract awarded pursuant to this subdivision shall be approved by the attorney general and by the comptroller and shall contain a clause that the contract shall be deemed executory to the extent of the moneys available and that no liability shall be

incurred by the fund beyond the moneys available therefor.

* NB Effective June 30, 2031

e. The letting agency shall require such deposits, bonds and security in connection with the submission of bids, the award of contracts and the performance of work as it shall determine to be in the public interest and for the protection of the state, the state university, the fund and the letting agency.

f. Notwithstanding the provisions of any other law to the contrary, all contracts for public work awarded by the state university construction fund pursuant to this subdivision shall be in accordance with section one hundred thirty-nine-f of the state finance law.

9. No payments shall be made by the comptroller from appropriated moneys on account of any construction contract for a facility until the bills or estimates presented for such payment shall have been duly certified to be correct (i) by the chairman of the fund or by an officer of the fund duly designated for that purpose, or (ii) if the dormitory authority is the letting agency, by the chairman thereof or by an officer or employee thereof duly designated for that purpose.

10. Whenever the fund deems it necessary as a result of or in connection with the construction, acquisition, reconstruction, rehabilitation and improvement of any academic building, dormitory, and other facility, to provide for the removal, relocation, replacement, reconstruction, repair or extension by a municipality, county, town, village or public service corporation, of water mains, sewer pipes, telephone lines and other facilities maintained for public use and owned by such municipality, county, town, village or public service corporation, it shall have the power to contract with such municipality, county, town, village or public service corporation and such municipality, county, town, village or public service corporation shall have the power to contract with the fund, for such removal, relocation, replacement, reconstruction, repair or extension. The contract for such removal, relocation, replacement, reconstruction, repair or extension may, at the discretion of the fund, be entered into by the fund without

the necessity of public bidding or public letting. Upon the completion and acceptance by the fund of the performance of such removal, relocation, replacement, reconstruction, repair or extension, said water mains, sewer pipes, telephone lines and other facilities shall be maintained by the municipality, county, town, village or public service corporation, as the case may be.

11. (a) Each contract involving the awarding of a large-scale construction project shall require the use of a project labor agreement, as defined in subdivision one of section two hundred twenty-two of the labor law, for all contractors and subcontractors on the project, consistent with paragraph (a) of subdivision two of section two hundred twenty-two of the labor law, except as otherwise provided in paragraph (b) of this subdivision.

(b) The fund shall not be required to use a project labor agreement where it determines that such agreement would be inconsistent with paragraph (a) of subdivision two of section two hundred twenty-two of the labor law or state competitive bidding laws. Any such determination shall be provided in a written explanation for a particular project contract by the solicitation date. The goals and requirements of article fifteen-A of the executive law and article three of the veteran services law shall apply to all project labor agreements.

(c) An agency may require the use of a project labor agreement on construction projects where the total cost to the fund is less than that for a large-scale construction project, if consistent with paragraph (a) of subdivision two of section two hundred twenty-two of the labor law.

§ 376-a. Notices of claim and commencement of actions against the fund. 1. In every action against the fund for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a trustee or officer of the fund and that the fund has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. Except in an action for wrongful death, an action against the fund for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the fund within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

§ 377. Resources of fund. 1. The fund may receive, accept, invest, administer, expend and disburse for its corporate purposes appropriation from the capital construction fund and the state purposes fund of the state, and other revenues and moneys made available or to be made available to it from any or all sources for the construction, acquisition, reconstruction, rehabilitation and improvement of academic buildings, dormitories and other facilities, including gifts, grants and loans from the federal government, any state agency, any county, city, town or village, any private foundation, organization or individual, or any other source.

2. All moneys of the fund, other than appropriations and except as otherwise authorized or provided in this article, shall be paid to the commissioner of taxation and finance as agent of the fund, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in two or more separate bank accounts, and one of such accounts, to which shall be credited all income from investments or other accounts and all other moneys received or to be received annually by the fund on a recurring basis, shall be denominated the "state university construction fund income account". The moneys in such accounts shall be paid out on checks signed by the commissioner of taxation and finance on requisition of the chairman of the fund or of such other officer or employee or officers or employees as the fund shall authorize to make such requisition. All deposits of such moneys

shall, if required by the commissioner of taxation and finance or the agency, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

3. Any such moneys of the fund not required for immediate use may, at the discretion of the fund, be invested by the commissioner of taxation and finance in obligations of the United States or the state or obligations the principal and interest of which are guaranteed by the United States or the state, or in accordance with the provisions of section ninety-eight-a of the state finance law.

4. Monies received by the fund, in connection with approved university-related economic development facilities, other than state appropriations to the fund, may be deposited in a general account and other such accounts as the fund may deem necessary, for the transaction of its business or in relation to construction or property management activities undertaken in connection with such projects and shall be paid out on checks signed by the chairman of the fund or such other person or persons as the trustees of the fund may authorize.

5. The comptroller, or his legally authorized representative, is hereby authorized and empowered from time to time to examine the books and accounts of the fund including its receipts, disbursements, contracts, reserve funds, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the fund, in lieu of such an examination, an external examination of its books and accounts made at the request of the fund.

§ 378. Lease agreements. 1. Any agreement entered into between the fund and a state retirement system pursuant to section three hundred seventy-six of this chapter shall provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or

more facilities, (ii) the leasing thereof and of the land upon which the same is erected to the fund upon completion of construction, acquisition, reconstruction, rehabilitation or improvement for a term not exceeding thirty years and upon such terms and conditions including annual rental as may be agreed upon, and (iii) the conveyance to the state of title to any such facility at the expiration of the term of the lease or upon the earlier payment in full of the total amount specified therein, without additional charge therefor. The state university shall approve any such agreement and shall be a party thereto. Any construction contract entered into by a state retirement system in connection with such lease agreement shall be let, or otherwise entered into, by the retirement system or its agent pursuant to the provisions of section three hundred seventy-six of this chapter. If so designated by a state retirement system, the fund may act as the agent of such retirement system in connection with the construction, acquisition, reconstruction, rehabilitation or improvement which the lease agreement requires.

2. Any agreement entered into between the fund and the dormitory authority pursuant to section three hundred seventy-six of this chapter shall provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or more dormitories, and (ii) the leasing thereof to the state university for a term not exceeding forty years and upon such terms and conditions including annual rental as may be agreed upon. The state university shall approve any such contract and shall be a party to any lease made pursuant to its terms.

3. Any agreement entered into between the fund and a state agency (other than the dormitory authority) which is a public benefit corporation shall provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or more facilities, and (ii) the leasing thereof to the fund upon completion of construction, acquisition, reconstruction, rehabilitation or improvement for a term not exceeding thirty years and upon such terms and conditions including annual rental as may be agreed upon. The state university shall approve any such agreement and shall be a party thereto.

4. To secure the payment of rentals due or to become due in any year under any lease agreement entered into pursuant to subdivision one or subdivision three of this section, the fund may pledge or assign any or all moneys in the state university construction fund income account and in any rental reserve account established pursuant to subdivision five of this section, and any or all moneys which may be in either or both such accounts in the future, whether equal to or in excess of the amount of such rentals due or becoming due in any year, and any or all right, title and interest of the fund in and to the moneys in or to be deposited in such accounts.

5. The fund may create and establish one or more separate accounts to be known as "rental reserve accounts" and may pay into such reserve accounts (i) any moneys apportioned and paid by the state for the purposes of such reserve accounts pursuant to this subdivision, (ii) any moneys in the state university construction fund income account directed to be transferred by the fund to such reserve accounts, and (iii) any other moneys which may be made available to the fund from any source or sources specifically for the purposes of such reserve accounts.

The moneys credited to any rental reserve account established under this subdivision shall be used, except as hereinafter provided, solely for the payment of rentals as they become due under one or more of the lease agreements referred to in subdivision one or subdivision three of this section, provided, however, that the moneys in such account shall not be withdrawn therefrom at any time in such amount as would reduce the amount thereof to less than the maximum amount of rental becoming due in any succeeding calendar year under such lease agreements, except for the purpose of paying such rentals becoming due for the payment of which other moneys of the fund are not available.

Moneys in a rental reserve account not required for immediate use or disbursement may be invested in obligations of the United States or the state or obligations the principal and interest of which are guaranteed by the United States or the state. In computing the amount of a rental reserve account for the purposes of this subdivision, securities in which all or a portion of the account are invested shall be valued at

their market value on a date within seven days of the computation or at their cost to the fund, whichever is less.

Any excess in a rental reserve account at the end of any fiscal year of the fund over the maximum amount of rental becoming due in any succeeding calendar year under such lease agreements shall be withdrawn by the fund from such account and transferred to the state university construction fund income account to be used for the corporate purposes of the fund.

In order further to secure the maintenance in all rental reserve accounts established pursuant to this subdivision of an amount equal to the maximum amount of rental becoming due in any succeeding calendar year under the lease agreements to which the reserve account relates, there shall be annually apportioned and paid to the fund for deposit in such rental reserve accounts such sum, if any, as shall be certified by the chairman of the fund to the governor and director of the budget as necessary to restore such accounts to an amount equal to the maximum amount of rental becoming due in any succeeding calendar year under such lease agreements. The chairman of the fund shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore such rental reserve accounts to the amount aforesaid and the amount so stated in said certificate, if any, shall be apportioned and paid to the fund during the then current state fiscal year.

No lease agreement which contains a provision for the establishment or maintenance of a rental reserve account shall be entered into pursuant to this section unless the governor, or where so designated by the governor for such purpose, the director of the budget, shall have approved the terms thereof.

6. The attorney general shall pass upon the form and sufficiency and manner of execution of any lease agreement entered into pursuant to this section and the same shall not be effective unless so approved by him.

7. The state shall not be liable for any rentals payable by the fund

pursuant to the terms of a lease agreement entered into pursuant to this section and such agreement shall contain among its terms a statement to such effect.

§ 379. Transfer of jurisdiction to state university. As soon as practicable after the completion of work, the fund shall make available to the state university trustees for the purposes intended the academic buildings, dormitories and other facilities constructed, acquired, reconstructed, rehabilitated or improved under this article. Responsibility for the maintenance and routine repair of facilities other than dormitories and for the maintenance and upkeep of adjacent real property shall remain in the fund after the completion of work and shall be transferred from the fund to the state university trustees pursuant to agreement between them, and upon such transfer all right, title and interest of the fund in such facilities shall terminate; provided that in the case of facilities constructed, acquired, reconstructed, rehabilitated or improved solely out of appropriations and grants or gifts of money, such responsibilities shall be so transferred not later than four months after the completion of work. Prior to the transfer of such responsibilities, the state university trustees may act as agent for the fund for the maintenance and routine repair of such facilities and for the maintenance and upkeep of adjacent real property. This section shall not apply when the state university construction fund acts as agent for a foundation or other not-for-profit entity created by or for the state university of New York or when providing facilities or projects authorized by section three hundred seventy-two-a of this article.

§ 380. Tax exemption of moneys and property of fund. The moneys and property of the fund and its operations shall be exempt from taxation.

§ 381. Cooperation and assistance from other state agencies. The state education department, the state department of transportation, the dormitory authority, the state housing finance agency, the division of

the budget, the office of general services and all other state agencies shall cooperate with and assist the fund in the fulfillment of its corporate purposes and in the exercise of its corporate powers under this article and may render such services to the fund within their respective functions as the fund may reasonably request.

§ 382. Annual report of trustees. 1. The fund shall submit to the governor, the regents, the state university trustees, the legislature, the chairs of the senate finance committee and the assembly ways and means committee, annually on or before January first, a full report of its activities and operations through the thirtieth day of the preceding September, including details as to state university construction projects in planning, in construction and completed, the performance record of the fund in completing construction in accordance with the desired completion dates and within the estimated costs recommended by the governor and approved by the legislature, the architects, engineers and other private consultants engaged by the fund on a contract basis and a statement of the total amount paid and yet to be paid, or estimated yet to be paid, under such contract, the letting agency and successful bidder for each construction project, the moneys made available for the purposes of the fund, details as to any lease agreements executed by the fund and the annual rentals required to be paid on account thereof, and such other information related to the activities and operations of the fund as it may consider pertinent. Such report shall also contain details as to all contracts which, pursuant to section three hundred seventy-six of this chapter, have been entered into without public letting where an emergency condition exists, including the nature of such emergency condition and the state-operated institution at which the condition occurred.

2. Notwithstanding the provisions of subdivision one of this section, on or before November fifteenth of each year, the state university construction fund shall submit, and thereafter may resubmit, to the director of the budget, the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a report setting forth the amounts, if any, of all annual

rentals and other payments estimated to become due in the succeeding state fiscal year to the dormitory authority from the fund pursuant to any leases, subleases or other agreements between the dormitory authority and the fund entered into on or after July first, nineteen hundred eighty-eight, to provide state university educational facilities for the state university of New York. Such report shall separately state the amount of income earned on the investment of moneys in the state university construction fund educational facilities payment account since the date of the last such report.

§ 383. Article not affected if in part unconstitutional or ineffective. If any section, subdivision, paragraph, sentence, clause or provision of this article shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 384. Inconsistent provisions of other acts superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other act, general or special, the provisions of this article shall be controlling.

ARTICLE 8-B

STATE UNIVERSITY OPTIONAL RETIREMENT PROGRAM

Section 390. Definitions.
391. Optional retirement program established.
392. Rates of contribution.
393. Election.
394. Survivor's benefits.
395. Social security.
396. Employer not liable for payment of benefits.
396-a. Deductions from benefits of certain retired members.
397. Inconsistent provisions of other acts superseded.

§ 390. Definitions. Wherever used in this article:

1. The term "board" means the board of trustees of the state university of New York.

2. The term "state university" means the state university of New York and the term "community college" means a college established and operated under article one hundred twenty-six of this chapter.

3. The term "eligible employees" means those employees in positions requiring the performance of educational functions in teacher education, agriculture, home economics, forestry, ceramics, liberal and applied arts and sciences, engineering, technical skills, crafts, business education, labor and industrial relations, medicine, dentistry, veterinary medicine, pharmacy, nursing, law, public affairs, maritime officer training, academic administration, library service, student activities, student personnel service and other professions required to carry on the work of the state university and the colleges, schools, institutes, research centers, facilities and institutions comprising it and of the community colleges. Such positions in the state university, including those at the state colleges of agriculture, home economics, veterinary medicine or industrial and labor relations, the state agricultural experiment station at Geneva, or any other institution or agency under the management and control of Cornell university as representative of the board, and at the state college of ceramics under the management and control of Alfred university as the representative of the board, and such positions in the community colleges shall be those certified to the board by the chancellor of state university as requiring the performance of such functions. No person receiving a benefit by reason of his retirement from any retirement or pension system of New York state or any political subdivision thereof shall be eligible to elect the optional retirement program.

3-a. Beginning July first, two thousand thirteen, the term "eligible employees" shall also mean any person excluded from or not encompassed

within a negotiating unit within the meaning of article fourteen of the civil service law who would otherwise be entitled to receive a benefit under the retirement and social security law or the education law initially hired on or after July first, two thousand thirteen with estimated annual wages of seventy-five thousand per annum or greater. Such estimate of annual wages to determine eligibility for the purposes of this subdivision shall be provided by the employer. For the purposes of this subdivision, a newly hired state employee whose immediate preceding employment was with another department, division, or agency of the state shall not be deemed to be an eligible employee.

4. The term "optional retirement program" means the retirement program established pursuant to this article.

5. The term "electing employee" shall mean any eligible employee who exercises his election pursuant to this article to come under the optional retirement program.

6. The term "salary" means all amounts paid by or for the state as compensation for services rendered by an eligible employee holding a position with the state university or by or for a community college as compensation for services rendered by an eligible employee holding a position at such college.

7. The term "insurer" shall mean a life insurance corporation, or other corporation subject to department of financial services supervision.

8. The term "electing employer" means a community college which elects to offer the optional retirement program as herein provided.

8-a. Beginning July first, two thousand thirteen, the term "electing employer" shall also mean any public employer within the state of New York that employs one or more employees who have elected to participate in the optional retirement program established pursuant to this article.

9. The term "local sponsor" means any city, county, intermediate

school district, or school district approved by the board, sponsoring or participating in the establishment or operation of a community college.

§ 391. Optional retirement program established. 1. There is hereby established an optional retirement program which shall provide for the purchase of contracts providing retirement and death benefits for or on behalf of electing employees. Under such program the state or an electing employer and such employees shall contribute, to the extent authorized or required, towards the purchase of such contracts, which shall be issued to, and become the property of, such employees. The board of trustees of a community college may elect to offer the optional retirement program to eligible employees of such college by resolution, which shall become effective upon approval of the local sponsor acting through its local legislative body or board or other appropriate governing agency.

2. The board shall designate the insurer or insurers to which payment of such contributions may be made and shall approve the form and content of such contracts. In making such designation and giving such approval the board shall give due consideration to (i) the nature and extent of the rights and benefits to be provided by such contracts for electing employees and their beneficiaries, (ii) the relation of such rights and benefits to the amount of contributions to be made under this article, (iii) the suitability of such rights and benefits to the needs and interests of electing employees and to the interests of state university and of electing employers in the employment and retention of eligible employees, and (iv) the authority and ability of the designated insurer or insurers to provide rights and benefits under such contracts.

3. The board is hereby authorized to provide for the administration of such optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes in accordance with this article.

§ 392. Rates of contribution. 1. Employer contributions. In the case

of any electing employee initially appointed on or before June thirtieth, nineteen hundred ninety-two, the state, with respect to employees of state university, and the electing employer, with respect to employees of a community college, shall, during continuance of his employment, make contributions at the rate of nine percentum of that portion of their salary upon which contributions, if any, are or may hereafter be paid to the secretary of the treasury of the United States pursuant to article three of the retirement and social security law and at the rate of twelve percentum of any portion of their salary upon which such contributions are not paid, out of monies which shall be appropriated to state university or which shall be available to the electing employer for such purpose. In the case of any electing employee initially appointed on or after July first, nineteen hundred ninety-two, the state, with respect to employees of the state university and the electing employer, with respect to employees of a community college, shall, during continuance of their employment, make contributions at the rate of eight percentum of their salary during the first seven years of such employment and at the rate of ten percentum of their salary thereafter, out of monies which shall be appropriated to the state university or which shall be available to the electing employer for such purpose, provided however, that effective October first, two thousand twenty-six, in the case of any electing employee initially appointed on or after April first, two thousand twelve, with respect to employees of the state university and the electing employer, with respect to employees of a community college, shall, during continuance of their employment, make contributions at the rate of nine percentum of their salary during the first seven years of such employment and at the rate of eleven percentum of their salary thereafter, out of monies which shall be appropriated to the state university or which shall be available to the electing employer for such purpose. For purposes of this subdivision, that portion of the employee's salary upon which contributions are or may thereafter be paid to the secretary of the treasury of the United States pursuant to article three of the retirement and social security law shall be deemed not to exceed sixteen thousand five hundred dollars.

1-a. Employer contributions. In the case of any electing employee

excluded from or not encompassed within a negotiating unit within the meaning of article fourteen of the civil service law initially hired on or after July first, two thousand thirteen, the state and the electing employer shall, during the continuance of their employment, make contributions at the rate of eight per centum of their salary, provided however, that effective October first, two thousand twenty-six, the state and the electing employer shall, during the continuance of their employment, make contributions at the rate of nine percentum of their salary.

2. Employee contributions. (a) In the case of any electing employee, contributions at the rate of three percentum of his salary shall be deducted as the employee contribution by the comptroller, or by the appropriate fiscal officer with respect to an electing employer, provided however, that such employee contribution shall be made by (i) the state for employees other than those employed by an electing employer in accordance with subdivision one of this section during such period as (a) either section seventy-a of the retirement and social security law or section five hundred twenty-eight of this title provides that the contribution of each member of the New York state employees' retirement system or the New York state teachers' retirement system in the employ of the state shall be reduced by at least eight percentum of his compensation or (b) employee contributions to either such system are no longer required by reason of such system becoming noncontributory for state employees, or (ii) by the electing employer in accordance with subdivision one of this section during such period as the contributions of any members of either the New York state employees' retirement system or the New York state teachers' retirement system or of any other public retirement system in this state in its employ shall (a) be reduced by at least eight percentum of their compensation in accordance with section seventy-a of the retirement and social security law or section five hundred twenty-nine of this title or section B3-36.1 or section B20-41.1 of the administrative code of the city of New York or (b) employee contributions to any such system of which any of its employees are members are no longer required by reasons of such system becoming non contributory for such employees; and provided further, however, that such employee contribution with respect to the fiscal year of the city

of New York beginning on July first, nineteen hundred seventy-two and ending on June thirtieth, nineteen hundred seventy-three shall be made by the electing employer in the case of any electing employee who is employed by a community college operated in such city, notwithstanding any of the foregoing provisions of this subdivision to the contrary.

(b) Notwithstanding any provision of paragraph (a) of this subdivision or any other provision of law to the contrary, but subject to the provisions of subdivision d of section six hundred thirteen of the retirement and social security law, in the case of any electing employee initially appointed on or after July first, nineteen hundred ninety-two who is employed by a community college subject to the provisions of this article which is operated in the city of New York, contributions at the rate of three percentum of his or her salary shall be deducted as the employee contribution by the appropriate fiscal officer with respect to such community college.

(c) Notwithstanding any other provision of this section or any other law to the contrary, (1) on and after April first, two thousand eight for a member who joined the optional retirement program established pursuant to this article before April first, two thousand twelve and who has ten or more years of membership in such optional retirement program, the state shall contribute one-third of the three percent employee contribution required pursuant to the provisions of this section on behalf of such employee; and (2) on and after April first, two thousand nine for a member who joined the optional retirement program established pursuant to this article before April first, two thousand twelve and who has ten or more years of membership in such optional retirement program, the state shall contribute two-thirds of the three percent employee contribution required pursuant to the provisions of this section on behalf of such employee; and (3) on and after April first, two thousand ten for a member who joined the optional retirement program established pursuant to this article before April first, two thousand twelve and who has ten or more years of membership in such optional retirement program, the state shall contribute the three percent employee contribution required pursuant to the provisions of this section on behalf of such employee. The provisions of this paragraph shall not apply to any electing employee who becomes a member of the optional retirement program on or after April first, two thousand twelve.

(d) Notwithstanding any other law to the contrary, beginning April first, two thousand thirteen any electing employee appointed on or after April first, two thousand twelve, the rate at which each such employee shall contribute in any current plan year (January first to December thirty-first) shall be determined by reference to the wages of such member in the second plan year (January first to December thirty-first) preceding such current plan year as follows:

(i) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(ii) members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute three and one-half per centum of annual wages;

(iii) members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall contribute four and one-half per centum of annual wages;

(iv) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute five and three-quarters per centum of annual wages; and

(v) members with wages greater than one hundred thousand dollars per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (January first to December thirty-first) in which such member has established membership in the State University Optional Retirement Program, such employee shall contribute a percent of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer, provided, however, that notwithstanding any other law to the contrary, on and after October first, two thousand twenty-six, the rate at which any electing employee who is subject to this paragraph shall contribute in any current plan year (January first to December thirty-first) shall be determined by reference to the wages of such member in the second plan year (January first to December thirty-first) preceding such current plan year as follows:

(i) members with wages of seventy-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(ii) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall

contribute four per centum of annual wages;

(iii) members with wages greater than one hundred thousand dollars per annum but not more than one hundred twenty-five thousand dollars per annum shall contribute five and one-quarter per centum of annual wages; and

(iv) members with wages greater than one hundred twenty-five thousand dollars per annum shall contribute five and three-quarters per centum of annual wages.

3. Payment of contributions pursuant to subdivisions one and two of this section shall be made to the designated insurer or insurers upon audit and warrant of the comptroller for employees of the state university and by the appropriate fiscal officer for employees of an electing employer.

4. In the case of an electing employee initially appointed on or after July first, nineteen hundred sixty-four, no contributions pursuant to subdivisions one and two of this section shall be made by the state or by the electing employer until his completion of one year of service and continuance in service thereafter. Employee contributions, if any, required during this initial year of service shall be deducted and held by the comptroller or by the appropriate fiscal officer of an electing employer. At the end of his initial year of service, a single contribution in an amount determined pursuant to subdivisions one and two of this section, with interest at the rate of four percentum per annum, shall be made by the state, upon audit and warrant of the comptroller, and by the appropriate fiscal officer for an electing employer, to the designated insurer or insurers, on behalf of such employee continued in service. In the case of an electing employee who does not continue in service with state university or with a community college beyond his initial year of service, the amount of employee contribution, if any, deducted from his salary shall be refunded to him, with interest at the rate of four percentum per annum.

5. The provisions of subdivision four of this section shall not apply to any electing employee other than an employee appointed for a specified period of less than three months who, at the time of initial

appointment, owns a contract determined by the board to be similar to those contracts to be purchased under the optional retirement program and issued by the designated insurer or insurers.

§ 393. Election. 1. Election of the optional retirement program.

(a) Each eligible employee initially appointed on or after July first, nineteen hundred sixty-four, within thirty days of his entry into service, shall elect (i) to join either the New York state teachers' retirement system or the New York state employees' retirement system or other public retirement system in this state in accordance with the provisions of law applicable thereto or (ii) to elect the optional retirement program established pursuant to this article; provided however, that (1) such persons initially entering service during the period July first, nineteen hundred sixty-four through November fourth, nineteen hundred sixty-four may defer such election until December fourth, nineteen hundred sixty-four, and (2) eligible employees of an electing employer initially appointed on or after the effective date of the election to offer such program may defer such election until the ninetieth day following such effective date of the election to offer such program established by an electing employer. Any such deferred election shall be effective as of the date of entry into service or the effective date of such offer, whichever is later.

(b) In the event an eligible employee fails to make an election as provided in paragraph (a) of this subdivision, he shall be deemed to have elected membership in the New York state teachers' retirement system, or such public retirement system in this state in which his membership may be otherwise required in accordance with law, except that eligible employees of institutions under the management and control of Cornell university or Alfred university as the representative of the state university trustees shall be deemed to have elected membership in the New York state employees' retirement system. Such membership shall be effective as of the date of entry into service, or in the case of membership in the New York city employees retirement system, at the time otherwise required by law.

(c) The amount, if any, required to have been contributed by any employee in accordance with an election, a deferred election or failure

to elect pursuant to paragraph (a) or paragraph (b) of this subdivision shall be collected by payroll deductions in such manner as may be provided by the comptroller for employees of state university electing the optional retirement program, or by the appropriate fiscal officer for employees of an electing employer, or in the case of membership in either the New York state employees' retirement system or the New York state teachers' retirement system or other public retirement system in this state, by the retirement system concerned.

(d) Eligible employees other than those employed by an electing employer appointed on or before June thirtieth, nineteen hundred sixty-four, may elect the optional retirement program established pursuant to this article. Such election shall be made on or before December fourth, nineteen hundred sixty-four, and shall become effective as of January first, nineteen hundred sixty-five. Eligible employees of an electing employer appointed before the effective date of the election to offer such program may elect the optional retirement program established pursuant to this article. Such election shall be made on or before the ninetieth day following the effective date of such offer and shall become effective on or as of the first day of January next following the effective date of such offer.

(e) Any state employee or employee of an electing employer who becomes eligible to elect the optional retirement program by reason of (i) the certification of the position held by him pursuant to paragraph three of section three hundred ninety of this article or (ii) his appointment, promotion, transfer or reclassification to a position previously so certified, may elect the optional retirement program established pursuant to this article. Such election shall be made within thirty days after notice in writing to such employee of his eligibility, and shall become effective on the date of such election, except that in no case shall such election by a state employee become effective prior to January first, nineteen hundred sixty-five, or in the case of an eligible employee of an electing employer, prior to the first day of January next following the effective date of the offer of such program.

(f) Any eligible employee who was employed by the University of Buffalo prior to its merger into state university and who elected to continue in the retirement program theretofore provided by the University of Buffalo in accordance with section three of chapter nine

hundred eighty of the laws of nineteen hundred sixty-two and who elects the optional retirement program established pursuant to this article as provided in paragraphs (d) or (e) of this subdivision shall become ineligible to continue in the retirement program provided by the University of Buffalo prior to merger on the effective date of such election. Such election shall constitute a waiver of all rights and benefits provided under sections three and seven of chapter nine hundred eighty of the laws of nineteen hundred sixty-two.

(g) No election by an eligible employee of the optional retirement program shall be effective unless it shall be accompanied by an appropriate application, where required, for the issuance of a contract or contracts under the program.

2. Ineligibility for retirement system membership. Any employee who elects the optional retirement program shall be ineligible for membership in the New York state employees' retirement system, the New York state teachers' retirement system or any other public retirement system in this state so long as he shall remain continuously employed in any position by state university or the institutions under the management and control of Cornell university or Alfred university as representative of the board or by an electing employer and shall continue in the optional retirement program.

3. (a) Any eligible employee who is a member of either the New York state employees' retirement system or the New York state teachers' retirement system at the time he elects the optional retirement program established pursuant to this article, shall be deemed to be a person who discontinues service on the effective date of such election, for the purpose of determining his eligibility for rights and benefits in either such system; provided however, that if he does not withdraw his accumulated contributions, (i) his continued service with state university while under the optional retirement program shall be deemed to be member service in either the New York state employees' retirement system or the New York state teachers' retirement system for the purpose of determining his eligibility for any vested retirement allowance, retirement allowance or ordinary death benefit under either such system dependent upon a specified period of total service or upon attainment of

a specified age while in service or upon death while in service; and (ii) the amount of any such benefit to which he or his estate or person designated by him may become entitled under either such system shall be computed only on the basis of service otherwise creditable to him therein and his compensation during such service.

(b) Electing employees and their beneficiaries shall not be entitled to any right or benefit under either the New York state employees' retirement system or the New York state teachers' retirement system other than a vested retirement allowance, retirement allowance or ordinary death benefit to the extent expressly provided for in this section.

4. (a) Any eligible employee of an electing employer who is a member or transferred contributor of either the New York city teachers' retirement system or the New York city employees' retirement system at the time he elects the optional retirement program offered by an electing employer pursuant to this article shall be deemed to be a person who terminates membership on the effective date of such election, for the purpose of determining his eligibility for rights and benefits in either such system; provided however, that if he does not withdraw his accumulated contributions, (i) his continued service at a community college whose employees are otherwise eligible for the New York city teachers' retirement system, or the New York city employees' retirement system shall be deemed to be member service in either the New York city teachers' retirement system or the New York city employees' retirement system for the purpose of determining his eligibility for any retirement allowance or ordinary death benefit under either such system dependent upon a specified period of total service or upon attainment of a specified age while in service or upon death while in service; and (ii) the amount of any such benefit to which he or his estate or person designated by him may become entitled under either such system shall be computed only on the basis of service otherwise creditable to him therein and his compensation during such service. (b) Electing employees and their beneficiaries shall not be entitled to any right or benefit under either the New York city teachers' retirement system or the New York city employees' retirement system other than a retirement allowance or ordinary death benefit to the extent expressly provided for in this

section. Such employee shall not be eligible for any benefit pursuant to section B3-36.0, subdivision two or section B3-36.0, subdivision three of the administrative code of the city of New York or section two hundred forty-five of the military law.

5. (a) Subdivision two of this section shall not apply to any eligible employee who has elected the optional retirement program and after June thirtieth, two thousand two, renders service which is creditable in the New York state teachers' retirement system, other than service for which a contribution is made to the optional retirement program.

(b) Subdivision three of this section shall not apply to any member of the New York state teachers' retirement system who, after joining such system, elects the optional retirement program.

(c) Anything in subdivision three of this section notwithstanding, any eligible employee who is a member of the New York state teachers' retirement system and had elected the optional retirement program prior to July first, two thousand two, may obtain credit for service, other than service for which a contribution is made to the optional retirement program, which is creditable in such system, was rendered after such member had elected the education department optional retirement program, and was rendered between December first, nineteen hundred ninety-one and June thirtieth, two thousand two, provided (i) such member has rendered at least five years of service credited with the New York state teachers' retirement system at the time such service is credited, and (ii) in the case of such member subject to the provisions of article fourteen or fifteen of the retirement and social security law, the member contributes three percent of the wages earned for such service together with interest at the rate of five percent per annum compounded annually from the date of such service until payment is made.

(d) Anything in this subdivision five notwithstanding, service as an eligible employee for which a contribution is made to the optional retirement program shall neither entitle any eligible employee to join or rejoin the New York state teachers' retirement system nor be creditable in such system.

§ 394. Survivor's benefits. In the case of the death of any electing

employee, after the effective date of this election and before retirement, the value of the death benefits provided by the contract or contracts purchased under the optional retirement program which is attributable to the state's contribution as determined by the board, shall be deemed to be an ordinary death benefit provided under a public pension plan within the meaning of section one hundred fifty-four of the civil service law. Notwithstanding the provisions of such section of the civil service law, a survivors benefit payable thereunder on account of the death of any electing employee while in the employ of state university, after the effective date of such election and before retirement, including an employee subject to the provisions of subdivision three of section three hundred ninety-three of this article, shall be paid to such person or persons as such employee shall have nominated to receive the death benefits provided by the contract or contracts purchased under the optional retirement program. In the event such designated beneficiary or beneficiaries do not survive the employee, or if a beneficiary was not so designated, the survivors benefit shall be paid to the deceased employee's estate or as provided in section one hundred three-a of the decedent estate law.

§ 395. Social security. Every electing employee shall have old-age, survivors, and disability insurance coverage provided by the federal social security act in accordance with the provisions of article three of the retirement and social security law.

§ 396. Employer not liable for payment of benefits. Neither the state, nor state university, nor any electing employer or its local sponsor shall be a party to any contract purchased in whole or in part with contributions made under the optional retirement program established and administered pursuant to this article. No retirement, death, or other benefits shall be payable by the state, or by state university, or by any electing employer or its local sponsor under such optional retirement program. Such benefits shall be paid to electing employees or their beneficiaries by the designated insurer or insurers in accordance with the terms of their contracts.

§ 396-a. Deductions from benefits of certain retired members. 1. Notwithstanding any other provision of law, an electing employee who is retired from the optional retirement system shall have the right, at any time after such electing employee's retirement, to execute and file a deduction authorization card with the designated insurer or insurers upon audit and warrant of the comptroller for employees of the state university and by the appropriate fiscal officer for employees of an electing employer authorizing the deduction from such electing employee's retirement allowance of membership dues and such electing employee's share of the cost for employee organization-sponsored benefit plans and the payment thereof to a retiree organization of which the electing employee is then a member and which is then affiliated with either an employee organization certified or recognized as the collective bargaining representative of all employees in the negotiating unit of which the electing employee was a part prior to his or her retirement or with an employee organization with which such employee organization is then affiliated. The designated insurer or insurers upon audit and warrant of the comptroller for employees of the state university and by the appropriate fiscal officer for employees of an electing employer shall thereafter deduct from the retirement allowance of such electing employee the amount of membership dues and such amounts required to be paid by such electing employee for such authorized employee organization-sponsored benefit plans, and shall transmit the sum so deducted to said retiree organization. Such authorization shall continue in effect until revoked in writing by such electing employee. For purposes of this section, the term "employee organization-sponsored benefit plans" shall include any and all insurance plans and/or other benefit plans sponsored by such retiree organization whether provided by (a) a not-for-profit corporation licensed under article forty-three of the insurance law; (b) any insurance company authorized to do business in this state; (c) a health maintenance organization issued a certificate of authority pursuant to article forty-four of the public health law; or (d) a self-insurance arrangement, welfare fund or benefit fund.

2. Notwithstanding any other provision of law, a retired elected employee shall have the right, at any time after his or her retirement, to execute and file a deduction authorization card with the designated insurer or insurers upon audit and warrant of the comptroller for employees of the state university and by the appropriate fiscal officer for employees of an electing employer authorizing the payment of voluntary contributions to the political committee, as defined in subdivision one of section 14-100 of the election law, of such electing employee's employee organization, provided such organization is certified or recognized pursuant to article fourteen of the civil service law as the representative of all employees in the negotiating unit in which such retired electing employee was then employed. Such authorization shall continue in effect until revoked in writing by such electing employee. The designated insurer or insurers upon audit and warrant of the comptroller for employees of the state university and by the appropriate fiscal officer for employees of an electing employer shall determine the cost of administering deductions for voluntary contributions to the political committee and the cost incurred for administering such contributions shall be paid from the funds of the political committee.

§ 397. Inconsistent provisions of other acts superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other act, general or special, the provisions of this article shall be controlling.

ARTICLE 8-C
SPECIAL ANNUITY

Section 398. Definitions.
398-a. Reduction of salaries for investment in custodial accounts.
399. Special annuity and custodial account programs authorized.
399-a. Reduction of salaries for tax-deferred annuities.

§ 398. Definitions. Whenever used in this article:

1. The term "employer" means the state university of New York, the board of higher education of the city of New York, or a community college established and operated under article one hundred twenty-six of this chapter.

2. The term "employee" means a person employed by the state university, the board of higher education of the city of New York, or a community college established and operated under article one hundred twenty-six of this chapter.

3. The term "comptroller" means the comptroller of the state of New York with respect to the state university or the appropriate fiscal officer with respect to other employers.

4. The term "salary" means that amount fixed by or pursuant to law and paid by or for an employer to an employee as compensation for services rendered by the employee to the employer.

5. The term "insurer" means a life insurance corporation or other corporation subject to department of financial services supervision.

§ 398-a. Reduction of salaries for investment in custodial accounts. Each employer, in his discretion, may enter into a written agreement with any employee to reduce the annual salary as otherwise payable by law of such employee for the purpose of investing in a custodial account as permitted under section 403(b) of the United States Internal Revenue Code, as amended, for such employee. Any such agreement may be terminated at any time upon written notice by either such employee or employer and shall be governed by the otherwise consistent provisions of section three hundred ninety-nine of this article. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been

entered into in accordance with the provisions of this section.

§ 399. Special annuity and custodial account programs authorized. 1. An employer is hereby authorized to establish by resolution special annuity and custodial account programs which shall provide for the purchase of contracts or establishment of custodial accounts providing retirement and death benefits for or on behalf of employees electing to enter into an agreement with such employer providing for a reduction of annual salary for the purpose of purchasing such contracts or for making contributions to such custodial accounts.

2. Where the employer has established a special annuity and/or custodial account program authorized by this article, any employee may enter into an agreement with his employer for the reduction of his salary which is earned after the effective date of such agreement and for contributions to the purchase of an annuity contract or to a custodial account for such employee by his employer in an amount equal to the reduction in salary so agreed on. The employer shall purchase the annuity contract or make contributions to the custodial account for such employee entering into such an agreement from the insurer or custodian designated pursuant to subdivision four of this section. Such annuity contract shall be issued to, and become the property of, such employee whose rights therein shall be non-forfeitable except for failure to pay future premiums or such custodial account shall be established on behalf of such employee whose rights therein are non-forfeitable. Neither the state, or a political subdivision thereof, nor an employer shall be a party to any annuity contract purchased or custodial account established in whole or in part with payments pursuant to said agreement, and no retirement, death or other benefit shall be payable by the state, or political subdivision thereof, or by an employer under such agreement or such annuity contract or custodial account.

3. Subject to approval and filing, as hereinafter provided by the comptroller, any such agreement shall specify the amount of such reduction, and the effective date thereof, and shall be binding and irrevocable as to both parties thereto during the continuation of such

employee's employment with the employer; provided, however, that such agreement may be terminated in accordance with university guidelines upon notice in writing by either party. Such termination shall take effect at the beginning of the payroll period the first day of which is nearest to the thirtieth day following the day on which such notification of termination was (i) received by the employer, in the event such termination is initiated by the employee, or (ii) sent to the employee in the event such termination is initiated by the employer.

4. The board of trustees of state university with respect to the state university and the community colleges, and the board of trustees of the city university with respect to employees of the city university of New York, shall designate the insurer or insurers from which such annuity contracts or in the case of custodial accounts, the company or companies from whom regulated investment company shares shall be purchased. In making such designation, due consideration shall be given to (a) the nature and extent of the rights and benefits to be provided by contracts for such special annuity or custodial account for employees and their beneficiaries, (b) the relation of such rights and benefits to the amount of contributions to be made for such contracts, (c) the suitability of such rights and benefits to the needs and interests of employees, and to the interests of employers in the employment and retention of employees, and (d) the authority and ability of the designated insurer or insurers or designated company or companies to provide rights and benefits under such contracts or custodial accounts.

5. The board of trustees of state university, with respect to the state university and the community colleges, and the board of trustees of the city of New York with respect to the city university, are hereby authorized to provide for the administration of a program for the purchase of such special annuities or establishment of custodial accounts, and to perform or authorize the performance of such functions as may be necessary for such purpose in accordance with this section.

6. No agreement for reduction of salary as authorized by this section or any termination thereof shall become effective until approved by and filed with the comptroller. Upon such approval and filing the

comptroller shall reduce an employee's salary pursuant to said agreement and pay an amount equal to the amount agreed upon for such salary reduction as an employer contribution to the designated insurer or insurers or designated custodian or custodians. Notwithstanding the reductions of salary authorized by this article, (i) the amount of employer and employee contributions otherwise required on behalf of an employee electing the optional retirement program pursuant to articles eight-B or one hundred twenty-five-A of this chapter, as the case may be, shall continue to be made on the basis of the salary of such employee without regard to such reduction, or (ii) in the event a member of a public retirement system in this state agrees to a reduction of his salary in accordance with this subdivision, such agreement shall not cause him to lose any benefits under such public retirement system to which he would be otherwise entitled had he not agreed to reduce his salary for the purpose of having a special annuity purchased or contributions to a custodial account made on his behalf, and any required employer and employee contributions shall continue to be made on the basis of the salary of such employee without regard to such reduction. Any survivor's benefit payable pursuant to the civil service law shall be based upon the salary of such employee without regard to the reduction authorized by this article.

7. Any payroll deduction, other than income tax withholdings as required by law, which may be required or authorized pursuant to law, contract, agreement, or any other instrument, the amount of which is determined in relation to an employee's earnings, shall be based on the salary of such employee without regard to reduction thereof pursuant to any agreement authorized by this article.

8. An employee agreeing to have his salary reduced in accordance with this article shall be paid an amount equal to his salary less the amount of the reduction pursuant to such agreement and any deductions authorized by law, such amount to be paid in equal installments in accordance with the payroll procedure otherwise appropriate.

9. Payments for contracts providing for a special annuity or custodial account shall be made by the comptroller to the designated insurer or

insurers or designated custodians out of moneys otherwise available in accordance with law for salaries of the employees for whom such annuities are purchased or contributions to such custodial accounts are made.

10. Nothing contained in this section shall impair or prevent any agreements which have heretofore, or may hereafter be, entered into between Alfred university and any employee of the state college of ceramics under the management and control of Alfred university as the representative of the state university trustees, or between Cornell university and any employee of the state colleges of agriculture, home economics, veterinary medicine or industrial and labor relations, the state agricultural experiment station at Geneva, or any other institution or agency under the management and control of Cornell university as representative of the state university trustees for reduction of the basic annual salary of any such employee as otherwise fixed by or pursuant to law and purchase of a special annuity or contribution to a custodial account on his behalf. In the case of any such employee whose salary is paid directly to him by the state, the comptroller is hereby authorized to reduce his salary in accordance with any such agreement as certified on the appropriate payroll and upon the audit and warrant of the comptroller the amount of any such reduction shall be paid to Alfred university or Cornell university, as the case may be, out of moneys appropriated and otherwise available for the payment of such employee's salary, for the purchase by such university of a special annuity or contribution to a custodial account for such employee. No agreement for reduction of salary and purchase of a special annuity or contribution to a custodial account by any employee to whom this subdivision is applicable shall cause him to lose any benefits to which he would otherwise be entitled by reason of membership in the New York state and local employees' retirement system and any required employer and employee contributions to such system shall continue to be made on the basis of the salary of such employee without regard to such reduction. In the case of any such employee electing the optional retirement program the amount of employer and employee contributions otherwise required shall continue to be made on the basis of the salary of such employee without regard to such reduction. Any survivor's

benefit payable pursuant to the civil service law shall be based on the salary of any employee to whom this subdivision is applicable without regard to his agreement for reduction thereof. Subdivisions seven and eight of this section shall apply to employees to whom this subdivision is applicable who enter into agreements for reduction of salary and purchase of special annuities or contribution to a custodial account.

§ 399-A. Reduction of salaries for tax-deferred annuities. The board of higher education of a city having a population of one million or more, in its discretion, may enter into a written agreement with any of its employees to reduce the annual salary, as otherwise earned and payable by law, of such employee for the purpose of providing a tax-deferred annuity for such employee under the retirement system in which such employee is currently a member; but only if such retirement system specifically provides for such tax-deferred annuities, and subject to any provisions and limitations applicable thereto. Any such agreement may be terminated upon written notice by either such employee or such board. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

ARTICLE 9

SCHOOL BUILDINGS AND SITES

Section 401. Sites; designation and change.
402. Sale of former schoolhouse or site.
402-a. Procedures for closing a school building.
403. Application of proceeds of sale.
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410. Officials not to be interested in sales, leases or contracts.
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§ 401. Sites; designation and change. 1. The designation of a site by any school district meeting shall be by written resolution containing a description thereof by metes and bounds, and such resolution must receive the assent of a majority of the qualified voters present and voting at said meeting, to be ascertained by taking and recording the ayes and noes, or by ballot.

2. A board of education in a union free school district containing a population of five thousand or more may, without a vote of the qualified voters of said district, designate sites or additions thereto for school houses or for any other school purpose.

3. No site of a schoolhouse shall be changed unless a majority of the legal voters present and voting at a district meeting shall adopt a resolution designating a new site and describing such site by metes and bounds. Such resolution shall be adopted either by ballot or by taking and recording the ayes and noes.

§ 402. Sale of former schoolhouse or site. 1. Whenever the site of a schoolhouse shall have been changed, as herein provided, and after the value of such property has been appraised by the local assessor or a qualified private real property appraiser, the inhabitants of a district entitled to vote, lawfully assembled at any district meeting, shall have power, by a majority of the votes of those present and voting, to direct the sale of the former site or lot, and the buildings thereon and appurtenances or any part thereof, at such price and upon such terms as

they shall deem proper; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction, shall be valid and effectual to pass all the estate or interest of such school district in the premises.

2. Whenever the education of all the children of any school district shall have been provided outside the district for a period of two years, or more, pursuant to the provisions of article forty-one of this chapter, and the site of the schoolhouse or other grounds used for school purposes shall have been unused for a like period, and after the value of such property has been appraised by the local assessor or a qualified private real property appraiser, the inhabitants of a district entitled to vote, shall have the power, by a majority of the votes of those present and voting, to determine that such site or grounds, and buildings thereon, are of no further use to the district and to direct the sale thereof, subject to the approval of the commissioner, at such price and upon such terms as they shall deem proper; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction, shall be valid and effective to pass all the estate or interest of such school district in the premises. Prior to the sale of school buildings and site or grounds, as provided by this subdivision, the board of education or the trustees, having jurisdiction thereof, may lease such school buildings and site or grounds, or any part thereof, for residential purposes for periods not in excess of one year. Rentals therefor shall be in such amounts and payable at such times as the board shall determine.

Prior to such sale such board of education or trustees may lease such school buildings and site or grounds, or any part thereof, as provided in section four hundred three-a of this chapter.

3. When a credit shall be directed to be given upon such sale for the consideration money, or any part thereof, the trustees are hereby authorized to take in their corporate name such security by bond and mortgage, or otherwise, for the payment thereof, as they shall deem best, and shall hold the same as a corporation, and account therefor to their successors in office and to the district, in the manner they are

now required by law to account for moneys received by them; and the trustees of any such district and their successors may, in the name of their office, sue for and recover the moneys due and unpaid upon any security so taken by them or their predecessors.

§ 402-a. Procedures for closing a school building. 1. At least six months in advance of a proposed school closing, the trustees or board of education of a school district in which such building is located are hereby authorized and recommended to establish an advisory committee on school building utilization to investigate the educational impact of such a closing. In a city with a population of one million or more, when the city board is considering the closing of any school building, such city board is hereby authorized and recommended to establish such advisory committee on school building utilization for schools within its jurisdiction and delegate to the appropriate community school board the responsibility for appointing such a committee for any school within the jurisdiction of such community school board. Each committee may be comprised of but not limited to school district authorities, teaching and nonteaching personnel, parents of pupils who attend public schools in the district, other residents of the district, and representatives from business, labor and local government. Such committee, if established, shall prepare in writing an educational impact statement which shall consider the criteria stated in subdivision two of this section.

2. The factors to be considered by the committee in the educational impact statement shall include, but not be limited to:

(a) The current and projected pupil enrollment, the prospective need for such building, the ramifications of such closing upon the community, initial costs and savings resulting from such closing, the potential disposability of the closed school;

(b) Possible use of such school building for other educational programs or administrative services;

(c) The effect of such closing on personnel needs, and on the costs of instruction, administration, transportation and other support services;

(d) Type, age and physical condition of such building, outstanding

indebtedness, maintenance and energy costs, recent or planned improvements for the building, and such building's special features;

(e) Ability of the other schools in the affected district to accommodate pupils if such school building closes; and

(f) Possible shared utilization of space in such school building during or after regular school hours, as permitted in section four hundred fourteen of this chapter.

3. (a) Such educational impact statement shall be filed with the board of education or in a city with a population of one million or more, with the city board and/or the appropriate community school board. Such board of education shall publish a notice of such proposed closing in at least one newspaper of general circulation in the community once a week for two weeks, and shall post a notice conspicuously in the affected school district, which shall also be circulated to elected state and local public officials who represent the affected communities.

(b) After the statement has been filed and circulated, the board of education, and in a city with a population of one million or more, the city board or, where applicable, the community school board shall hold a public hearing to evaluate the impact of the proposed closing on the affected district. Such hearing shall be held within sixty days of the issuance of the educational impact statement at times and places convenient and accessible to the public. Notice of such hearing shall be published by such board of education in at least one newspaper of general circulation in the community once a week for two weeks, and shall be posted conspicuously in the affected school district, and shall also be circulated to elected state and local public officials who represent the affected communities. At such hearing, factors enumerated in subdivision two of this section shall be considered and alternatives may be presented by interested parties.

(c) The board of education shall render a decision at a regular or special meeting, the results of which shall be recorded and made available to the public. In a city having a population of one million or more, the community school board shall submit written recommendations for schools within its jurisdiction to the city board. The city board shall render a decision for all proposed school building closings at a regular or special meeting, the results of which shall be recorded and

made available to the public.

§ 403. Application of proceeds of sale. All moneys arising from any sale made in pursuance of the last preceding section, shall be applied to the expenses incurred in procuring a new site, and in removing or erecting thereon a schoolhouse, and improving and furnishing such site and building and their appurtenances, so far as such application shall be necessary; and the surplus, if any, shall be devoted to the purchase of school apparatus and the support of the school, as the voters of the district at any meeting shall direct.

§ 403-a. Leasing of school property. 1. The board of education or trustees of a school district are hereby authorized to adopt a resolution providing that specific real property of such district is not currently needed for school district purposes and that the leasing of such real property is in the best interest of the school district. The terms of such lease shall be subject to the following:

(a) The rental payment shall not be less than the fair market rental value as determined by the board of education.

(b) The term of the lease shall not exceed ten years.

(c) Upon termination, the lessee shall be obligated to restore the real property to its original condition less ordinary depreciation, provided that the school district may waive such requirement if the tenant has made improvements to such real property which may not be removed without causing substantial damage to such real property.

2. Upon the consent of the commissioner, renewal of a lease may be made for a period of up to ten years.

3. The board of education or trustees of a school district are hereby authorized to lease real property upon such terms and conditions as the board of education or trustees may deem appropriate to any person, partnership or corporation such board of education or trustees shall have determined who will provide the most benefit to the school district for periods not to exceed ten years. Such leases may also be renewed for

a period of up to ten years upon the consent of the commissioner.

4. Upon termination of the lease, if the school district incurs expenses in restoring the real property to school use, such expenses shall not be included in computing any apportionment or state building aid to such district.

5. Notwithstanding the provisions of paragraph (b) of subdivision one hereof the board of education or trustees of a school district are hereby authorized to enter into a lease agreement in accordance with the provisions of this section for a period in excess of ten years subject, however, to voter approval by referendum.

6. Nothing contained herein shall prevent the board of education or trustees of a school district from entering into a lease agreement which provides for the cancellation of the same by such board or trustees upon:

(a) a substantial increase or decrease in pupil enrollment; or

(b) a substantial change in the needs and requirements of a school district with respect to facilities; or

(c) any other change which substantially affects the needs or requirements of a school district or the community in which it is located.

§ 403-b. Leasing of school buildings and facilities. 1. The board of education of any union free or central school district is hereby authorized to enter into a lease with any other union free or central school district providing for the use and occupancy by any such school district of a school building, or a portion thereof, owned by such other school district, provided such lessee school district is within a reasonable distance, as determined by the commissioner, from the lessor school district, subject to the conditions set forth in this subdivision. The board of education of any union free or central school district is hereby authorized to enter into a lease with any person, partnership or corporation for use and occupancy of a building or facility, or a portion thereof, owned by such person, partnership, or

corporation for use as a school facility provided that such building or facility is located within the school district and subject to the conditions set forth in this subdivision.

a. No such lease shall be for a period of more than five years, except that the term of such a lease may exceed five years if the approval of the voters of the school district which will become the lessee is obtained before the lease is executed. Notwithstanding any other provision of this section to the contrary, the initial term of such a lease, not including any renewals thereof, may not exceed the period of probable usefulness that would be prescribed for such building or facilities by the local finance law if the building or facility were owned by a school district.

b. The approval of the voters of the school district which will become the lessee shall be obtained for any capital project to be undertaken in a leased building or facility during the term of the lease, provided however that any such capital project shall be subject to the prior approval of the commissioner and shall only be approved where the commissioner finds that the need for such project has been established to the commissioner's satisfaction.

c. Such lease shall not become effective until the commissioner shall have approved the same. In approving such leases, the commissioner shall determine: (i) that the leased facility meets all applicable standards for the health, safety and comfort of occupants; (ii) that the leased facility is educationally adequate as determined by the commissioner for new construction or rehabilitation, and (iii) that district has a current five-year facilities plan, or other long-range facilities plan as applicable, that is consistent with the regulations of the commissioner, and includes the proposed lease as well as all other planned acquisitions, disposals and leasing of buildings or facilities for school purposes during the period of the plan.

d. Any such lease may be renewed, provided however that the approval of the voters of the school district which will become the lessee shall be obtained before such renewal is executed.

e. To be eligible for aid pursuant to subdivision six of section thirty-six hundred two of this chapter, such leased school or facility shall meet requirements for access by individuals with disabilities to both facilities and programs, as defined in regulations of the commissioner, and the leased space shall be used to house programs for pupils in grades prekindergarten through twelve, other than programs funded pursuant to section forty-four hundred ten of this chapter, with minimal associated administrative and support services space as approved by the commissioner.

f. The term "lease", as used in this section, shall not include a lease with an option to purchase. Any lease entered pursuant to this section shall include a provision that the lease shall be void and unenforceable if entered into in violation of section eight hundred one of the general municipal law or section four hundred ten of this chapter.

2. Any union free or central school district which shall have leased a school building from another school district or from a person, partnership or corporation pursuant to the provisions of this section is hereby authorized to operate and conduct school in such building in all respects as though such school building were owned by and located within the boundaries of such school district. The average daily attendance of pupils attending such school shall be included in the average daily attendance of such lessee district as certified to the commissioner in the report of the board of education.

3. A school district providing transportation between a school building leased from another district and the homes of the children attending such school shall be entitled to transportation aid as though such school were located within the lessee school district.

§ 404. Acquisition of real property. Real property may be acquired in any school district and in any city having less than seventy thousand inhabitants, for school purposes and for any other purpose for which

such property may be acquired as provided in this chapter, as follows:

1. By gift, grant, devise or purchase.

2. By involuntary acquisition, if an agreement cannot be made with the owner for the purchase thereof. Such proceedings shall be instituted and conducted by the trustee or board of education, in the name of the district under the provisions of the eminent domain procedure law.

3. This section does not permit the acquisition by condemnation of less than the whole of a city or village lot with the erections and improvements thereon.

§ 405. Conveyance of property to public corporations. In addition to any other power conferred or possessed by virtue of any provisions of this chapter, the board of education, trustee or trustees of any school district may convey any school site or lot and the buildings thereon and appurtenances or any part thereof, provided that title to any such school property is in such board, trustee or trustees, and when no longer needed, either without consideration or for such consideration and upon terms and conditions as such board, trustee or trustees may determine to a public corporation, as defined in the general construction law, provided that such real property is to be used by such corporation for the purposes of the corporation or for a public use. In any school district, except a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more, such sale and conveyance shall be submitted to the voters of the district for approval at an annual or special district meeting in the same manner as is now provided by law for the submission of propositions. A board of cooperative educational services or a board of education, without approval of the voters of the school district and upon such consideration as the board may determine, may convey an easement or right of way over school property for public utility services to any municipality, municipal district, authority or public utility. In any city of over one hundred twenty-five thousand population any sale or conveyance shall be subject to approval by the local governing body of

such city.

§ 406. Vesting of title of lands in certain cases. Boards of education in cities having less than seventy thousand inhabitants are hereby clothed with all the powers of trustees, and the title to any and all lands acquired in any city under the provisions of section four hundred four of this chapter shall vest in the board of education thereof, or such other corporate body as is by law vested with the title to the school lands in such city. But nothing herein contained shall be construed to limit or circumscribe the powers and duties heretofore lodged in such board of education by law.

§ 407. Application to certain districts. The provision of section four hundred four of this article shall apply to union free school districts and to districts organized under special laws; and the trustees of such districts and the boards of education organized under special laws shall be and are hereby clothed with all the powers vested in trustees in the three preceding sections.

§ 407-a. Authorization for dormitory authority financing of capital facilities for special act school districts. 1. The legislature declares that it is in the interest of the state, the school districts and the children of the state to assure that special act school districts educating children with handicapping conditions pursuant to contracts with public school districts or social services districts have sufficient facilities related to the education of such children. The legislature finds that special act school districts providing such education are in need of improved and additional facilities related to the education of such children, and the means to finance the construction of such improvements and additional facilities. The legislature, therefore, enacts the following provisions.

2. This section shall apply to special act school districts listed in chapter five hundred sixty-six of the laws of nineteen hundred

sixty-seven, as amended, which contract with public school districts or social services districts for the education of children with handicapping conditions pursuant to article eighty-one or eighty-nine of this chapter.

3. Such special act school districts may enter into leases, subleases or other agreements with the dormitory authority pursuant to title four of article eight of the public authorities law for the financing of the design, construction, reconstruction, rehabilitation, improvement, renovation or otherwise providing for, furnishing or equipping of capital facilities which are educational facilities where the total estimated cost of such facilities exceeds ten thousand dollars. The plans and specifications of such capital facilities shall be subject to the approval of the commissioner with respect to educational facilities. Such capital facilities may be constructed only on land owned by such special act school district or, if the land is leased, where the lease is for a period at least equal to the appropriate period of probable usefulness for such facilities as listed in section 11.00 of the local finance law, or the length of the lease, sublease or other agreement with the dormitory authority, whichever is longer.

4. Each such special act school district shall, notwithstanding any other provision of law, have the power to convey, lease, sublease or otherwise make available to the dormitory authority without consideration, title or any other rights in real property satisfactory to the dormitory authority.

5. In addition to providing for all other matters deemed necessary and proper, such leases, subleases and other agreements shall (a) require such special act school district to pay to the dormitory authority annual rentals which shall include the amount required to pay the principal of and interest on obligations of the dormitory authority issued in relation to providing such facilities and all incidental expenses of the dormitory authority incurred in relation thereto, (b) require the special act school district to include an amount sufficient to meet its obligations under the lease, sublease or other agreement in each proposed budget submitted during the term of the lease, sublease or

other agreement and (c) include a provision that such agreement shall not be effective unless and until it is approved by the commissioner with respect to educational facilities.

6. Title or other real property rights to the capital facilities financed pursuant to this section shall remain with the dormitory authority until the dormitory authority certifies to the commissioner with respect to educational facilities and the comptroller the receipt by it of the amount necessary to pay the total aggregate amount of annual rentals to the dormitory authority. At such time, title or other real property rights thereto shall be transferred by the dormitory authority to such special act school district for use for educational purposes. In order to avail itself of the provisions of this section, each such special act school district must also agree to continue to operate a program for the education of children pursuant to contract with public school districts or social services districts, and such lease, sublease or other agreement with the dormitory authority shall provide that, if the special act school district shall cease to operate such a program at any time during the term of the agreement, the state will have the option to take title or other real property rights in land, buildings, equipment and other properties which the special act school district uses for its program upon, subject to appropriations, payment by the state to the dormitory authority of the amount required to pay the total aggregate amount of annual rentals to the dormitory authority.

7. On or before November fifteenth of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the budget, the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a report setting forth the amounts, if any, of all annual rentals estimated to become due in the succeeding state fiscal year to the dormitory authority from the special act school districts pursuant to any leases, subleases or other agreements between the dormitory authority and such special act school districts to provide educational facilities for such special act school district. The state comptroller shall pay over to the dormitory authority pursuant to appropriations

therefor solely from moneys available in the school capital facilities financing reserve fund the amount set forth in such report at the times and in the amounts set forth in the certificate filed with the comptroller by the dormitory authority pursuant to subparagraph (iv) of paragraph (b) of subdivision eight of this section.

8. Method of payment; reserve fund. (a) Each special act school district which elects to avail itself of the provisions of this section shall have established with the state comptroller a school capital facilities financing reserve account which shall be used to pay to the dormitory authority the annual rentals payable to the dormitory authority by special act school districts which have entered into leases, subleases or other agreements with the dormitory authority to provide educational facilities pursuant to the provisions of this section. The dormitory authority shall identify to the state comptroller and to the commissioner with respect to educational facilities, the special act school districts with which it has leases, subleases or other agreements pursuant to this section and shall annually certify the amount of annual rentals required to be paid pursuant to such leases, subleases or other agreements.

(b) (i) There is hereby established in the custody of the state comptroller a special fund to be known as the school capital facilities financing reserve fund. Within such fund, there is hereby established a special account for each special act school district which enters into a lease, sublease or other agreement with the dormitory authority pursuant to this section.

(ii) Notwithstanding the provisions of any other law, such fund shall consist of part of the tuition payments from public school districts and social services districts as determined by the commissioner, and state aid to special act school districts pursuant to subdivision six of section thirty-six hundred two of this chapter as determined by the commissioner. The comptroller shall maintain sufficient amounts in the fund in order to pay when due the annual rentals due to the dormitory authority from each such special act school district pursuant to any lease, sublease or other agreement entered into pursuant to the provisions of this section. The dormitory authority shall certify to the state comptroller the dates and amount of such annual payments as

scheduled in its leases, subleases or other agreements with such special act school districts. The commissioner with respect to educational facilities shall certify the amount of payments due the fund from public school districts and social services districts, respectively and such public school districts and social services districts shall make such payments to the fund at such times as shall be prescribed by the commissioner with respect to educational facilities, subject to the approval of the director of the budget, and after consultation with the dormitory authority.

(iii) Revenues in any special account in the school capital facilities financing reserve fund may be commingled with any other moneys in such fund. All deposits of such revenues with banks and trust companies shall be secured by obligations of the United States or of the state of New York or its political subdivisions. Such obligations shall have a market value at least equal at all times to, but not less than, one hundred five percent of the amount of such deposits. All banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund may, in the discretion of the comptroller, be invested in obligations of the United States or the state or obligations the principal of and interest on which are guaranteed by the United States or by the state. Any interest earned shall be credited to such fund.

(iv) Upon receipt by the comptroller of a certificate or certificates from the dormitory authority that it requires a payment or payments from the appropriate special account established for a special act school district in order for such special act school district to comply with any lease, sublease or other agreement pursuant to this section, each of which certificates shall specify the required payment or payments and the date when the payment or payments is required, the comptroller shall pay from such special account on or before the specified date or within thirty days after receipt of such certificate or certificates, whichever is later, to the paying agent designated by the dormitory authority in any such certificate, the amount or amounts so certified.

(v) All payments of money from the school capital facilities financing reserve fund shall be made on the audit and warrant of the state comptroller.

9. Notwithstanding the provisions of any contract pursuant to article eighty-one or eighty-nine of this chapter between a social services district or a public school district and a special act school district, if the special act school district enters into a lease, sublease or other agreement with the dormitory authority pursuant to this section, payments due from the public school district or social services district shall be made in accordance with the provisions of this section.

10. All state and local officials are authorized and required to take whatever actions are necessary to carry out the provisions of this section and the provisions of any leases, subleases or other agreements entered into pursuant to this section, including making the required payments to the dormitory authority.

11. Any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement for any special act school district shall comply with the provisions of sections one hundred one and one hundred three of the general municipal law.

12. Notwithstanding any other provision of law to the contrary, the dormitory authority may execute leases, subleases, or other agreements with special act school districts for financing of the design, construction, rehabilitation, improvement, renovation, acquisition or provision, furnishing or equipping of capital facilities; provided, however, that during the two year period commencing July first, nineteen hundred ninety-five, the amount of bonds inclusive of principal, interest and issuance costs to be issued for each individual lease, sublease, or other agreement shall not exceed fifteen million dollars annually; and provided further that the total amount of such bonds for all such leases, subleases, or agreements with special act school districts during such period shall not exceed twenty million dollars. On or before September first of each year, the commissioner shall submit to the chairs of the assembly ways and means committee, the senate finance committee and the director of the budget, a capital plan for those projects expected to be bonded for special act school districts pursuant to this section, within such twenty million dollar allowance. After application of the principles of the capital assets preservation

program, such plan shall accord priority to health and safety considerations and shall specify the name, location, estimated total cost of the project at the time the project is to be bid, the anticipated bid date and the anticipated completion date and may contain any further recommendations the commissioner may deem appropriate.

§ 407-b. Authorization for dormitory authority financing of capital facilities for state-supported schools for blind and deaf students. 1. The legislature declares that it is in the interest of the state and the children of the state to assure that state-supported schools for the instruction of blind and deaf students and other children with handicapping conditions pursuant to article eighty-five of this chapter and chapter one thousand sixty of the laws of nineteen hundred seventy-four have sufficient facilities related to the education of such children. The legislature finds that state-supported schools for blind and deaf students providing such education are in need of improved and additional facilities related to the education of such children, and the means to finance the construction of such improvements and additional facilities. The legislature, therefore, enacts the following provisions.

2. This section shall apply to state-supported schools for the instruction of the blind and deaf students and children with other handicapping conditions, subject to the appointment of the commissioner, pursuant to article eighty-five of this chapter and chapter one thousand sixty of the laws of nineteen hundred seventy-four.

3. Such state-supported schools may enter into leases, subleases or other agreements with the dormitory authority pursuant to title four of article eight of the public authorities law for the financing of the design, construction, reconstruction, rehabilitation, improvement, renovation or otherwise providing for furnishing or equipping of educational or residential facilities where the total estimated cost of such facilities exceeds ten thousand dollars. The plans and specifications of such capital facilities shall be subject to approval of the commissioner. Such educational or residential facilities may be constructed only on land owned by such state-supported school or, if the

land is leased, where the lease is for a period at least equal to the appropriate period of probable usefulness for such facilities as listed in section 11.00 of the local finance law, or the length of the lease, sublease or other agreement with the dormitory authority, whichever is longer.

4. Each state-supported school shall, notwithstanding any other provision of law, have the power to convey, lease, sublease or otherwise make available to the dormitory authority without consideration, title or any other rights in real property satisfactory to the dormitory authority.

5. In addition to providing for all other matters deemed necessary and proper, such leases, subleases and other agreements shall (a) require the state-supported school to pay to the dormitory authority annual rentals which shall include the amount required to pay the principal of and interest on obligations of the dormitory authority issued in relation to providing such facilities and all incidental expenses of the dormitory authority incurred in relation thereto, (b) require the state-supported school to include an amount sufficient to meet its obligations under the lease, sublease or other agreement in each proposed budget submitted during the term of the lease, sublease or other agreement, and (c) a provision that such agreement shall not be effective unless and until it is approved by the commissioner and the director of the budget.

6. Title or other real property rights, to the capital facilities financed pursuant to this section shall remain with the dormitory authority until the dormitory authority certifies to the commissioner and the comptroller the receipt by it of the amount necessary to pay the aggregate amount of annual rentals to the dormitory authority. At such time, title or other real property rights thereto shall be transferred by the dormitory authority to the state-supported school. In order to avail itself of the provisions of this section, each state-supported school must also agree to continue to operate a program for the education of children pursuant to article eighty-five of this chapter and chapter one thousand sixty of the laws of nineteen hundred

seventy-four, and any lease, sublease or other agreement with the dormitory authority shall provide that, if the state-supported school shall cease to operate at any time during the term of the agreement, the school shall have the obligation to pay the total aggregate amount of annual rentals to the dormitory authority. Upon a determination that the state-supported school is unable to satisfy such obligations, the state may take such title or other real property rights of the dormitory authority in such land, buildings, equipment and other properties which the state-supported school uses for its program upon payments, subject to appropriations, by the state to the dormitory authority of the amount required to pay the total aggregate amount of annual rentals to the dormitory authority.

7. On or before November fifteenth of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the budget, the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a report setting forth the amounts, if any, of all annual rentals estimated to become due in the succeeding state fiscal year to the dormitory authority from the state-supported schools pursuant to any leases, subleases or other agreements between the dormitory authority and state-supported schools to provide educational and residential facilities for such state-supported schools.

The state comptroller shall pay over to the dormitory authority pursuant to appropriations therefor solely from moneys available in the school capital facilities financing reserve fund the amount set forth in such report at the times and in the amounts set forth in the certificate filed with the comptroller by the dormitory authority pursuant to subparagraph (iv) of paragraph (b) of subdivision eight of this section.

8. Method of payment; reserve fund. (a) Each state-supported school which elects to avail itself of the provisions of this section shall have established with the state comptroller a school capital facilities financing reserve account which shall be used to pay to the dormitory authority the annual rentals payable to the dormitory authority by state-supported schools which have entered into leases, subleases or

other agreements with the dormitory authority to provide educational or residential facilities pursuant to this section or to reimburse the state for expenditures from appropriations made pursuant to subdivision seven of this section. The dormitory authority shall identify to the state comptroller and to the commissioner the state-supported schools with which it has leases, subleases or other agreements pursuant to this section and shall annually certify the amount of annual rentals required to be paid pursuant to such leases, subleases or other agreements.

(b) (i) There is hereby established in the custody of the state comptroller a special fund to be known as the school capital facilities financing reserve fund. Within such fund, there is hereby established a special account for each state-supported school which enters into a lease, sublease or other agreement with the dormitory authority pursuant to this section.

(ii) Notwithstanding the provisions of any other law, such fund shall consist of payments as made and determined by the commissioner. The comptroller shall maintain sufficient amounts in the fund in order to pay when due the annual rentals due to the dormitory authority from each such state-supported school pursuant to any lease, sublease or other agreement entered into pursuant to the provisions of this section. The dormitory authority shall certify to the state comptroller the dates and amounts of such payments as scheduled in its lease, subleases or other agreements with such state-supported school. The commissioner shall certify the amount of payments due the fund from state-supported schools, and shall make such payments to the fund at such times as appropriate, subject to the approval of the director of the budget, and after consultation with the dormitory authority.

(iii) Revenues in any special account in the school capital facilities financing reserve fund may be commingled with any other moneys in such fund. All deposits of such revenues shall be secured by obligations of the United States or of the state of New York or its political subdivisions. Such obligations shall have a market value not less than one hundred five percent of the amount of such deposits. All the banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund may, in the discretion of the comptroller, be invested in obligations of the United States or the state or obligations the principal of and interest on which are

guaranteed by the United States or by the state. Any interest earned shall be credited to such fund.

(iv) Upon receipt by the comptroller of a certificate or certificates from the dormitory authority that it requires a payment or payments from the appropriate special account established for a state-supported school to comply with any lease, sublease or other agreement pursuant to this section, each of which certificate shall specify the required payment or payments and the date when the payment or payments is required, the comptroller shall pay from such special account on or before the specified date or within thirty days after receipt of such certificate or certificates, whichever is later, to the paying agent designated by the dormitory authority in any such certificate, the amount or amounts so certified.

(v) Notwithstanding any other provisions of this subdivision to the extent that the state makes appropriations for the payment of annual rentals to the dormitory authority required to be paid pursuant to the terms of any lease, sublease or other agreement between the dormitory authority and any state-supported schools and makes such payments, moneys in the school capital facilities financing reserve fund shall be used to reimburse the state for moneys so expended from such appropriation.

(vi) All payments of money from the school capital facilities financing reserve fund shall be made on the audit and warrant of the state comptroller.

9. All state officials are authorized and required to take whatever actions are necessary to carry out the provisions of this section and any leases, subleases or other agreements entered into pursuant to this section, including making the required payments to the dormitory authority.

10. Notwithstanding any other provision of law to the contrary, the dormitory authority may execute leases, subleases, or other agreements with state supported schools for financing of the design, construction, rehabilitation, improvement, renovation, acquisition or provision, furnishing or equipping of capital facilities; provided, however, that during the two year period commencing July first, nineteen hundred

ninety-five, the amount of bonds inclusive of principal, interest and issuance costs to be issued for each individual lease, sublease, or other agreement shall not exceed fifteen million dollars annually; provided further that the interest on such bonds may not be deferred through additional borrowing; and provided finally that the total amount of such bonds for all such leases, subleases, or agreements with state supported schools during such period shall not exceed sixty-five million dollars.

On or before September first of each year, the commissioner shall submit to the chairs of the assembly ways and means committee, the senate finance committee and the director of the budget, a capital plan for those projects expected to be bonded for state supported schools pursuant to this section, within such sixty-five million dollar allowance. After application of the principles of the capital assets preservation program, such plan shall accord priority to health and safety considerations and shall specify the name, location, estimated total cost of the project at the time the project is to be bid, the anticipated bid date and the anticipated completion date and may contain any further recommendations the commissioner may deem appropriate.

§ 408. Plans and specifications of school buildings must be approved by commissioner of education. 1. No schoolhouse shall hereafter be erected, purchased, repaired, enlarged or remodeled nor shall the advertisement for bids for the execution of the plans and specifications for such schoolhouses be placed, in any school district except in a city school district in a city having seventy thousand inhabitants or more, at an expense which shall exceed one hundred thousand dollars, until the plans and specifications shall have been submitted to the commissioner of education and his approval endorsed thereon. Such plans and specifications shall show in detail the ventilation, heating and lighting of such buildings.

In the case of a school district in a city having seventy thousand inhabitants or more, all the provisions previously set forth in this subdivision shall apply, except that the commissioner may waive the

requirement for submission of plans and specifications and substitute therefor the requirement for submission of an outline of such plans and specifications for his review. Such outline shall be in a form which he may prescribe from time to time.

In either case, the commissioner may, in his discretion, review plans and specifications for projects estimated at an expense of less than one hundred thousand dollars.

In the case of a school district in a city having a million inhabitants or more, all of the provisions previously set forth in this subdivision shall apply, except that such school district shall only be required to submit an outline of the plans and specifications to the commissioner of education for his information where a schoolhouse is to be erected in conjunction with the development of a project to be developed under the provisions of article two or five of the private housing finance law and where both the school and the project are to have rights or interests in the same land, regardless of the similarity or equality thereof, including fee interests, easements, space rights or other rights or interests.

2. The commissioner of education shall not approve the plans for the erection or purchase of any school building or addition thereto or remodeling thereof unless the same shall provide for heating, ventilation, lighting, sanitation, storm drainage and health, fire and accident protection adequate to maintain healthful, safe and comfortable conditions therein and unless the county superintendent of highways or commissioner of public works has been advised of the location of all temporary and permanent entrances and exits upon all public highways and the storm drainage plan which is to be used.

3. The commissioner shall approve the plans and specifications, heretofore or hereafter submitted pursuant to this section, for the erection or purchase of any school building or addition thereto or remodeling thereof on the site or sites selected therefor pursuant to this chapter, if such plans conform to the requirements and provisions of this chapter and the regulations of the commissioner adopted pursuant

to this chapter in all other respects; provided, however, that the commissioner of education shall not approve the plans for the erection or purchase of any school building or addition thereto unless the site has been selected with reasonable consideration of the following factors; its place in a comprehensive, long-term school building program; area required for outdoor educational activities; educational adaptability, environment, accessibility; soil conditions; initial and ultimate cost. In developing such plans and specifications, school districts are encouraged to review the energy conservation and saving best practices available from the department and the New York state energy research and development authority.

* 3-a. (a) The commissioner shall not approve the plans for the erection of any new schoolhouse within five hundred feet of a controlled-access highway as defined in this subdivision unless the commissioner determines that (i) space is so limited that there is no other appropriate site to erect such schoolhouse; (ii) plans for such schoolhouse include adequate engineering controls to address air quality; and (iii) the school district has demonstrated that other potential sites would pose equal or greater hazards to health and safety.

(b) For purposes of this subdivision, the construction of a new schoolhouse upon the site of an existing schoolhouse, or the construction of an addition or annex constructed to serve an existing schoolhouse, shall not be considered erection of a new schoolhouse.

(c) For purposes of this subdivision, a "controlled-access highway" shall mean: (i) a controlled-access highway as defined by section one hundred nine of the vehicle and traffic law under the jurisdiction of the commissioner of transportation which has been functionally classified by the department of transportation as principal arterial - interstate or principal arterial - other freeway/expressway on official functional classification maps approved by the federal highway administration pursuant to part 470.105 of title 23 of the code of federal regulations, as amended from time to time; and (ii) a divided highway under the jurisdiction of the New York state thruway authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections.

(d) Nothing in this subdivision shall be construed to create a private

right of action to enforce the terms of this subdivision.

* NB Effective December 21, 2029

4. No funds voted by a district meeting or other competent authority in any school district to which the provisions of subdivision one of this section are applicable, exceeding the amounts specified in such subdivision, shall be expended by the trustees or board of education until the commissioner of education shall certify that the plans and specifications for the same comply with the provisions of this section.

5. In a city having a population of one million or more, all designing, draughting and inspecting necessary in connection with the construction, additions to, alterations and maintenance of schoolhouses shall be performed by a bureau established and maintained for this purpose under the board of education. The work of this bureau shall be performed by civil service employees in the classified civil service under the direction of the superintendent of school buildings, design and construction, except that repairs, betterment and maintenance of heating and ventilating plants and equipment, elevators and mechanical equipment shall remain under the direction of the superintendent of plant operation and maintenance. In a special case upon approval of the board of estimate, such designing, draughting or inspecting may be otherwise performed.

6. The commissioner may promulgate regulations relating to the purchase of existing school buildings. Such regulations shall provide for an appraisal of such buildings as school buildings and the land on which they are situated as school sites by the commissioner of taxation and finance, such estimates of the cost of renovation and construction as may be necessary and limitations on the cost of acquisition and renovation, in taking into consideration the age and condition of such existing buildings, in relation to the estimated cost of constructing a new building containing comparable facilities. Such regulations may also require the prior approval of the commissioner of any renovations proposed to be made to such existing school buildings.

7. The commissioner shall issue guidance informing all school

districts of the manner in which building aid may be utilized to support district-operated universal prekindergarten programs pursuant to sections thirty-six hundred two-e and thirty-six hundred two-ee of this chapter.

§ 408-a. Plans and specifications for construction of new school buildings. 1. The commissioner of general services, after consultation with the commissioner of education and subject to the approval of the director of the budget, shall promptly prepare or acquire as many master sets of complete plans and specifications for the construction of new school buildings and appurtenant facilities as shall be sufficient to provide at least six different master sets each for elementary, junior high and high schools, based on the number of pupils to be accommodated therein. Such plans and specifications shall be prepared so as to provide adequate classrooms and other necessary space and facilities at the lowest cost consistent with sound construction principles and practices, and the attainment of educational objectives, and shall provide for heating, ventilation, lighting, sanitation and health, fire and accident protection adequate to maintain healthful, safe, and comfortable conditions therein. Such plans and specifications shall be so prepared that any possible future addition to any such school building may be economically effectuated. In addition, the commissioner of general services shall, as often as he deems advisable but at least annually, review such master sets and, after consultation with the commissioner of education, and subject to approval of the director of the budget, may revise or cancel any of such sets or prepare new sets.

2. The commissioner shall cause duplicates of such master plans and specifications to be made, and he shall furnish the same to any school district making a request therefor for a reasonable charge sufficient to cover the cost of reproducing such plans and specifications.

3. Plans and specifications prepared and furnished pursuant to the provisions of this section may be adopted and used in any school district as the plans and specifications for the construction of any new school building or appurtenant facility hereafter to be erected.

4. Nothing herein contained shall preclude any school district from retaining an architect and/or engineer in connection with the use of such master plans and specifications.

§ 408-b. Submitting plans and specifications of school buildings with local fire and law enforcement officials. The appropriate authorities for each public and private school building in the state shall submit the most current plans and specifications for each school building under their responsibility to the fire and law enforcement officials in the city, towns or village where the school building is located. The commissioner may adopt such rules and regulations as are necessary and appropriate to implement the provisions of this section to facilitate its purpose of providing quick and easy access to and passage through school buildings should it be necessary for fire or law enforcement reasons. Such regulations shall authorize submittal of simplified plans showing access and passage ways for older schools where original plans or blueprints may not exist or where the school authorities can justify a claim of hardship in meeting the requirements of this section.

§ 409. School building regulations in relation to health and safety. 1. All school buildings of common, union free, central, central high school and city school districts other than city school districts of cities having one hundred twenty-five thousand inhabitants or more and boards of cooperative educational services shall comply with such regulations as the commissioner shall adopt from time to time for the purpose of insuring the health and safety of pupils and staff in relation to proper heating, lighting, ventilation, sanitation and health, fire and accident protection.

2. Notwithstanding the provisions of any other law, rule or regulation, tobacco use shall not be permitted and no person shall use tobacco on school grounds. "School grounds" means any building, structure and surrounding outdoor grounds, including entrances or exits, contained within a public or private pre-school, nursery school,

elementary or secondary school's legally defined property boundaries as registered in a county clerk's office.

§ 409-a. Eye safety devices for certain students and teachers. 1. The board of education, trustees, principal or other person in charge of every public or private school or educational institution within the state, wherein shops or laboratories are conducted providing instructional or experimental programs involving:

a. Hot solids, liquids or molten metals; or

b. Milling, sawing, turning, shaping, cutting, or stamping of any solid materials; or

c. Heat treatment, tempering, or kiln firing of any metal or other materials; or

d. Gas or electric arc welding; or

e. Repair or servicing of any vehicle; or

f. Caustic or explosive chemicals or materials, shall arrange for and require, in accordance with regulations of the commissioner, that every student and teacher participating in any such program wear eye safety devices at the times and under the conditions prescribed in such regulations.

2. The commissioner shall by regulation prescribe the safety standards to be met before the use of any eye safety device may be required and shall include in such regulations requirements relating to the times and conditions when and under which such eye safety devices shall be worn.

3. Visitors to such shops or laboratories shall be furnished with and required to wear such eye safety devices at the times and under the conditions prescribed in such regulations while in such shops or laboratories.

§ 409-b. Use of mercury vapor or metal halide lamps within school buildings. 1. Every new or replacement mercury vapor or metal halide lamp which is used within any school building in the state, for the purpose of providing illumination, shall be of the safety type or variety which self-extinguishes upon the breaking, cracking or removal of the outer shield protecting the lamp or if such self-extinguishing variety is not available, each such lamp or its fixture shall be equipped with a shield adequate to protect against and to absorb ultraviolet radiation if the lamp were to break or become defective within the shielded fixture.

2. Jurisdiction is hereby conferred on the commissioner in order to provide for the enforcement of this section through rules and regulations which the commissioner shall establish.

§ 409-c. Athletic safety equipment. The board of education or trustees of every school district and the principal or other person in charge of every nonpublic elementary or secondary school within the state shall arrange for and require that batboys or batgirls participating in baseball or softball competition conducted as an activity of such school district or nonpublic school shall wear protective headgear at all times when a game is in play and such batboys or batgirls are on the playing field.

§ 409-d. Comprehensive public school building safety program. 1. Program establishment. The commissioner is authorized and directed to establish, develop and monitor a comprehensive public school building safety program which shall include a uniform inspection, safety rating and monitoring system. Such program shall require the inspections of all public school buildings throughout the state (i) at least once between the period commencing with the first day of January, two thousand twenty and ending with the thirty-first day of December, two thousand twenty and (ii) at least once between the period commencing with the first day

of January, two thousand twenty-two and ending with the thirty-first day of December, two thousand twenty-two, provided that such inspections shall exclude public school buildings in a school district required to conduct building condition surveys between January first, two thousand twenty and the end of such period in accordance with regulations of the commissioner adopted pursuant to subparagraph one-a of paragraph c of subdivision four of section thirty-six hundred forty-one of this chapter, and provided further that such exclusion shall not apply in the case of a school district which has not completed the building condition surveys so required and submitted the same to the department. Under such program, the commissioner may require inspections of public school buildings as deemed necessary to maintain the safety of school buildings and the welfare of the occupants, and such program shall establish a safety rating system for such school buildings to assess the need for maintenance, repairs, rehabilitation, reconstruction, construction and other improvements related to the structural integrity and overall safety of public school buildings including but not limited to building systems related to electrical, plumbing, heating, ventilation, and air conditioning, sanitation and health, fire and accident protection; and require that such ratings be used for the purpose of developing a buildings condition survey as required pursuant to subdivision four of section thirty-six hundred forty-one of this chapter and a five year facilities plan as required pursuant to clause (i) of subparagraph two of paragraph b of subdivision six of section thirty-six hundred two of this chapter.

2. Commissioner's authorization. In implementing the program, the commissioner is authorized to:

(a) require the inspection of every public school building and prescribe qualifications of persons who may perform or supervise such inspections in accordance with the provisions of this section.

(b) establish a safety rating system keyed to the structural integrity and overall safety of the building. Such system shall rate every major building system contained within a building and where practicable identify critical maintenance and include such information in the plan required in subdivision ten of section thirty-six hundred forty-one of this chapter;

(c) require each school district to develop a buildings condition survey;

(d) require each school district to develop a five year capital facilities plan;

(e) establish a process for monitoring all school buildings; and

(f) provide for waivers of the requirements of this section and/or section four hundred nine-e of this article for districts whose school building safety inspection procedures in existence on the effective date of this section are in substantial compliance with such requirements.

3. Notification. Notwithstanding any other provision of law to the contrary, the commissioner shall be authorized to notify in writing any school district or board of cooperative educational services the existence of a hazardous condition found in any school building within the school district that is in violation of applicable building, health, or safety codes or regulations that may threaten the health and/or safety of students or staffs. Such notice must be acknowledged and responded to within five business days or less. Such notice shall be delivered to the superintendent of the school district or the district superintendent of the board of cooperative educational services. In the case of a city school district in a city having a population of one million or more inhabitants such notice shall be delivered to the chancellor of the city district.

§ 409-e. Uniform code of public school buildings inspection, safety rating and monitoring. 1. Code development, rules and regulations. The commissioner shall, after at least one public hearing, promulgate a uniform code of public school building inspections, safety rating and monitoring, hereinafter referred to as the "code", by rule and regulation. The commissioner shall periodically review the code to ensure that it effectuates the purposes of this section, provided however nothing herein shall prevent a school district from enacting stricter local codes so long as such code is consistent with the state code and provided further nothing herein shall affect a separate requirement to inspect and maintain school buildings pursuant to any other state or local law or regulation.

2. Periodic inspections. (a) The commissioner may require inspections of public school buildings as deemed necessary to maintain the safety of school buildings and the welfare of their occupants.

(b) As provided in paragraph (a) of this subdivision such inspections shall:

(i) be conducted in a manner and by persons meeting the qualifications, as established in the code;

(ii) result in a safety rating of every building as required pursuant to this article; and

(iii) be reported on forms prescribed by the commissioner, subscribed by the person or persons who conducted the inspection and filed with the commissioner within sixty days of the completion of the inspection.

(c) In the case of a city school district in a city having a population of one million or more inhabitants, each school shall be inspected periodically by the department of buildings pursuant to section 27-211 of the New York city building code, or any successor or substantially similar section.

3. Safety rating system. The commissioner shall develop pursuant to regulations a safety rating system to be used by all school districts and boards of cooperative educational services keyed to the structural integrity and overall safety of the building and shall be developed using data obtained from the building's annual inspection as required by this article. Such safety rating system shall identify and assess the condition of every major system component of every school building including interior structures; building systems such as heating, ventilation, plumbing and electrical systems; exterior structures including but not limited to roofs, masonry, stairs, and chimneys; and develop a system which rates each building component based on at least the following factors: overall safety; structural integrity; probable useful life; need for repair or replacement; and maintenance. Such safety rating shall include mechanisms which facilitate more frequent inspections and repairs as determined necessary to protect the welfare and safety of students and staff residing in such school buildings. This information shall be used for purposes of developing a buildings condition survey as required pursuant to section thirty-six hundred

forty-one of this chapter and a five year facilities plan as required pursuant to clause (i) of subparagraph two of paragraph (b) of subdivision six of section thirty-six hundred two of this chapter.

4. Monitoring system. The commissioner shall develop pursuant to regulations a monitoring system to oversee the safety of public school buildings. Such system shall include but not be limited to the following components:

(a) a process that identifies and provides a comprehensive maintenance plan for all major building systems for each school building to ensure that all buildings are maintained in a state of good repair; and

(b) establishment of uniform safety standards governing all construction projects. The safety standards shall be designed to promote the safety of pupils, staff and other building occupants during periods of maintenance, repair, reconstruction, construction or any other construction-related activity.

(c) establishment of a process to monitor the condition of public school buildings to provide they are safe and maintained in a state of good repair.

§ 409-f. Electrically operated partition and door safety. The board of education, trustees, principal or other person in charge of every public or private school or educational institution within the state, wherein classrooms or other facilities used by students are found to have electrically operated partitions, doors or room dividers, shall arrange for, and require, that:

1. Appropriate and conspicuous notice regarding the safe and proper operation and supervision of the electrical device operating such partition, door or room divider is posted in the immediate vicinity of the operating mechanism;

2. There is established a procedure for the notification of all school employees and all other persons who regularly make use of the area where such device is located of the safe and proper procedure for the operation of the mechanism and of the applicable penalties for disabling

safety equipment required pursuant to this section; and

3. Every electrically operated partition or room divider shall be equipped with safety devices which, subject to standards established in rules and regulations promulgated by the commissioner, stop the forward motion of the partition or room divider and stop the stacking motion of the partition or room divider when a body passes between the leading panel of such partition or divider and a wall, or when a body is present in the stacking area of such partition or divider.

Any person who disables or directs another person to disable any safety equipment required pursuant to this section shall be guilty of a violation punishable by not more than fifteen days imprisonment, or a fine not to exceed one hundred dollars, or both such fine and imprisonment.

§ 409-g. Purchase and use of paradichlorobenzene deodorizers. 1. No board of education or trustees, principal or other person in charge of any public or private, elementary or secondary school shall authorize the purchase of or purchase any urinal or toilet deodorizer containing paradichlorobenzene.

2. No public or private, elementary or secondary school shall use or authorize the use of any toilet or urinal deodorizer containing paradichlorobenzene in any toilet or urinal in any school building or any other facility under the control of such school.

§ 409-h. Requirements for notification of pesticide applications. 1. For purposes of this section the following terms shall have the meanings set forth below:

(a) "School" shall mean any public school district or private or parochial school or board of cooperative educational services.

(b) "Pesticide" shall have the same meaning as in subdivision thirty-five of section 33-0101 of the environmental conservation law.

(c) "Facility" means any school building used for instructional

purposes and its surrounding grounds, sites and other grounds to be used for playgrounds, athletics and other instructional purposes, and any administrative offices.

(d) "Written notification" shall mean notice in writing that is: provided directly to the student or staff; or delivered to a receptacle designated for that student or staff; or mailed to the student's or staff's last known address; or delivered by any other reasonable methods authorized by the commissioner.

(e) "School year" shall mean the period commencing on the first day of regular instruction and shall end on the last day of session.

(f) "Relevant facility" shall mean any facility where the staff person receiving notification regularly works or where a child of the person in parental relation receiving notification regularly receives instruction.

2. Schools shall establish a pesticide notification procedure to provide information on pesticide applications at school facilities. Schools shall provide written notification of pesticide applications at any relevant facility to staff and persons in parental relation according to the following provisions:

(a) The school shall provide written notification to all staff and persons in parental relation at the beginning of each school year. Provided however, that if a child enrolls after the beginning of the school year, notification shall be provided within one week of such enrollment. The notification provided at the beginning of the school year shall include at a minimum the following information:

(i) a statement that pesticide products may be used periodically throughout the school year;

(ii) a statement that schools are required to maintain a list of staff and persons in parental relation who wish to receive forty-eight hour prior written notification of pesticide applications at relevant facilities, and instructions on how to register with the school to be on such list for notification; and

(iii) the name of a school representative and contact number to obtain further information.

(b) Within ten days of the end of the school year and within two school days of the end of winter recess and spring recess, the school shall provide written notification to all staff and persons in parental

relation listing the date, location and product used, for each application which required prior notification and each emergency application made, at relevant facilities, during the period of time since the previous notice. Such notification shall also include a statement that schools are required to maintain a list of staff and persons in parental relation who wish to receive forty-eight hour prior written notification of pesticide applications and instructions on how to register with the school to be on such list for prior notification; how to obtain further information about the products being applied, including any warnings that appear on the label of the pesticides that are pertinent to the protection of humans, animals or the environment; and the name of a school representative and contact number for additional information.

(c) Each school shall establish and maintain a list of staff and persons in parental relation requesting written notification forty-eight hours in advance of pesticide applications at relevant facilities. Schools shall add any staff or person in parental relation to such list upon request.

(d) Not less than forty-eight hours prior to the application of a pesticide at a facility, a school shall provide to those on the list relevant to such facility, written notification which shall include, at a minimum the following information:

(i) the specific date and location of the application at the relevant facility. In case of outdoor applications the notice must provide a specific date, and may include two alternative dates in case the application cannot be made due to weather conditions;

(ii) the product name and pesticide registration number assigned by the United States Environmental Protection Agency;

(iii) the following statements: "This notice is to inform you of a pending pesticide application to a school facility. You may wish to discuss with the designated school representative what precautions are being taken to protect your child from exposure to these pesticides. Further information about the product(s) being applied, including any warnings that appear on the label of the pesticide(s) that are pertinent to the protection of humans, animals or the environment, can be obtained by calling the National Pesticide Telecommunications Network information phone number 1-800-858-7378 or the New York State Department of Health

Center for Environmental Health Info line at 1-800-458-1158."; and

(iv) the name of a school representative and contact number for additional information.

(e) For purposes of this section the following pesticide applications shall not be subject to prior notification requirements:

(i) the application of anti-microbial pesticides and anti-microbial products as defined by FIFRA in 7 U.S.C. § 136 (mm) and 136q (h)(2);

(ii) the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces, or less, when used to protect individuals from an imminent threat from stinging and biting insects including venomous spiders, bees, wasps, and hornets. This section shall not exempt from notification the use of any fogger product or aerosol product that discharges to a wide area;

(iii) any application where the school facility remains unoccupied for a continuous seventy-two hour period following the application of the pesticide;

(iv) nonvolatile rodenticides in tamper resistant bait stations or in areas inaccessible to children;

(v) silica gels and other nonvolatile ready-to-use, paste, foam or gel formulations of insecticides in areas inaccessible to children;

(vi) nonvolatile insecticidal baits in tamper resistant bait stations or in areas inaccessible to children;

(vii) application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under Section 40 CFR Part 152.25;

(viii) boric acid and disodium octaborate tetrahydrate;

(ix) the application of a pesticide which the United States Environmental Protection Agency has determined satisfies its reduced risk criteria, including a biopesticide; or

(x) any emergency application of a pesticide when necessary to protect against an imminent threat to human health, provided however, that prior to any such emergency application, the person making such application shall make a good faith effort to supply the written notice required pursuant to this section. Upon making such an emergency application, the person making such application shall notify the commissioner of the department of health, using a form developed by the commissioner for such purposes that shall include minimally the name of the person making

the application, the pesticide business registration number or certified applicator number of the person making such application, the location and date of such application, the product name and USEPA registration number of the pesticide applied and the reason for such application. The commissioner shall review such form to ensure that the circumstance did warrant such emergency application. Such forms shall be kept on file at the department for three years from the date of application and shall be available to any individual upon request.

3. The commissioner is hereby charged with ensuring the compliance of schools with the requirements of this section, and shall establish a procedure for parents to notify the state of any school's failure to comply with the requirements of this section. Whenever it shall have been demonstrated to the satisfaction of the commissioner that a school district has failed to adopt a procedure for notification, or to faithfully and completely implement this section, the commissioner may, on thirty days notice to the district, withhold from the district monies to be paid to such district for the current school year pursuant to section thirty-six hundred nine-a of this chapter, exclusive of monies to be paid in respect of obligations to the retirement systems for the school and district staff and pursuant to collective bargaining agreements. Where it has been demonstrated to the satisfaction of the commissioner that a private or parochial school has failed to adopt a procedure for notification, or to faithfully and completely implement this section, the commissioner may, on thirty days notice to such school, withhold from the school state aid monies to be paid to such school for the current school year pursuant to chapter five hundred seven of the laws of nineteen hundred seventy-four, as amended by chapter nine hundred three of the laws of nineteen hundred eighty-four. Prior to such withholding, the commissioner shall provide the school an opportunity to present evidence of extenuating circumstances; when combined with evidence that the school shall promptly comply within short time frames that shall be established by the commissioner as part of an agreement between the school and the commissioner, the commissioner may temporarily stay the withholding of such funds pending implementation of such agreement. If the school is in full compliance with this section, the commissioner shall abate the withholding in its

entirety.

4. No school or employee of a school shall be held civilly or criminally liable for any failure to comply with the requirements of this section, unless such failure constitutes negligence, gross negligence, or intentional misconduct. Nothing contained herein shall be construed as limiting any legal cause of action or remedy at law, in statute or in equity that existed prior to the effective date of this section.

§ 409-i. Procurement and use of environmentally-sensitive cleaning and maintenance products. 1. For the purpose of this section the following terms shall mean:

(a) "Elementary or secondary school" means a facility used for instruction of elementary or secondary students by: (i) any school district, including a special act school district and a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more, (ii) a board of cooperative educational services, (iii) a charter school, (iv) an approved private school for the education of students with disabilities, (v) a state-supported school for the deaf or blind operated pursuant to article eighty-five of this chapter, and (vi) any other private or parochial elementary or secondary school.

(b) "Environmentally-sensitive cleaning and maintenance products" means those cleaning and maintenance products that minimize adverse impacts on children's health and the environment.

(c) "Facility" means any school building or facility used for instructional purposes and the surrounding grounds or other sites used for playgrounds, athletics or other instructional purposes.

2. The commissioner of general services, in consultation with the commissioner and the commissioners of environmental conservation, health and labor, shall establish and from time to time amend guidelines and specifications for environmentally-sensitive cleaning and maintenance products for use in elementary and secondary school facilities. For the purpose of developing appropriate criteria for such guidelines and

specifications, such commissioners shall review and evaluate existing research regarding environmentally-sensitive cleaning and maintenance products, including but not limited to, research and guidance issued by the United States environmental protection agency and the office of the federal environmental executive. In developing such guidelines, the commissioner of general services shall provide public notice and an opportunity to comment. Such guidelines shall be followed by elementary and secondary schools to identify and procure environmentally-sensitive cleaning and maintenance products which are available in the form, function and utility generally used by elementary and secondary schools in their facilities.

3. The commissioner of general services shall disseminate to all elementary and secondary schools guidelines and specifications for the purchase and use of environmentally-sensitive cleaning and maintenance products in elementary and secondary schools for use in their facilities. The commissioner of general services shall also prepare and disseminate to all elementary and secondary schools a sample list of such environmentally-sensitive cleaning and maintenance products that meet these guidelines or specifications. The commissioner of general services shall provide assistance and guidance to elementary and secondary schools in carrying out the requirements of this section. Elementary and secondary schools shall follow such guidelines, specifications and sample list when purchasing cleaning and maintenance products for use in their facilities.

4. Elementary and secondary schools shall notify their personnel of the availability of such guidelines, specifications and sample list.

5. On or before June first, two thousand seven, the department, in consultation with the office of general services, shall issue a report providing an analysis of the impact of such guidelines and specifications on the purchasing, procurement and use of environmentally-sensitive cleaning and maintenance products by elementary and secondary schools. Nothing in this section shall preclude an elementary or secondary school from depleting existing cleaning and maintenance supply stores purchased prior to the effective date of this

section.

§ 409-j. Emergency alert notification system in public schools; cities with a population of one million or more. On or before January first, two thousand ten, a city school district located in a city of one million or more inhabitants shall, pursuant to rules and regulations promulgated by the chancellor of such city school district and consistent with section twenty-eight hundred one-a of this chapter, implement an emergency alert notification system to convey timely information concerning emergency incidents or occurrences, as defined by such chancellor, that pose an imminent threat to the health or safety of a substantial number of students, faculty and staff at a particular educational facility or program. Such emergency alert notification system shall employ a variety of communication methods including the automated delivery of text messages, phone calls and/or electronic mail and shall notify and advise parents or persons in parental relation, faculty, staff, and elected representatives, who volunteer to receive emergency alert notifications.

§ 409-k. Pesticide alternatives. 1. For purposes of this section the following terms shall have the meanings set forth below:

(a) "School" shall mean any public school district or private or parochial school or board of cooperative educational services.

(b) "Pesticide" shall have the same meaning as set forth in subdivision thirty-five of section 33-0101 of the environmental conservation law, provided however that it shall not include:

(i) the application of anti-microbial pesticides and anti-microbial products as defined by FIFRA in 7 U.S.C. Section 136 (mm) and 136 q (h) (2);

(ii) the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets;

(iii) the use of non-volatile insect or rodent bait in a tamper resistant container;

(iv) the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR Part 152.25;

(v) the use of boric acid and disodium octaborate tetrahydrate; or

(vi) the use of horticultural soap and oils that do not contain synthetic pesticides or synergists.

2. No school shall apply pesticide to any playgrounds, turf, athletic or playing fields, except that an emergency application of a pesticide may be made as determined by the county health department or for a county not having a health department such authority as the county legislature shall designate, the commissioner of health or his or her designee, the commissioner of environmental conservation or his or her designee, or, in the case of a public school, the school board.

§ 409-l. Posting child abuse hotline telephone number. 1. Every public school including charter schools shall post in English and in Spanish the toll-free telephone number operated by the office of children and family services to receive reports of child abuse or neglect established under section four hundred twenty-two of the social services law and directions for accessing the office of children and family services website.

2. The commissioner shall adopt rules and regulations relating to the posting required by subdivision one of this section.

§ 409-m. Gender neutral single-occupancy bathroom facilities. The board of education or trustees of every school district or, in the case of the city school district of New York, the chancellor, and every board of cooperative educational services, charter school and nonpublic school within the state shall develop policies and procedures requiring that all single-occupancy bathroom facilities are designated as gender neutral for use by no more than one occupant at a time or for family or assisted use. Such gender neutral bathroom facilities shall be clearly designated by the posting of such on or near the entry door of each

facility. For purposes of this section, "single-occupancy bathroom" shall have the same meaning as paragraph (d) of subdivision one of section one hundred forty-five of the public buildings law.

§ 409-n. Maximum temperatures in school buildings and facilities. All common, union free, central, central high schools, city school districts and boards of cooperative educational services shall develop a policy for ensuring the health and safety of students, faculty, and other employees, on extreme heat condition days. For the purpose of this section, extreme heat condition days shall be defined as days when the occupiable educational and support services spaces are found to be eighty-two degrees or greater Fahrenheit. For the purpose of this section, support services spaces shall not include kitchen areas used in the preparation of food for consumption by students. For the purpose of this section, room temperature shall be measured at a shaded location, three feet above the floor near the center of the room. Schools shall be required to take action to relieve heat-related discomfort when the occupied space temperature reaches eighty-two degrees Fahrenheit. These actions may include, but are not limited to, turning off the overhead lights, pulling down shades or blinds, turning on fans, opening classroom doors and windows to increase circulation, turning off unused electronics that produce heat, and providing water breaks. Such policy shall include a plan to remove students and staff from occupied spaces where practicable when educational and support services spaces reach eighty-eight degrees Fahrenheit.

§ 410. Officials not to be interested in sales, leases or contracts. A public officer or school officer, who is authorized to sell or lease any property, or to make any contract in his official capacity, or to take part in making any such sale, lease or contract, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, except in cases where such sale, lease or contract, or payment under the same, is subject to audit or approval by the commissioner of education, is guilty of a misdemeanor. The provisions of this section shall not apply to municipal officers and

employees subject to article eighteen of the general municipal law.

§ 412. Condemnation of schoolhouse and erection of new schoolhouse in place thereof. 1. A district superintendent, upon the direction of the commissioner, may make an order condemning a school house, if he or she finds upon examination that such schoolhouse is wholly unfit for use and not worth repairing. He or she shall deliver such order to a trustee of the district and transmit a copy thereof to the commissioner. He or she shall also state in such order the date on which it shall take effect and the sum which in his or her opinion will be necessary to erect a school building available to the needs of the district.

2. Immediately upon the receipt of said order, the trustees of such district shall call a special meeting of the voters of said district, to consider the question of building a new schoolhouse therein. Such meeting shall have power to determine the size of said schoolhouse, the material to be used in its erection, and to vote a tax to build the same. But such meeting shall have no power to reduce the estimate made by the district superintendent aforesaid by more than twenty-five per centum of such estimate.

3. And where no tax for building such schoolhouse shall have been voted by such district within thirty days from the time of holding the first meeting to consider the question, it shall be the duty of the trustees of such district to contract for the building of a schoolhouse capable of accommodating the children of the district, and to levy a tax to pay for the same, which tax shall not exceed the sum estimated as necessary by the district superintendent aforesaid, and which shall not be less than such estimated sum by more than twenty-five per centum thereof. But such estimated sum may be increased at any subsequent school meeting legally held in the district.

§ 413. Use of school buildings for examinations. The use of a school building shall be granted for any examination. No charge shall be made therefor, provided always that due and proper care shall be maintained

and the school building be left in such condition as found in relation to cleanliness and neatness.

§ 414. Use of schoolhouse and grounds. 1. Schoolhouses and the grounds connected therewith and all property belonging to the district shall be in the custody and under the control and supervision of the trustees or board of education of the district. The trustees or board of education may adopt reasonable regulations for the use of such schoolhouses, grounds or other property, all portions thereof, when not in use for school purposes or when the school is in use for school purposes if in the opinion of the trustees or board of education use will not be disruptive of normal school operations, for such other public purposes as are herein provided; except, however, in the city of New York each community school board shall be authorized to prohibit any use of schoolhouses and school grounds within its district which would otherwise be permitted under the provisions of this section. Such regulations shall provide for the safety and security of the pupils and shall not conflict with the provisions of this chapter and shall conform to the purposes and intent of this section and shall be subject to review on appeal to the commissioner of education as provided by law. The trustees or board of education of each district may, subject to regulations adopted as above provided, permit the use of the schoolhouse and rooms therein, and the grounds and other property of the district, when not in use for school purposes or when the school is in use for school purposes if in the opinion of the trustees or board of education use will not be disruptive of normal school operations, for any of the following purposes:

(a) For the purpose of instruction in any branch of education, learning or the arts.

(b) For public library purposes, subject to the provisions of this chapter, or as stations of public libraries.

(c) For holding social, civic and recreational meetings and entertainments, and other uses pertaining to the welfare of the community; but such meetings, entertainment and uses shall be non-exclusive and shall be open to the general public. Civic meetings shall include, but not be limited to, meetings of parent associations

and parent-teacher associations.

(d) For meetings, entertainments and occasions where admission fees are charged, when the proceeds thereof are to be expended for an educational or charitable purpose; but such use shall not be permitted if such meetings, entertainments and occasions are under the exclusive control, and the said proceeds are to be applied for the benefit of a society, association or organization of a religious sect or denomination, or of a fraternal, secret or exclusive society or organization other than organizations of veterans of the military, naval and marine service of the United States and organizations of volunteer firefighters or volunteer ambulance workers.

(e) For polling places for holding primaries and elections and for the registration of voters and for holding political meetings. But no meetings sponsored by political organizations shall be permitted unless authorized by a vote of a district meeting, held as provided by law, or, in cities by the board of education thereof. Except in cities, it shall be the duty of the trustees or board of education to call a special meeting for such purpose upon the petition of at least ten per centum of the qualified electors of the district. Authority so granted shall continue until revoked in like manner and by the same body as granted.

(f) For civic forums and community centers. Upon the petition of at least twenty-five citizens residing within the district or city, the trustees or board of education in each school district or city shall organize and conduct community centers for civic purposes, and civic forums in the several school districts and cities, to promote and advance principles of Americanism among the residents of the state. The trustees or board of education in each school district or city, when organizing such community centers or civic forums, shall provide funds for the maintenance and support of such community centers and civic forums, and shall prescribe regulations for their conduct and supervision, provided that nothing herein contained shall prohibit the trustees of such school district or the board of education to prescribe and adopt rules and regulations to make such community centers or civic forums self-supporting as far as practicable. Such community centers and civic forums shall be at all times under the control of the trustees or board of education in each school district or city, and shall be non-exclusive and open to the general public.

(g) For classes of instruction for minors with developmental disabilities operated by a private organization approved by the commissioner.

(h) For recreation, physical training and athletics, including competitive athletic contests of children attending a private, nonprofit school.

(i) To provide child care services during non-school hours, or to provide child care services during school hours for the children of pupils attending the schools of the district and, if there is additional space available, for children of employees of the district, and, if there is further additional space available, the Cobleskill-Richmondville school district shall provide child care services for children ages three and four who need child care assistance due to lack of sufficient child care spaces. Such determination shall be made by each district's board of education, provided that the cost of such care shall not be a school district charge but shall be paid by the person responsible for the support of such child; the local social services district as authorized by law; or by any other public or private voluntary source or any combination thereof.

(j) For licensed school-based health, dental or mental health clinics. (i) For the purposes of this subdivision, the term "licensed school-based health, dental or mental health clinic" means a clinic that is located in a school facility of a school district or board of cooperative educational services, is operated by an entity other than the school district or board of cooperative educational services and will provide health, dental or mental health services during school hours and/or non-school hours to school-age and preschool children, and that is: (1) a health clinic approved under the provisions of chapter one hundred ninety-eight of the laws of nineteen hundred seventy-eight; or (2) another school-based health or dental clinic licensed by the department of health pursuant to article twenty-eight of the public health law; or (3) a school-based mental health clinic licensed or approved by the office of mental health pursuant to article thirty-one of the mental hygiene law; or (4) a school-based mental health clinic licensed by the office for people with developmental disabilities pursuant to article sixteen of the mental hygiene law.

(ii) Health professionals who provide services in licensed

school-based health, dental or mental health clinics shall be duly licensed pursuant to the provisions of title eight of this chapter unless otherwise exempted by law and shall be authorized to provide such services to the extent permitted by their respective practice acts.

(iii) Except where otherwise authorized by law, the cost of providing health, dental or mental health services shall not be a charge upon the school district or board of cooperative educational services, and shall be paid from federal, state or other local funds available for such purpose. Building space used for such a clinic shall be excluded from the rated capacity of the school building for the purpose of computing building aid pursuant to subdivision six of section thirty-six hundred two of this chapter or aid pursuant to subdivision five of section nineteen hundred fifty of this chapter.

(iv) Nothing in this paragraph shall be construed to justify a cause of action for damages against a school district or a board of cooperative educational services by reason of acts of negligence or misconduct by a school-based health, dental or mental health clinic or such clinic's officers or employees.

(k) For graduation exercises held by not-for-profit elementary and secondary schools, provided that no religious service is performed.

The board of education in the city of New York may delegate the authority to judge the appropriateness for uses other than school purposes to community school boards.

2. The trustees or board of education shall determine the terms and conditions for such use which may include rental at least in an amount sufficient to cover all resulting expenses for the purposes of paragraphs (a), (b), (c), (d), (e), (g), (i), (j) and (k) of subdivision one of this section. Any such use, pursuant to paragraphs (a), (c), (d), (h) and (j) of subdivision one of this section, shall not allow the exclusion of any district child solely because said child is not attending a district school or not attending the district school which is sponsoring such use or on which grounds the use is to occur.

§ 415. No schoolhouse shall be built on town line. No schoolhouse

shall be built so as to stand on the division line of any two towns unless the commissioner of education approves such location.

§ 416. School taxes and school bonds. 1. A majority of the voters of any school district, present and voting at any annual or special district meeting, duly convened, may authorize such acts and vote such taxes as they shall deem expedient for making additions, alterations, repairs or improvements, to the sites or buildings belonging to the district, or for altering and equipping for library use any former schoolhouse belonging to the district, or for the purchase of other sites or buildings, or for a change of sites, or for the purchase of land and buildings for agricultural, athletic, playground or social center purposes, or for the erection of new buildings, or for building a bus garage, or for buying apparatus, implements, or fixtures, or for paying the wages of teachers, and the necessary expenses of the school, or for the purpose of paying any judgment, or for the payment or refunding of an outstanding bonded indebtedness, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve.

2. On all propositions arising at said meetings involving the expenditure of money, or authorizing the levy of a tax in one sum or by installments, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such meetings; and they may direct the moneys so voted to be levied in one sum, or by installments, which shall be of such amounts and levied in such years as may be determined, within such limitations as may be fixed by the voters, by the trustees or board of education. No such tax shall be authorized to be levied by installments as a condition precedent to the issuance of bonds or capital notes unless the notice of the meeting shall state that such tax will be proposed and the object or purpose thereof. Such notice shall comply with the requirements of section 41.10 of the local finance law.

3. No addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for grading or

improving a school site, or for the purchase of an addition to the site of any schoolhouse, or for the purchase of lands and buildings for agricultural, athletic, playground or social center purposes, or for building any new schoolhouse or for the erection of an addition to any schoolhouse already built, or for the payment or refunding of an outstanding bonded indebtedness, shall be voted at any such meeting in a union free school district or a city school district which conducts annual budget votes in accordance with article forty-one of this chapter pursuant to section twenty-six hundred one-a of this chapter, unless a notice by the board of education stating that such tax will be proposed, and specifying the object thereof and the amount to be expended therefor, shall have been given in the manner provided herein for the notice of an annual meeting. In a common school district the notice of a special meeting to authorize any of the improvements enumerated in this section shall be given as provided in section two thousand six. The board of education of a union free school district or a city school district which conducts annual budget votes in accordance with article forty-one of this chapter pursuant to section twenty-six hundred one-a of this chapter, may determine that the vote upon any question to be submitted at a special meeting as provided in this section shall be by ballot, in which case it shall state in the notice of such special meeting the hours during which the polls shall be kept open. Printed ballots may be prepared by the board in advance of the meeting and the proposition or propositions called for in the notice of the meeting may be submitted in substantially the same manner as propositions to be voted upon at a general election.

4. And whenever a tax for any of the objects hereinbefore specified shall be legally voted, the board of trustees or board of education shall make out their tax list, and attach their warrant thereto, in the manner provided in article seventy-one of this chapter, for the collection of school district taxes, and shall cause such taxes or such instalments to be collected at such times as they shall become due.

5. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless it be an adjourned meeting or a meeting called by regular and legal notice, which shall specify the

proposed action, and at which the vote upon said proposed reduction or rescinding shall be taken by ballot or by taking and recording the ayes and noes of the qualified voters attending and voting thereat.

6. Notwithstanding the foregoing provisions of this section, propositions for the construction of a new schoolhouse or an addition to a present schoolhouse at the same site shall not be submitted for a vote more than twice during any twelve month period and in no event shall a proposition be submitted for a vote less than ninety days after a vote on the same or similar proposition. However, the prohibition of this subdivision shall not apply to a proposition to approve an additional amount necessary to carry out a construction project, where the voters have approved an initial building project and it is determined that the bids for such project are in excess of the approved amount.

7. The provisions of this section shall not apply to a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more.

§ 417. Allocation of moneys by regents for extraordinary relief to school districts. The regents may allocate moneys, out of any sums appropriated for such purpose, to school districts of the state for the repair, reconstruction or replacement of buildings or equipment from time to time damaged or destroyed by an act of God, against which insurance could not reasonably have been provided, where in the light of all the facts the regents are satisfied that such aid is necessary to prevent an unreasonable burden on the taxpayers within such districts.

§ 418. Purchase and display of flag. It shall be the duty of the school authorities of every public school in the several cities and school districts of the state to purchase a United States flag, flag-staff and the necessary appliances therefor, and to display such flag upon or near the public school building during school hours, and at such other times as such school authorities may direct.

§ 419. Display of flags in assembly rooms. It shall be the duty of the school authority of every public school in the several cities and school districts of the state to purchase a sufficient number of United States flags and the necessary holders and appliances therefor for display in each assembly room of such school. The commissioner of education shall prescribe the size and material of such flags and the manner and place of their display. It shall be the duty of the teacher or other person in charge of each such assembly room to cause the flag assigned for use in such room to be displayed at all times in the manner prescribed. Wilful failure to comply with the provisions of this section shall be a misdemeanor.

§ 419-a. Display of flags in classrooms. The commissioner shall encourage public school authorities in the several cities and school districts of the state to display United States flags in the classroom of each school, and shall be authorized to accept donations of flags from individuals or civic organizations for distribution in such cities and school districts.

§ 420. Rules and regulations. The said school authorities shall establish rules and regulations for the proper custody, care and display of the flag, and when the weather will not permit it to be otherwise displayed, it shall be placed conspicuously in the principal room in the schoolhouse.

ARTICLE 10

NEW YORK CITY EDUCATIONAL CONSTRUCTION FUND

Section 450. Short title.
451. Statement of legislative findings and purposes.
452. Definitions.
453. New York city educational construction fund.
454. General powers and duties of fund.
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New York.
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470. Article not affected if in part unconstitutional or ineffective.
471. Inconsistent provisions of other laws superseded.

§ 450. Short title. This article may be cited as the New York City Educational Construction Fund Act.

§ 451. Statement of legislative findings and purposes. There is threatened in the city of New York a serious shortage of elementary and secondary school buildings under the jurisdiction of the board of education of the city of New York. This shortage is occasioned by the age and obsolescence of many existing school buildings, the large number of new school buildings that are needed in various areas of the city of New York, the scarcity and high cost of available land in the areas where such schools are needed, the typical under-utilization of land by elementary and secondary school buildings and the existing limitations on the amount of state and city funds available for the construction of such buildings.

In order to facilitate the timely construction of such school buildings in combination with other compatible and lawful uses, which combination would provide a highly desirable and economic utilization of available land, there should be created a corporate governmental agency of the state, constituting a public benefit corporation, to be known as the "New York city educational construction fund," which could receive and administer moneys for the construction and improvement of elementary and secondary school buildings in the city of New York and whose principal purpose would be the timely and responsive provision of such combined occupancy structures in accordance with the foreseeable needs of the city of New York for additional or replacement elementary and secondary educational facilities and the desirability of facilitating maximum and appropriate utilization of available land. In order to encourage the investment of private capital in such combined occupancy structures and enable the construction of additional school facilities within existing financial limitations through the utilization of incidental revenue produced thereby, the New York city educational construction fund should be empowered, through the issuance of its bonds, notes or other obligations to the private investing public, to obtain a portion of the funds necessary to finance the construction of the school portion of such structures and to apply the revenues received from both the school and non-school portions thereof to the payment of such bonds, notes or other obligations. In furtherance of these purposes, the creation, continued operation and solvency of the New York city educational construction fund, including the maintenance of the capital reserve fund provided for in subdivision one of section four hundred sixty-two of this article, is hereby declared to be a school purpose for which public monies may be appropriated, apportioned and expended.

While responsibility for the educational affairs of the city school district of the city of New York, including the selection of school sites and the design and construction of school facilities, must continue in the board of education of the city of New York, title to such sites and the school facilities constructed thereon pursuant to this article should be vested in the fund in order to facilitate the exercise of its powers.

§ 452. Definitions. As used or referred to in this article, unless a different meaning clearly appears from the context:

1. "Board" or "board of education" shall mean the chancellor or deputy chancellor of the city school district of the city of New York, except for the purposes of section four hundred fifty-three of this chapter.

2. "Bonds" and "notes" shall mean bonds and notes respectively, issued by the fund pursuant to this article.

3. "City" shall mean the city of New York.

4. "City agency" shall mean any officer, administration, department, board, commission, bureau, division, agency or instrumentality of the city of New York.

5. "Combined occupancy structure" shall mean any improvement on real property or any interests therein or thereto, including fee interest, easements, space rights or air rights, containing school accommodations or other facilities of the board of education of the city of New York in combination with other compatible and lawful non-school uses designed and intended to increase, from both a planning and an economic viewpoint, the efficient utilization of available land areas. A combined occupancy structure shall also include a structure in a project or development under the auspices of the fund wherein non-school portions of structures placed upon the overall site are not built in space rights over the school portion, so long as some part of the non-school portion is constructed over or under any part of the school portion of the development.

6. "Commissioner of education" shall mean the commissioner of education of the state of New York.

7. "Comptroller" or "city comptroller" shall mean the comptroller of the city of New York.

8. "Corporation counsel" shall mean the corporation counsel of the city of New York.

9. "Developer" shall mean and include any private individual, partnership, trust or private or public corporation approved by the board of education as being qualified and eligible to enter into one or more leases, subleases or other agreements with the fund providing for the construction, acquisition, reconstruction, rehabilitation or improvement of one or more combined occupancy structures; which agreements shall be subject to approval by the board of education.

10. "Director of management and budget" or "city director of management and budget" shall mean the director of management and budget of the city of New York.

11. "Finance commissioner" or "city finance commissioner" shall mean the commissioner of finance of the city of New York.

12. "Fund" shall mean the corporate governmental agency created by section four hundred fifty-three of this article.

13. "Governor" shall mean the governor of the state of New York.

14. "Letting agency" shall mean and include the board of education or any other city agency which by agreement with the fund is to award the contracts for a particular construction, reconstruction, rehabilitation or improvement; or the fund itself, if it is to award such contracts.

14-a. "Maximum debt service reserve fund requirement" shall mean the amount of money required to be deposited in a debt service reserve fund authorized by section four hundred sixty-two hereof established pursuant to a resolution of the fund.

15. "Mayor" shall mean the mayor of the city of New York.

15-a. "Owner" shall mean and include any private individual,

partnership, trust or private or public corporation, taking possession of the non-school portion of a combined occupancy structure pursuant to a lease, sub-lease, conveyance or other agreement, or acquiring fee title to or a leasehold or other interest in such non-school portion.

16. "Planning commission" shall mean the planning commission of the city of New York.

17. "Real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including air or space rights, and any and all other things and rights usually included within the same term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments in every estate, interest or right, legal or equitable.

18. "School building" shall mean a separate structure entirely devoted to use and occupancy for public school purposes; including incidental and appurtenant recreational and other facilities.

19. "School portion" or "school portion of combined occupancy structure" shall mean that portion of a combined occupancy structure designed, constructed, reconstructed, rehabilitated or improved for use and occupancy for public school purposes; including the real property to be used in connection therewith together with incidental and appurtenant recreational and other facilities.

20. "State" shall mean the state of New York.

§ 453. New York city educational construction fund. * 1. There is hereby created the "New York city educational construction fund." The fund shall be a corporate governmental agency constituting a public benefit corporation. The board of trustees of the fund is hereby continued. It shall consist of the chancellor of the city school district of the city of New York, who shall be chair, and two trustees appointed by the mayor who shall each serve at the pleasure of the

mayor.

* NB Effective until June 30, 2028

* 1. There is hereby created the "New York city educational construction fund." The fund shall be a corporate governmental agency constituting a public benefit corporation. The board of trustees of the fund is hereby continued. It shall consist of the chancellor of the city school district of the city of New York, the president of the interim board of education or of the board of education, who shall be chairman, and one trustee appointed by the mayor who shall serve a term coterminous with that of the mayor.

* NB Effective June 30, 2028

2. The trustees of the fund shall serve without salary, but each trustee shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

3. The trustees of the fund may engage in private employment, or in a profession or business, subject to the limitations contained in article eighteen of the general municipal law. The fund shall, for the purposes of such article, be a "municipal agency", and the trustees thereof shall be "officers" of the agency.

4. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of appointment as a trustee, officer or agent of the fund; provided, however, that a trustee, officer or agent who holds such other public office or employment shall receive no additional compensation, fee or allowance for services rendered pursuant to this article, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

5. Any trustee may be removed by the commissioner of education for cause shown after having been given notice of the charge and an opportunity of defense, in the manner provided in this chapter for the removal of members of boards of education of city school districts.

6. The chairman of the fund shall preside over all meetings of the trustees and shall have such other duties as the trustees may direct. A vice-chairman who shall preside over all meetings of the fund in the absence of the chairman and who shall have such other duties as the trustees may direct may be designated from time to time by the trustees from among the other trustees.

7. The powers of the fund shall be vested in and exercised by no less than two of the trustees then in office. The fund may delegate to one or more of its trustees, or officers, agents or employees, such powers and duties as the trustees may deem proper, provided, however, that all contracts involving an estimated expense of ten thousand dollars or more and all leases, subleases or other agreements to be entered into pursuant to this article shall be approved prior to execution by no less than two trustees of the fund.

8. The fund may appoint such officers, employees and agents as it may deem advisable and may prescribe their duties and fix their compensation.

§ 454. General powers and duties of fund. The fund shall have the following powers in addition to those specifically conferred elsewhere in this article:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To make and alter by-laws for its organization and internal management;

4. With the approval of the comptroller of the city of New York to prescribe a system of accounts;

5. To make rules and regulations governing the exercise of its

corporate powers and the fulfillment of its corporate purposes under this article, which rules and regulations shall be filed with the secretary of state in the manner provided by section one hundred two of the executive law;

6. With the approval of the board of education, to purchase, receive, lease or otherwise acquire real and personal property necessary or convenient for its corporate purposes;

7. Subject to the terms and conditions of any lease, sublease or other agreement with the board of education, to possess, hold, use and improve real and personal property acquired by or on behalf of the fund so long as its corporate existence shall continue;

8. Upon a two-thirds vote of the trustees of the fund, and subject to the approval of the board of education, to design, construct, acquire, reconstruct, rehabilitate and improve combined occupancy structures and incidental or appurtenant facilities thereto, or cause such structures and facilities to be designed, constructed, acquired, reconstructed, rehabilitated and improved in accordance with the provisions of this article;

9. In connection with such design, construction, acquisition, reconstruction, rehabilitation and improvement, to install or cause to be installed water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, including appropriate connections;

10. Subject to the terms and conditions of any lease, sublease or other agreement with the board of education, to maintain, repair and keep up the real property held by it and all combined occupancy structures and facilities constructed, acquired, reconstructed, rehabilitated or improved pursuant to this article;

11. Subject to the terms and conditions of any lease, sublease or other agreement with third parties and to the determination of the board of education that such real property is unnecessary for the present or

foreseeable future school building needs of the city of New York, to surrender to the appropriate city official, for other public use or for sale, lease or other disposition in accordance with law, real property held by the fund for its corporate purposes;

12. To make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this article, subject to the approval of the corporation counsel as to form of all such documents to which the city of New York is a party; the term of any such lease or sublease or renewal thereof shall not be limited by any provision of any general, special or local law or charter applicable to the city of New York or to the board of education of the city of New York;

13. To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it deems desirable;

14. With the consent of the board of education to use the agents, employees and facilities of the board;

15. To engage the services of construction, engineering, architectural, legal and financial consultants, surveyors and appraisers, on a contract basis or as employees, for professional service and technical assistance and advice;

16. To assist generally, the department of general services of the city of New York in making land surveys, topographical surveys and valuation appraisals of real property sought to be acquired by the board of education of the city of New York;

17. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

18. To invest any moneys held in any funds or accounts not required for immediate use or disbursement, at the discretion of the fund, in

obligations of the city, the state or the United States government or obligations the principal of and interest on which are guaranteed by the city, the state or the United States government or obligations of agencies or instrumentalities of the United States government which may from time to time be legally purchased by savings banks of the state as investments of funds belonging to them or in their control; and temporarily to deposit or invest moneys not required for immediate use or disbursement in interest bearing time deposits or certificates of deposit issued by, a bank or trust company located and authorized to do business in this state, provided, however, that such time deposits or certificates of deposit shall be payable within such time as the proceeds shall be needed and provided further that such time deposits or certificates of deposit be secured by a pledge of obligations of the United States of America, or any obligation fully guaranteed or insured as to interest and principal by the United States of America acting through an agency, subdivision, department or division thereof, or obligations of the state of New York or of a corporate agency or instrumentality of the state of New York, including the fund itself, or obligations of the city of New York.

19. To accept any gifts or grants or loans of funds and property or financial or other aid in any form from the federal government or any agency or instrumentality thereof or from the state or from any other source and to comply, subject to the provisions of this article, with the terms and conditions thereof;

20. At the request or with the approval of the board of education, to grant, sell, license, lease or otherwise transfer without public auction or bidding any real property or any rights or interests therein or thereto, including fee interests, easements, space rights or air rights, held by it and occupied or reserved for school purposes and needed therefor, to a private individual or private or public corporation solely and exclusively for the purpose of developing and constructing therein or thereon a combined occupancy structure, or a part or portion thereof, or for the purpose of rehabilitating or improving an existing school to become part of a combined occupancy structure within the meaning of this article subject to a prior and enforceable agreement

approved by the board of education for the reconveyance, retransfer or leaseback of the school portion thereof, upon completion, for use and occupancy by the said board of education in those instances where a grant, sale or lease has been made to such private individual or private or public corporation; provided, however, that no such sale, lease or transfer of lands or rights therein or thereto is authorized where the development of a combined occupancy structure contemplates the erection of nonschool facilities or improvements over an existing playground unless such combined occupancy structure to be constructed over such playground shall provide playground area at least equal in size to the then existing playground area;

21. At the request or with the approval of the board of education, to contract with the owner or other developer of a combined occupancy structure for the purchase or lease of the school portion thereof upon completion for use and occupancy by the board of education of the city of New York;

22. To grant, sell, lease, sublease or otherwise convey the school portion of combined occupancy structures to the city of New York for use and occupancy by the board of education of the city of New York; and

23. To do any and all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted to it in this article.

§ 455. Relationship with the board of education and the city of New York. In order most effectively to carry out its corporate purposes, the fund shall cooperate with the director of management and budget and the board of education of the city of New York in matters relating to land acquisition and capital planning for school buildings and facilities. During the course of construction, reconstruction, rehabilitation and improvement of combined occupancy structures the fund shall consult with personnel of such board as the work progresses in matters relating to space requirements, site plans, architectural concept, and substantial changes in the plans and specifications

therefor, and in matters relating to the original furnishings, equipment, machinery and apparatus needed to furnish and equip the school portion of such buildings and structures, upon the completion of work. The board, on its part, shall perform such functions and services for the fund as may be requested and the fund shall pay to the board, from any monies of the fund available for such purpose, the reasonable cost of such functions and services.

§ 456. Special provisions relating to acquisition and transfer of real property. Notwithstanding any contrary provisions of any general, special or local law, charter or ordinance:

1. Provided that the trustees of the fund shall have formally approved by a two-thirds vote the acquisition of such real property for the development of one or more combined occupancy structures, any public corporation or officer responsible for the acquisition of real property for school purposes in the city of New York is hereby authorized for and on behalf and in the name of the city of New York, to execute and deliver to the fund, on such terms and for such consideration, if any, as may be determined by such public corporation or officer and the fund, but not to exceed the cost of acquisition thereof and the cost of improvements thereon, or lease for a term not exceeding ninety-nine years, a quitclaim deed conveying to the fund all right, title and interest of such public corporation and of the city of New York, in and to any of the lands acquired by such public corporation or officer for school purposes, and in and to any of the improvements thereon, for the purpose of constructing, reconstructing, rehabilitating or improving thereon one or more combined occupancy structures pursuant to this article for subsequent lease or sublease of the school portion of such combined occupancy structures to such public corporation or officer, in accordance with the terms of an agreement entered into among them pursuant to this article. The fund is hereby authorized to accept such lease or conveyance; to lease, sublease or otherwise transfer or convey, such lands and improvements and all or any part of the buildings or structures constructed, reconstructed, rehabilitated or improved thereon, to third parties and to such public corporation or officer in

accordance with the provisions of this article, and to hold the same subject to the terms of any such lease, conveyance, sublease or other agreement; and such public corporation or officer is hereby authorized to lease or sublease from the fund any such lands or improvements or the school portion of any combined occupancy structure, constructed, reconstructed, rehabilitated or improved thereon pursuant to this article or other provisions of law, and to hold such lands, improvements, buildings and school portions of combined occupancy structures subject to the terms of any such lease, sublease or other agreement.

2. In the event that the fund shall fail, within five years from the date of a lease or conveyance authorized pursuant to subdivision one of this section, to construct, reconstruct, rehabilitate or improve the buildings or structures thereon for which the conveyance was made, as provided for in a lease, sublease or other agreement entered into with such public corporation or officer, or in the event that such buildings or structures shall cease to be used for the purposes intended, then and in either event but subject to the terms of any lease, sublease or other agreement undertaken by the fund, such lands, and the improvements and buildings or structures thereon, shall revert to the city of New York with right of re-entry thereupon, and such lease or deed shall be made subject to such conditions; provided, however, that as a condition precedent to the exercise of such right of re-entry the city of New York, or such public corporation or officer, shall pay to the fund an amount equal to the purchase price of such lands and improvements, the depreciated cost of any buildings or structures constructed, reconstructed, rehabilitated or improved thereon, and all other costs of the fund incident to the acquisition of such lands and the financing of construction, reconstruction, rehabilitation or improvement relating to such buildings or structures, all as provided in the aforesaid lease, sublease or other agreement entered into with such public corporation or officer.

§ 457. Plans and specifications. 1. (a) No combined occupancy structure shall be acquired, leased, erected, repaired, enlarged or

remodeled by the fund until the detailed plans and specifications and cost estimates for the school portion thereof have been submitted to the board of education and its approval has been endorsed thereon.

(b) The board of education shall also review and approve the architectural concept, including an outline of the plans and specifications therefor, of the non-school portion of any combined occupancy structure to be erected, repaired, enlarged or remodeled in accordance with the provisions of any lease or other agreement between the fund and any developer.

2. Notwithstanding any other provision of law applicable to the city school district of the city of New York or the board of education of the city of New York, such district and such board shall only be required to submit an outline of the plans and specifications for a combined occupancy structure, and for the school portion thereof, to the commissioner of education for his information.

3. Every contract, lease or other agreement executed by or on behalf of the fund which makes provision for the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of any combined occupancy structure shall include a provision that the architect who designed the facility, or an architect or engineer retained specifically for the purpose of supervision, shall supervise the work to be performed through to completion and shall see to it that the materials furnished are in accordance with the drawings, plans, specifications and contractual provisions therefor.

§ 458. Letting of construction contracts. 1. Any contract let by the fund or by any letting agency on behalf of the fund for the construction, reconstruction, rehabilitation or improvement of a combined occupancy structure or of the school portion thereof, shall be in conformity with the provisions of section one hundred one of the general municipal law.

2. Except as otherwise provided in section two hundred twenty-two of the labor law, every contract, lease or other agreement entered into by

or on behalf of the fund for the acquisition, lease, construction, reconstruction, rehabilitation or improvement of the school portion of the work in any combined occupancy structure shall contain a provision that, when the entire cost of any such contemplated construction, reconstruction, rehabilitation or improvement for the school portion of the work shall exceed three million dollars in the counties of the Bronx, Kings, New York, Queens, and Richmond; one million five hundred thousand dollars in the counties of Nassau, Suffolk and Westchester; and five hundred thousand dollars in all other counties within the state, separate specifications shall be prepared for the following three subdivisions of the work on the school portion to be performed:

a. Plumbing and gas fitting;

b. Steam heating, hot water heating, ventilating and air conditioning apparatus; and

c. Electric wiring and standard illuminating fixtures.

Such specifications shall be drawn so as to permit the letting of separate and independent contracts for each of the above three subdivisions of work. Within the above three subdivisions of work, any equipment, apparatus and/or installations which shall be designed to service the entire combined occupancy structure shall be included within the school portion of the work or let as separate and independent contracts even if physically located within the non-school portion of the work. Except as otherwise provided by the public housing law, the provisions of which shall apply when the developer is the New York city housing authority, every developer or general contractor undertaking the construction, reconstruction, rehabilitation or improvement of any such combined occupancy structure pursuant to or in furtherance of the provisions of this article shall let separate contracts to the lowest responsible bidder for the three subdivisions of the above specified work to persons, firms or corporations approved by the chairman of the fund as being qualified, responsible and reliable bidders engaged in these classes of work. All such qualified bidders engaged in the above specified work shall be entitled to bid and to receive, upon request, a

copy of the plans and specifications. All such bids shall be submitted to the fund and shall be opened publicly at a stated time and place.

2-a. Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: a. plumbing and gas fitting, b. steam heating, hot water heating, ventilating and air conditioning apparatus and c. electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

3. a. In addition to other bond or bonds, if any, required by law for the completion of the school portion of a combined occupancy structure, or in the absence of any such requirement, the fund shall nevertheless require, prior to the approval of any lease or other agreement providing for the construction, reconstruction, rehabilitation or improvement of any combined occupancy structure, that the developer, if other than the New York city housing authority, or general contractor, furnish a bond guaranteeing prompt payment of moneys due to all persons furnishing labor or materials to or for the person furnishing said bond or to his subcontractors in the prosecution of the entire work provided for in such lease or other agreement. Whenever the developer is the New York city housing authority, it shall require each of its contractors to

furnish such bonds to said authority and fund with respect to the work to be performed and materials supplied by such contractor, and no separate or other payment bond shall be required to be furnished to the fund. In those instances where the developer or general contractor is an agency of the state or a public-benefit corporation created by an act of the state legislature and in instances where said developer or general contractor or the guarantor of payment of the construction costs of the non-school portion of the combined "occupancy structure" is a public utility corporation or a bank, trust company or savings bank as defined in section two of the banking law, or a national bank having its office and principal place of business in this state, or a subsidiary of such a bank or trust company of which at least eighty (80%) percent of whose stock is owned by it, the said developer or general contractor shall only be required to furnish said payment bond with respect to the school portion of the combined occupancy structure. In such instances, the said payment bond shall not be required by the fund with respect to the non-school portion of the combined occupancy structure, but, in lieu thereof, such fund shall require said agency, public benefit corporation, public utility corporation or banking institution, as the case may be to guarantee payment of all construction costs with respect to the non-school portion of the combined occupancy structure.

b. A copy of such payment bond shall be kept in the office of the chairman of the fund and a copy shall also be kept in the office of the board of education; such copies shall be open to public inspection.

c. Every person who has furnished labor or material, to or for the developer or contractor furnishing such payment bond or to his or her subcontractors in the prosecution of the work provided for in the lease or other agreement for which said bond is furnished and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was performed or material was furnished by him or her for which the claim is made, shall have the right to sue on such payment bond in his or her own name for the amount, or the balance thereof, unpaid at the time of commencement of the action; provided, however, that a person having a direct contractual relationship with a subcontractor of the developer or contractor

furnishing the payment bond but no contractual relationship express or implied with such developer or contractor shall not have a right of action upon the bond unless he or she shall have given written notice to such developer or contractor furnishing the bond within ninety days from the date on which the last of the labor was performed or the last of the material was furnished, for which his or her claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or for whom the labor was performed. The notice shall be served by delivering the same personally to the developer or contractor furnishing said bond or by mailing the same by registered mail, postage prepaid, in an envelope addressed to such developer or contractor at any place where he maintains an office or conducts his or her business or at his or her residence.

§ 459. Resources of the fund. 1. The fund may receive, accept, invest, administer, expend and disburse for its corporate purposes appropriations or advances from the city of New York, and other revenues and moneys made available or to be made available to the fund from any or all sources, including gifts, grants, loans and payments from the federal government, any state agency, any private foundation, organization or individual, or any other source, for the construction, acquisition, reconstruction, rehabilitation and improvement of combined occupancy structures, for the maintenance and repair of such structures, or for the costs of personal service and maintenance and operation of the fund.

2. All moneys of the fund, except as otherwise authorized or provided in this article, shall be paid to the comptroller of the city of New York as agent of the fund, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in two or more separate bank accounts. The moneys in any account shall be paid out of checks signed by the comptroller on requisition of the chairman of the fund or of such other officer or employee or officers or employees as the fund shall authorize to make such requisition. All deposits of such money shall, if required by the comptroller or the trustees of the fund, be secured by obligations of the United States or of the city or the state

of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

3. Subject to the terms of any lease, sublease or other agreement undertaken by the fund, any such moneys of the fund not required for immediate use may, at the discretion of the fund, be invested by the comptroller in obligations of the United States, the state or the city or in obligations the principal and interest of which are guaranteed by the United States, the state or the city.

4. The chairman of the fund shall annually, on or before January first, prepare and submit to the mayor and the director of the budget of the city of New York, on behalf of the trustees of the fund, an itemized budget for the administration of the fund during the city's next succeeding fiscal year and information as to the payment or provision for payment of obligations of the fund expected to be required during such year.

5. The city comptroller, or his legally authorized representative, is hereby authorized and empowered from time to time to examine the books and accounts of the fund including its receipts, disbursements, contracts, reserves, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller at least once in every five years; the comptroller is authorized, however, to accept from the fund, in lieu of such an examination, an external examination of its books and accounts made at the request of the trustees of the fund.

§ 460. Lease and other agreements. 1. Any agreement entered into between the fund and the owner or developer of a proposed combined occupancy structure pursuant to section four hundred fifty-four of this chapter shall provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or more combined occupancy structures, and the purchase or acquisition of the original furnishings, equipment, machinery and apparatus to be used in the school

portion of a combined occupancy structure upon completion of the work, (ii) the reconveyance, retransfer or leasing of all or any portion thereof and of the real property or interest therein related thereto, including real property originally acquired by the board of education in the name of the city of New York, upon the completion of construction, acquisition, reconstruction, rehabilitation or improvement upon such terms and conditions as may be agreed upon in those instances where there has been a prior conveyance, transfer or lease by the Fund to the owner or developer, (iii) the leasing or subleasing of such combined occupancy structures and property, or separately of the school and non-school portions thereof, by the fund upon completion for a term not exceeding ninety-nine years and upon such terms and conditions including annual rental as may be agreed upon, and (iv) the conveyance to the board of education in the name of the city of New York of title to the school portion of any such combined occupancy structures at the expiration of the term of the lease, or any renewal or extension thereof, or upon earlier payment in full of the total amount specified therein, without additional charge therefore. The board of education shall approve any such agreement.

2. a. Any lease, sublease or other agreement entered into between the fund and the owner or developer of a proposed combined occupancy structure shall provide for payment to the fund of the fair market value of such easements, space rights, air rights or other fee or leasehold interests as are to be held or retained by such owner or developer or his successor in interest under the terms of such agreement; provided that where subsidized housing, as hereinafter defined, is intended to be built in or on said easements, space rights, air rights or other fee or leasehold interests, the appropriate document may provide, in the discretion of the fund, for payment to the fund of less than the fair market value of such easements, space rights, air rights, or other fee or leasehold interests. As used in this paragraph, subsidized housing shall mean dwelling units aided by one or more federal, state or municipal programs designed to provide low or moderate income housing.

b. Whenever the easements, space rights, air rights or other fee or leasehold interests held or retained by such owner or developer, if

other than the New York city housing authority, and/or the non-school improvements constructed or erected therein or thereon, shall be exempt from real property taxes pursuant to the provisions of section four hundred sixty-eight of this article, such lease, sublease or other agreement shall also provide for the payment to the fund of annual or other periodic amounts equal to the amount of real property taxes that would otherwise have been paid or payable with respect to such easements, space rights, air rights or other fee or leasehold interests, and with respect to the non-school improvements constructed or erected therein or thereon, over the term of such lease, sublease or other agreement. Where such lease, sublease, or other agreement provides for the annual or other periodic payment of a fixed sum or sums as a tax equivalency payment during the term of such a lease, sublease, or other agreement, or any part thereof, the sum or sums to be paid may be either greater or less than the actual amount of real property taxes that would otherwise have been paid or payable with respect to the said property rights affected, if said property rights were not exempt, provided the city shall approve such provision. In the event provision is made for the annual or other periodic payment of a fixed sum or sums as a tax equivalency payment, such lease, sublease, or other agreement may further provide, upon approval by the city of such provision, that (i) such lessee, sublessee or vendee shall be required to pay such fixed sum or sums to the fund during the term of such lease, sublease, or other agreement regardless of whether the said property rights are exempt from real property taxes, (ii) if for any year during such term an ad valorem tax shall be levied and paid by such lessee, sublessee or vendee on the said property rights, such lessee, sublessee or vendee shall receive a credit against any taxes thereafter payable by it to the city the amount of such ad valorem tax paid by it, and (iii) in the event during such term a substitute tax, in place either in whole or in part of a real property tax on said property rights, is levied and paid by such lessee, sublessee or vendee, such lessee, sublessee, or vendee shall receive a credit against any taxes thereafter payable by it to the city for the amount of such substitute tax paid by it.

c. (1) Notwithstanding the provisions of section fifty-two of the public housing law, whenever the New York city housing authority is such

owner or developer, such lease, sublease or other agreement shall also provide for the payment by such authority to the fund or the city of such amount, for any year or years, as payment in lieu of real property taxes on the non-school portion constituting a project, as defined by the public housing law, as may be agreed upon among the fund, the city and the authority, and as may be approved by the commissioner of the state division of housing and community renewal if such project is a state project as defined in the public housing law, and by the federal government if such project is a federal project as defined in the public housing law.

(2) For any of the purposes of the public housing law, including, specifically, section seventy-three thereof, and notwithstanding any other provision in the public housing law for establishing the amount of taxes paid or payable with respect to a project for such year and the resulting amount of tax exemption, in computing the amount of tax exemption granted to such non-school portion constituting a project, as defined by the public housing law, the amount of such payment in lieu of taxes paid or payable with respect thereto for any year shall be deemed to be the amount of taxes paid or payable for such year.

3. Any lease, sublease or other agreement entered into between the fund and the city of New York or the board of education pursuant to section four hundred fifty-four of this chapter shall provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or more combined occupancy structures and (ii) the leasing or subleasing of the school portion of such structures to the city or the board for a term not exceeding ninety-nine years, upon such terms and conditions as may be agreed upon.

4. Every lease, sublease or other agreement executed pursuant to this article shall be subject to the approval of the commissioner of general services and the director of management and budget with respect to all rentals or other payments to be made thereunder by the city of New York, the board of education or by the owner or developer of a combined occupancy structure and shall contain a clause that any agreement of the city of New York thereunder shall be deemed executory to the extent of the moneys available to the city therefor and no liability on account

thereof shall be incurred by the city beyond the moneys available for the purpose thereof.

§ 461. Notes and bonds of the fund. 1. (a) Subject to the provisions of section four hundred sixty-two of this chapter, the fund shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in such principal amount as, in the opinion of the fund, shall be necessary, after taking into account other monies which may be available for the purpose, to provide sufficient funds for achieving its corporate purposes, including the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of combined occupancy structures pursuant to this article, the payment of interest on bonds and notes of the fund, establishment of reserves to secure such bonds and notes, and all other expenditures of the fund incident to and necessary or convenient to carry out its corporate purposes and powers;

(b) The fund shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and whenever it deem refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded;

(c) Except as may otherwise be expressly provided by the fund, every issue of its notes or bonds shall be general obligations of the fund payable out of any revenues or monies of the fund, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues;

(d) Whether or not the notes or bonds are of such form and character as to be negotiable instruments under the provisions of article eight of the uniform commercial code, the notes or bonds shall be and hereby are made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

2. The notes and bonds of the fund shall be authorized by resolution

of the trustees, shall bear such date or dates, and shall mature at such time or times, in the case of any such note, or any renewals thereof, not exceeding five years, from the date of issue of such original note, and in the case of any such bond not exceeding forty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the fund may be sold by the fund, at public or private sale, at such price or prices as the fund shall determine. No notes or bonds of the fund may be sold by the fund at private sale, however, unless such sale and the terms thereof have been approved in writing by the city comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the fees and charges made or received by the fund, and all or any part of (i) the rentals or other payments to be received by the fund with respect to the school portion of combined occupancy structures financed with the proceeds of such bonds and notes, and (ii) the rentals or other payments to be received by the fund with respect to the non-school portion of combined occupancy structures and (iii) any other monies, assets or accounts received or to be received by the fund or pledged or assigned to the fund to secure the payment of such notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the fund to secure the payment of such notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of the gross income of the fund in connection with combined occupancy structures financed or constructed, acquired, reconstructed, rehabilitated or improved by it or on its behalf;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of monies to be expended by the fund for operating, administrative or other expenses of the fund;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the fund may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this article, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

4. It is the intention hereof that any pledge made by the fund shall be valid and binding from the time when the pledge is made; that the monies or property so pledged and thereafter received by the fund shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the fund, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the trustees of the fund nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The fund, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the fund, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

7. Neither the state nor the city of New York shall be liable on the notes or bonds of the fund and such notes and bonds shall not be a debt of the city or the state, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 462. Reserve funds, appropriations and other funds and accounts. 1. (a) The fund shall create and establish a special fund (herein referred to as capital reserve fund), and, to secure bonds of the fund issued prior to the twenty-fourth day of July, nineteen hundred seventy-six, shall pay into such capital reserve fund (1) any monies appropriated and made available by the state or the city of New York for the purposes of such fund, (2) any proceeds of sale of notes or bonds to the extent provided in the resolution of the fund authorizing the issuance thereof, and (3) any other monies which may be made available to the fund for the purpose of such capital reserve fund from any other source or sources. All moneys held in the capital reserve fund, established for bonds of the fund secured by such capital reserve fund except as hereinafter provided, shall be used solely for the payment of the principal of such bonds as the same mature, required payments to any sinking fund established for the amortization of such term bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in such capital reserve fund shall not be withdrawn therefrom at any time in such amount

as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding fiscal year on all bonds of the fund secured by the capital reserve fund then outstanding, except for the purpose of paying principal, interest and sinking fund payments becoming due on such bonds of the fund maturing and becoming due and for the payment of which other monies of the fund are not available. For the purposes of this subdivision, in computing the maximum amount of principal maturing in any succeeding calendar year, the principal amount of any term bonds which are to be amortized by sinking fund payments shall not be included in the computation. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred to other funds or accounts to the extent it does not reduce the amount of the capital reserve fund below the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding calendar year on all bonds of the fund then outstanding secured by the capital reserve fund.

(b) The fund shall not issue bonds secured by the capital reserve fund at any time if the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in a succeeding fiscal year on the bonds then to be issued and on all other bonds of the fund then outstanding secured by the capital reserve fund will exceed the amount of the capital reserve fund at the time of issuance unless the fund, at the time of issuance of such bonds, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding fiscal year on such bonds then to be issued and on all other bonds of the fund then outstanding secured by the capital reserve fund.

(c) To assure the continued operation and solvency of the capital reserve fund for the carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in the capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any succeeding fiscal year

on all bonds of the fund then outstanding secured by the capital reserve fund. In order further to assure such maintenance of the capital reserve fund, the board of education shall annually request from the city of New York and pay over to the fund, for deposit in the capital reserve fund, such sum, if any, as shall be certified by the chairman of the fund to the board, the mayor and the director of management and budget of the city of New York as necessary to restore the capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due and sinking fund payments required to be made in the next succeeding fiscal year on the bonds of the fund then outstanding secured by the capital reserve fund; provided, however, that such sum shall have been first appropriated by the city to the board or shall otherwise have been made lawfully available to the board for such purpose. The chairman of the fund shall annually, not later than the fifteenth day of February in each year, make and deliver to the board, the mayor and the director of management and budget his certificate stating the amount, if any, required to restore the capital reserve fund to the amount aforesaid and the amount so stated, if any, shall be paid to the fund by the board during the then current fiscal year of the fund. In the event of the failure or inability of the board to pay over the stated amount to the fund on or before August first of the same year, the chairman of the fund shall forthwith make and deliver to the comptroller of the state of New York a further certificate restating the amount so required and, after the comptroller of the state of New York shall have given written notice to the commissioner of education, the mayor and director of management and budget, such amount shall be paid over to the fund by the comptroller of the state of New York out of the next payment of state aid apportioned to the city of New York on behalf of the city school district of the city of New York for the support of common schools or such other aid or assistance payable in support of common schools as shall supersede or supplement such state aid for the support of common schools, including federal moneys apportioned by the state to the city of New York on behalf of the city school district for the support of common schools. Any amount so paid over to the fund shall be deducted from the corresponding apportionment of state education aid or other aid or assistance for education otherwise credited to the board of education for its purposes and shall not obligate the state to make

or entitle the city or the board of education to receive any additional or increased apportionment or payment of state aid for school purposes.

(d) In computing the amount of the capital reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the fund.

2. The fund may create and establish with the comptroller or with a trustee one or more additional funds or accounts and, subject to agreements with bondholders and noteholders, may pay into such funds or accounts (i) fees and charges collected by the fund, (ii) monies which shall be transferred from the capital reserve fund pursuant to the provisions of paragraph (a) of subdivision one of this section, and (iii) any other monies which may be made available to the fund from any other source or sources. The monies held in or credited to any such reserve fund or account may, in the discretion of the fund but subject to agreements with bondholders and noteholders, be used by the fund (a) for the repayment of advances from the city of New York, (b) to reimburse the board of education of the city of New York the reasonable costs of services performed by the board for the fund pursuant to section four hundred fifty-five of this article, (c) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to the capital reserve fund, (e) for the payment of principal of and interest on bonds or notes issued by the fund when the same shall become due, whether at maturity or on call for redemption, and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase bonds or notes issued by the fund, (f) for such other corporate purposes as the fund in its discretion shall determine and provide, or (g) for payment to the board of education for school purposes.

3. (a) The fund may create and establish one or more special funds (herein referred to as debt service reserve funds), and, to secure bonds of the fund issued on or after the twenty-fourth day of July, nineteen hundred seventy-six, shall pay into each such debt service reserve fund (1) any monies appropriated and made available by the state or city of

New York for the purposes of such fund, (2) any proceeds of sale of notes or bonds to the extent provided in the resolution of the fund authorizing the issuance thereof, and (3) any other monies which may be made available to the fund for the purposes of any such debt service reserve fund from any other source or sources. All moneys held in a debt service reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the fund as the same mature, required payments to any sinking fund established for the amortization of term bonds (hereinafter referred to as "sinking fund payments"), so secured, the purchase or redemption of bonds of the fund so secured, the payment of interest on such bonds of the fund so secured or the payment of any redemption premium required to be paid when such bonds secured by a debt service reserve fund are redeemed prior to maturity; provided, however, that moneys in a debt service reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the debt service reserve fund requirement established pursuant to the agreement with the holders of the bonds of the fund secured by such debt service reserve fund, except for the purpose of paying principal of, interest and sinking fund payments becoming due on such bonds of the fund maturing and becoming due and for the payment of which other monies of the fund are not available. Any income or interest earned by, or increment to, a debt service reserve fund due to the investment thereof may be transferred to other funds or accounts to the extent it does not reduce the amount of a debt service reserve fund below the debt service reserve fund requirement.

(b) The fund shall not issue bonds secured by a debt service reserve fund at any time if the amount in such debt service reserve fund is less than the debt service reserve fund requirement at the time of issuance unless the fund, at the time of issuance of such bonds, shall deposit in the debt service reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the debt service reserve fund requirement established by the agreement with the holders of the bonds of the fund secured thereby.

(c) To assure the continued operation and solvency of the fund for the carrying out of the public purposes of this article, provision is made

in paragraph (a) of this subdivision for the accumulation in a debt service reserve fund of an amount equal to the debt service reserve fund requirement on all bonds of the fund then outstanding secured by a debt service or debt service reserve fund. In order further to assure such maintenance of a debt service reserve fund, the board of education shall annually request from the city of New York and pay over to the fund after making the payment required by paragraph (c) of subdivision one of this section for deposit in a debt service reserve fund, such sum, if any, as shall be certified by the chairman of the fund to the board, the mayor and the director of the budget of the city of New York as necessary to restore such debt service reserve fund to an amount equal to the debt service reserve fund requirement for the bonds of the fund secured by such debt service reserve fund; provided, however, that such sum shall have been first appropriated by the city to the board or shall otherwise have been made lawfully available to the board for such purpose. The chairman of the fund shall annually, not later than the fifteenth day of February in each year, make and deliver to the board, the mayor and the director of the budget his certificate stating the amount, if any, required to restore a debt service reserve fund to the amount aforesaid and the amount so stated after making the payment required by paragraph (c) of subdivision one of this section if any, shall be paid to the fund by the board during the then current fiscal year of the fund. In the event of the failure or inability of the board to pay over the stated amount to the fund on or before August first of the same year, the chairman of the fund shall forthwith make and deliver to the comptroller of the state of New York a further certificate restating the amount so required and, after the comptroller of the state of New York shall have given written notice to the commissioner, the mayor and director of the budget, such amount after making the payment required by paragraph (c) of subdivision one of this section shall be paid over to the fund by the comptroller of the state of New York out of the next payment of state aid apportioned to the city of New York on behalf of the city school district of the city of New York for the support of common schools or such other aid or assistance payable in support of common schools as shall supersede or supplement such state aid for the support of common schools, including federal moneys apportioned by the state to the city of New York on behalf of the city

school district for the support of common schools. Any amount so paid over to the fund under paragraph (c) of subdivision one of this section shall be deducted from the corresponding apportionment of state education aid or other aid or assistance for education otherwise credited to the board of education for its purposes and shall not obligate the state to make or entitle the city or the board of education to receive any additional or increased apportionment or payment of state aid for school purposes.

(d) In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the fund.

(e) The maximum debt service reserve fund requirement for any debt service reserve fund created pursuant to this subdivision shall not exceed the amount of principal and interest maturing and becoming due and sinking fund payments required to be made in any year on all bonds of the fund secured by such debt service reserve fund. For purposes of this subdivision, in computing the maximum amount of principal maturing in any year, the principal amount of any term bonds which are to be amortized by sinking fund payments shall not be included in the computation.

4. In addition to the funds permitted to be established pursuant to subdivision two hereof, the fund may create and establish with the comptroller or with a trustee one or more additional funds or accounts and, subject to agreements with bondholders and noteholders, may pay into such funds or accounts (i) fees and charges collected by the fund, (ii) monies which shall be transferred from a debt service or reserve fund pursuant to the provisions of paragraph (a) of subdivision one of this section, and (iii) any other monies which may be made available to the fund from any other source or sources. The monies held in or credited to any such fund may, in the discretion of the fund but subject to agreements with bondholders and noteholders, be used by the fund (a) for the repayment of advances from the city of New York, (b) to reimburse the board of education of the city of New York the reasonable costs of services performed by the board for the fund pursuant to section four hundred fifty-five of this article, (c) to pay all costs,

expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to a debt service or a debt service reserve fund, (e) for the payment of principal, interest and sinking fund payments for any bonds or notes issued by the fund when the same shall become due, whether at maturity or on call for redemption, and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase bonds or notes issued by the fund, (f) for such other corporate purposes as the fund in its discretion shall determine and provide, or (g) for payment to the board of education for school purposes.

§ 463. Agreement with the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this article, that the state will not limit or alter the rights hereby vested in the fund to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The fund is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 464. State and city's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, either the state or the city of New York may, upon furnishing sufficient funds therefor, require the fund to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published

and circulating in the city of New York at least twice, the first publication to be at least thirty days before the date of redemption.

§ 465. Remedies of noteholders and bondholders. 1. In the event that the fund shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the fund shall fail or refuse to comply with the provisions of this article, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the city clerk of the city of New York and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders and require the fund to carry out agreements with such noteholders or bondholders and to perform its duties under this article;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the fund to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, annul such declaration and its consequences.

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any

functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of New York.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the mayor of the city of New York, to the fund, to the board of education of the city of New York and to the attorney general of the state.

§ 466. Notes and bonds as legal investments. The notes and bonds of the fund are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

§ 467. Actions by and against fund. 1. The state supreme court shall have exclusive jurisdiction of any action, suit or special proceeding brought by or against or involving the fund. The venue of any action, suit or special proceeding brought against the fund shall be laid in the city and county of New York.

2. In every action against the fund for damages, for injuries to real or personal property, or for the destruction thereof, or for personal

injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a trustee or officer of the fund and that the fund has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

3. Except in an action for wrongful death, an action against the fund for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the fund within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

§ 468. Exemptions from taxation. 1. It is hereby declared that the creation of the fund and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city and state of New York and for the improvement of their health, safety, welfare and security and is a public purpose and the fund shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this article.

2. The monies and properties of the fund, including all properties constructed, acquired, reconstructed, rehabilitated or improved by it or on its behalf and all properties under its jurisdiction, control or supervision, and all of its operations and activities shall be exempt from taxation.

3. The notes and bonds of the fund issued pursuant to this article, and the income therefrom, and all fees, charges, rents, gifts, grants, revenues, receipts and other monies received or to be received by the fund shall at all times be free from taxation, except for estate and

gift taxes and taxes on transfers.

§ 469. Annual report of trustees. The trustees of the fund shall submit to the mayor, the board of education and the city council of the city of New York annually on or before February first, a full report of its activities and operations through the thirtieth day of the preceding June, including: (1) details as to projects in planning, projects in the process of construction, acquisition, reconstruction, rehabilitation or improvement, and projects completed; (2) the performance record of the trustees in completing construction in accordance with the desired completion dates and within the estimated costs; (3) the architects, engineers and other private consultants engaged by the trustees of the fund on a contract basis and a statement of the total amount paid and yet to be paid, or estimated yet to be paid, under each such contract; (4) the moneys made available for the purposes of the fund; (5) details as to any lease, sublease or agreement executed by the trustees of the fund and the annual rentals to be paid or received on account thereof; (6) its assets and liabilities at the end of the fiscal year, including the status of reserve funds and other funds and accounts; (7) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with the amounts redeemed and incurred during such fiscal year, and such other information related to the activities and operation of the fund as the trustees may consider pertinent.

§ 470. Article not affected if in part unconstitutional or ineffective. If any section, subdivision, paragraph, sentence, clause or provision of this article shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 471. Inconsistent provisions of other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of

any other general, special or local law, or with the provisions of any charter or ordinance, the provisions of this article shall be controlling. The provisions of this article shall not be deemed to prevent the city of New York from financing the cost of acquiring, constructing, reconstructing, rehabilitating or improving one or more school buildings by the issuance of bonds or capital notes pursuant to the local finance law.

ARTICLE 10-B

CITY OF YONKERS EDUCATIONAL CONSTRUCTION FUND

Section 475. Short title.
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495. Inconsistent provisions of other laws superseded.

§ 475. Short title. This article may be cited as the "City of Yonkers Educational Construction Fund Act".

§ 476. Definitions. As used or referred to in this article, unless a different meaning clearly appears from the context:

1. "Board" or "board of education" shall mean the board of education of the city of Yonkers.

2. "Bonds" and "notes" shall mean bonds and notes respectively, issued by the fund pursuant to this article.

3. "City" shall mean the city of Yonkers.

4. "City agency" shall mean any officer, administration, department, board, commission, bureau, division, agency or instrumentality of the city of Yonkers.

5. "Combined occupancy structure" shall mean any improvement on real property or any interests therein or thereto, including fee interests, easements, space rights or air rights, containing school accommodations or other facilities of the board of education of the city of Yonkers in combination with other compatible and lawful non-school uses designed and intended to increase, from both a planning and an economic viewpoint, the efficient utilization of available land areas. A combined occupancy structure shall also include a structure in a project or development under the auspices of the fund wherein non-school portions of structures placed upon the overall site are not built in space rights over the school portion, so long as some part of the non-school portion is constructed over the school.

6. "Commissioner of education" shall mean the commissioner of education of the state of New York.

7. "Corporation counsel" shall mean the corporation counsel of the city of Yonkers.

8. "Developer" shall mean and include any private individual, partnership, trust or private or public corporation approved by the board of education as being qualified and eligible to enter into one or more leases, subleases or other agreements with the fund providing for the construction, acquisition, reconstruction, rehabilitation or improvement of one or more combined occupancy structures; which agreements shall be subject to approval by the board of education.

9. "Commissioner of finance" shall mean the commissioner of finance of the city of Yonkers.

10. "Fund" shall mean the corporate governmental agency created by section four hundred seventy-seven of this article.

11. "Governor" shall mean the governor of the state of New York.

12. "Letting agency" shall mean and include the board of education or any other city agency which by agreement with the fund is to award the contracts for a particular construction, reconstruction, rehabilitation or improvement; or the fund itself, if it is to award such contracts.

13. "Mayor" shall mean the mayor of the city of Yonkers.

14. "Owner" shall mean and include any private individual, partnership, trust or private or public corporation, taking possession of the non-school portion of a combined occupancy structure pursuant to a lease, sub-lease, conveyance or other agreement, or acquiring fee title to or a leasehold or other interest in such non-school portion.

15. "Planning commission" shall mean the planning commission of the city of Yonkers.

16. "Real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including air or space rights, and any and all other things and rights usually included within the same term and includes also any and all interests in such

property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments in every estate, interest or right, legal or equitable.

17. "School building" shall mean a separate structure entirely devoted to use and occupancy for public school purposes; including incidental and appurtenant recreational and other facilities.

18. "School portion" or "school portion of combined occupancy structure" shall mean that portion of a combined occupancy structure designed, constructed, reconstructed, rehabilitated or improved for use and occupancy for public school purposes; including incidental and appurtenant recreational and other facilities.

19. "State" shall mean the state of New York.

§ 477. City of Yonkers educational construction fund. 1. There is hereby created the "city of Yonkers educational construction fund." The fund shall be a corporate governmental agency constituting a public benefit corporation. It shall be administered by a board of trustees consisting of the chairman of the board of education of the city of Yonkers, four members of such board appointed by the president thereof and four members appointed by the mayor of the city of Yonkers. The chairman of the board of education shall be the chairman of the fund. The chairman and the trustees who are members of the board of education shall serve during their terms of office as chairman and members, respectively, of the board of education. The members first appointed by the mayor shall serve for terms ending two, three, four and five years, respectively, from the date of their appointment. Their successors shall serve for terms of five years each.

2. The trustees of the fund shall serve without salary, but each trustee shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

3. The trustees of the fund may engage in private employment, or in a

profession or business, subject to the limitations contained in article eighteen of the general municipal law. The fund shall, for the purposes of such article, be a "municipal agency", and the trustees thereof shall be "officers" of the agency.

4. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of appointment as a trustee, officer or agent of the fund; provided, however, that a trustee, officer or agent who holds such other public office or employment shall receive no additional compensation, fee or allowance for services rendered pursuant to this article, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

5. Any trustee may be removed by the commissioner of education for cause shown after having been given notice of the charge and an opportunity of defense, in the manner provided in this chapter for the removal of members of boards of education of city school districts.

6. The chairman of the fund shall preside over all meetings of the trustees and shall have such other duties as the trustees may direct. A vice-chairman who shall preside over all meetings of the fund in the absence of the chairman and who shall have such other duties as the trustees may direct may be designated from time to time by the trustees from among the other trustees.

7. The powers of the fund shall be vested in and exercised by no less than six of the trustees then in office. The fund may delegate to one or more of its trustees, or officers, agents or employees, such powers and duties as the trustees may deem proper, provided, however, that all contracts involving an estimated expense of ten thousand dollars or more and all leases, subleases or other agreements to be entered into pursuant to this article shall be approved prior to execution by no less than five trustees of the fund.

8. The fund may appoint such officers, employees and agents as it may deem advisable and may prescribe their duties and fix their compensation.

§ 478. General powers and duties of fund. The fund shall have the following powers in addition to those specifically conferred elsewhere in this article:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To make and alter by-laws for its organization and internal management;

4. With the approval of the commissioner of finance of the city of Yonkers to prescribe a system of accounts;

5. To make rules and regulations governing the exercise of its corporate powers and the fulfillment of its corporate purposes under this article, which rules and regulations shall be filed with the secretary of state in the manner provided by section one hundred two of the executive law;

6. With the approval of the board of education, to purchase, receive, lease or otherwise acquire real and personal property necessary or convenient for its corporate purposes;

7. Subject to the terms and conditions of any lease, sublease or other agreement with the board of education, to possess, hold, use and improve real and personal property acquired by or on behalf of the fund so long as its corporate existence shall continue;

8. Upon a two-thirds vote of the trustees of the fund, and subject to the approval of the board of education, to design, construct, acquire, reconstruct, rehabilitate and improve combined occupancy structures and

incidental or appurtenant facilities thereto, or cause such structures and facilities to be designed, constructed, acquired, reconstructed, rehabilitated and improved in accordance with the provisions of this article;

9. In connection with such design, construction, acquisition, reconstruction, rehabilitation and improvement, to install or cause to be installed water, sewer, gas, electrical, telephone, heating, air conditioning and other utility services, including appropriate connections;

10. Subject to the terms and conditions of any lease, sublease or other agreement with the board of education, to maintain, repair and keep up the real property held by it and all combined occupancy structures and facilities constructed, acquired, reconstructed, rehabilitated or improved pursuant to this article;

11. Subject to the terms and conditions of any lease, sublease or other agreement with third parties and to the determination of the board of education that such real property is unnecessary for the present or foreseeable future school building needs of the city of Yonkers, to surrender to the appropriate city official, for other public use or for sale, lease or other disposition in accordance with law, real property held by the fund for its corporate purposes;

12. Subject to the approval of the corporation counsel as to form, to make and execute contracts, leases, subleases, and all other instruments or agreements necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this article; the term of any such lease or sublease or renewal thereof shall not be limited by any provision of any general, special or local law or charter applicable to the city of Yonkers or to the board of education of the city of Yonkers;

13. To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as it deems desirable;

14. With the consent of the board of education to use the agents, employees and facilities of the board;

15. To engage the services of construction, engineering, architectural, legal and financial consultants, surveyors and appraisers, on a contract basis or as employees, for professional service and technical assistance and advice;

16. To assist generally, the public works department of the city of Yonkers in making land surveys, topographical surveys and valuation appraisals of real property sought to be acquired by the board of education of the city of Yonkers;

17. To borrow money and issue negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

18. To invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the fund, in obligations of the city, the state or the United States government or obligations the principal and interest of which are guaranteed by the city, the state or the United States government;

19. To accept any gifts or grants or loans of funds and property or financial or other aid in any form from the federal government or any agency or instrumentality thereof or from the state or from any other source and to comply, subject to the provisions of this article, with the terms and conditions thereof;

20. At the request or with the approval of the board of education, to grant, sell, lease or otherwise transfer without public auction or bidding any real property or any rights or interests therein or thereto, including fee interests, easements, space rights or air rights, held by it and occupied or reserved for school purposes and needed therefor, to a private individual or private or public corporation solely and exclusively for the purpose of developing and constructing therein or thereon a combined occupancy structure, or a part or portion thereof,

within the meaning of this article subject to a prior and enforceable agreement approved by the board of education for the reconveyance, retransfer or lease back of the school portion thereof, upon completion, for use and occupancy by the said board of education; provided, however, that no such sale, lease or transfer of lands or rights therein or thereto is authorized where the development of a combined occupancy structure contemplates the erection of nonschool facilities or improvements over an existing school or playground unless such combined occupancy structure to be constructed over such playground shall provide playground area at least equal in size to the then existing playground area;

21. At the request or with the approval of the board of education, to contract with the owner or other developer of a combined occupancy structure for the purchase or lease of the school portion thereof upon completion for use and occupancy by the board of education of the city of Yonkers;

22. To grant, sell, lease, sublease or otherwise convey the school portion of combined occupancy structures to the city of Yonkers for use and occupancy by the board of education of the city of Yonkers; and

23. To do any and all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted to it in this article.

§ 479. Relationship with the board of education of the city of Yonkers. In order most effectively to carry out its corporate purposes, the fund shall cooperate with the commissioner of finance and the board of education of the city of Yonkers in matters relating to land acquisition and capital planning for school buildings and facilities. During the course of construction, reconstruction, rehabilitation and improvement of combined occupancy structures the fund shall consult with personnel of such board as the work progresses in matters relating to space requirements, site plans, architectural concept, and substantial changes in the plans and specifications there-

for, and in matters relating to the original furnishings, equipment, machinery and apparatus needed to furnish and equip the school portion of such buildings and structures, upon the completion of work. The board, on its part, shall perform such functions and services for the fund as may be requested and the fund shall pay to the board, from any monies of the fund available for such purpose, the reasonable cost of such functions and services.

§ 480. Special provisions relating to acquisition and transfer of real property. Notwithstanding any contrary provisions of any general, special or local law, charter or ordinance: 1. Provided that the trustees of the fund shall have formally approved by a two-thirds vote the acquisition of such real property for the development of one or more combined occupancy structures, any public corporation or officer responsible for the acquisition of real property for school purposes in the city of Yonkers is hereby authorized for and on behalf and in the name of the city of Yonkers, to execute and deliver to the fund, on such terms and for such consideration, if any, as may be determined by such public corporation or officer and the fund, but not to exceed the cost of acquisition thereof and the cost of improvements thereon, a lease for a term not exceeding ninety-nine years, or a quitclaim deed conveying to the fund all right, title and interest of such public corporation and of the city of Yonkers in and to any of the lands acquired by such public corporation or officer for school purposes, and in and to any of the improvements thereon, for the purpose of constructing, reconstructing, rehabilitating or improving thereon one or more combined occupancy structures pursuant to this article for subsequent lease or sublease of the school portion of such combined occupancy structures to such public corporation or officer, in accordance with the terms of an agreement entered into among them pursuant to this article. The fund is hereby authorized to accept such lease or conveyance; to lease, sublease or otherwise transfer or convey, such lands and improvements and all or any part of the buildings or structures constructed, reconstructed, rehabilitated or improved thereon, to third parties and to such public corporation or officer in accordance with the provisions of this article, and to hold the same subject to the terms of any such lease,

conveyance, sublease or other agreement; and such public corporation or officer is hereby authorized to lease or sublease from the fund any such lands or improvements or the school portion of any combined occupancy structure, constructed, reconstructed, rehabilitated or improved thereon pursuant to this article or other provisions of law, and to hold such lands, improvements, buildings and school portions of combined occupancy structures subject to the terms of any such lease, sublease or other agreement.

2. In the event that the fund shall fail, within five years from the date of a lease or conveyance authorized pursuant to subdivision one of this section, to construct, reconstruct, rehabilitate or improve the buildings or structures thereon for which the conveyance was made, as provided for in a lease, sublease or other agreement entered into with such public corporation or officer, or in the event that such buildings or structures shall cease to be used for the purposes intended, then and in either event but subject to the terms of any lease, sublease or other agreement undertaken by the fund, such lands, and the improvements and buildings or structures thereon, shall revert to the city of Yonkers with right of re-entry thereupon, and such lease or deed shall be made subject to such conditions; provided, however, that as a condition precedent to the exercise of such right of re-entry the city of Yonkers, or such public corporation or officer, shall pay to the fund an amount equal to the purchase price of such lands and improvements, the depreciated cost of any buildings or structures constructed, reconstructed, rehabilitated or improved thereon, and all other costs of the fund incident to the acquisition of such lands and the financing of construction, reconstruction, rehabilitation or improvement relating to such buildings or structures, all as provided in the aforesaid lease, sublease or other agreement entered into with such public corporation or officer.

§ 481. Plans and specifications. 1. (a) No combined occupancy structure shall be acquired, leased, erected, repaired, enlarged or remodeled by the fund until the detailed plans and specifications and cost estimates for the school portion thereof have been submitted to the

board of education and its approval has been endorsed thereon.

(b) The board of education shall also review and approve the architectural concept, including an outline of the plans and specifications therefor, of the non-school portion of any combined occupancy structure to be erected, repaired, enlarged or remodeled in accordance with the provisions of any lease or other agreement between the fund and any developer.

2. Notwithstanding any other provision of law applicable to the city school district of the city of Yonkers or the board of education of the city of Yonkers, such district and such board shall only be required to submit an outline of the plans and specifications for a combined occupancy structure, and for the school portion thereof, to the commissioner of education for his information.

3. Every contract, lease or other agreement executed by or on behalf of the fund which makes provision for the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of any combined occupancy structure shall include a provision that the architect who designed the facility, or an architect or engineer retained specifically for the purpose of supervision, shall supervise the work to be performed through to completion and shall see to it that the materials furnished are in accordance with the drawings, plans, specifications and contractual provisions therefor.

§ 482. Letting of construction contracts. 1. Any contract let by the fund or by any letting agency on behalf of the fund for the construction, reconstruction, rehabilitation or improvement of a combined occupancy structure or of the school portion thereof, shall be in conformity with the provisions of section one hundred one of the general municipal law.

2. Except as otherwise provided in section two hundred twenty-two of the labor law, every contract, lease or other agreement entered into by or on behalf of the fund for the acquisition, lease, construction, reconstruction, rehabilitation or improvement of any combined occupancy

structure shall contain a provision that, when the entire cost of any such contemplated construction, reconstruction, rehabilitation or improvement shall exceed three million dollars in the counties of the Bronx, Kings, New York, Queens, and Richmond; one million five hundred thousand dollars in the counties of Nassau, Suffolk and Westchester; and five hundred thousand dollars in all other counties within the state, separate specifications shall be prepared for the following three subdivisions of the work to be performed:

a. Plumbing and gas fitting;

b. Steam heating, hot water heating, ventilating and air conditioning apparatus; and

c. Electric wiring and standard illuminating fixtures.

Such specifications shall be drawn so as to permit the letting of separate and independent contracts for each of the above three subdivisions of work. Except as otherwise provided by the public housing law, the provisions of which shall apply when the developer is the Yonkers city housing authority, every developer or general contractor undertaking the construction, reconstruction, rehabilitation or improvement of any such combined occupancy structure pursuant to or in furtherance of the provisions of this article shall let separate contracts to the lowest responsible bidder for the three subdivisions of the above specified work to persons, firms or corporations approved by the chairman of the fund as being qualified, responsible and reliable bidders engaged in these classes of work. All such qualified bidders engaged in the above specified work shall be entitled to bid and to receive, upon request, a copy of the plans and specifications. All such bids shall be submitted to the fund and shall be opened publicly at a stated time and place.

2-a. Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be

paid to each, for: a. plumbing and gas fitting, b. steam heating, hot water heating, ventilating and air conditioning apparatus and c. electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

3. a. In addition to other bond or bonds, if any, required by law for the completion of the school portion of a combined occupancy structure, or in the absence of any such requirement, the fund shall nevertheless require, prior to the approval of any lease or other agreement providing for the construction, reconstruction, rehabilitation or improvement of any combined occupancy structure, that the developer, if other than the Yonkers city housing authority, or general contractor, furnish a bond guaranteeing prompt payment of moneys due to all persons furnishing labor or materials to or for the person furnishing said bond or to his or her subcontractors in the prosecution of the entire work provided for in such lease or other agreement. Whenever the developer is the Yonkers city housing authority, it shall require each of its contractors to furnish such bond to said authority and fund with respect to the work to be performed and materials supplied by such contractor, and no separate or other payment bond shall be required to be furnished to the fund.

b. A copy of such payment bond shall be kept in the office of the chairman of the fund and a copy shall also be kept in the office of the board of education; such copies shall be open to public inspection.

c. Every person who has furnished labor or material, to or for the developer or general contractor or contractor furnishing such payment bond or to his or her subcontractors in the prosecution of the work provided for in the lease or other agreement for which the bond is furnished and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was performed or material was furnished by him or her for which the claim is made, shall have the right to sue on such payment bond in his or her own name for the amount, or the balance thereof, unpaid at the time of commencement of the action; provided, however, that a person having a direct contractual relationship with a subcontractor of the developer or contractor furnishing the payment bond but no contractual relationship express or implied with such developer or contractor shall not have a right of action upon the bond unless he or she shall have given written notice to such developer or contractor furnishing the bond within ninety days from the date on which the last of the labor was performed or the last of the material was furnished, for which his or her claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or for whom the labor was performed. The notice shall be served by delivering the same personally to the developer or contractor furnishing said bond or by mailing the same by registered mail, postage prepaid, in an envelope addressed to such developer or contractor at any place where he or she maintains an office or conducts his or her business or at his or her residence.

§ 483. Resources of the fund. 1. The fund may receive, accept, invest, administer, expend and disburse for its corporate purposes appropriations or advances from the city of Yonkers, and other revenues and moneys made available or to be made available to the fund from any or all sources, including gifts, grants, loans and payments from the federal government, any state agency, any private foundation, organization or individual, or any other source, for the construction, acquisition, reconstruction, rehabilitation and improvement of combined occupancy structures, for the maintenance and repair of such structures,

or for the costs of personal service and maintenance and operation of the fund.

2. All moneys of the fund, except as otherwise authorized or provided in this article, shall be paid to the comptroller of the city of Yonkers as agent of the fund, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in two or more separate bank accounts. The moneys in any account shall be paid out of checks signed by the commissioner of finance on requisition of the chairman of the fund or of such other officer or employee or officers or employees as the fund shall authorize to make such requisition. All deposits of such money shall, if required by the comptroller or the trustees of the fund, be secured by obligations of the United States or of the city or the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

3. Subject to the terms of any lease, sublease or other agreement undertaken by the fund, any such moneys of the fund not required for immediate use may, at the discretion of the fund, be invested by the commissioner of finance in obligations of the United States, the state or the city or in obligations the principal and interest of which are guaranteed by the United States, the state or the city.

4. The chairman of the fund shall annually, on or before January first, prepare and submit to the mayor of the city of Yonkers, on behalf of the trustees of the fund, an itemized budget for the administration of the fund during the city's next succeeding fiscal year and information as to the payment or provision for payment of obligations of the fund expected to be required during such year.

5. The commissioner of finance, or his legally authorized representative, is hereby authorized and empowered from time to time to examine the books and accounts of the fund including its receipts, disbursements, contracts, reserves, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the commissioner of finance at least once in every five

years; the commissioner of finance is authorized, however, to accept from the fund, in lieu of such an examination, an external examination of its books and accounts made at the request of the trustees of the fund.

§ 484. Lease and other agreements. 1. Any agreement entered into between the fund and the owner or developer of a proposed combined occupancy structure pursuant to section four hundred seventy-eight of this chapter shall provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or more combined occupancy structures, and the purchase or acquisition of the original furnishings, equipment, machinery and apparatus to be used in the school portion of a combined occupancy structure upon completion of the work, (ii) the reconveyance, retransfer or leasing of all or any portion thereof and of the real property or interest therein related thereto, including real property originally acquired by the board of education in the name of the city of Yonkers, upon the completion of construction, acquisition, reconstruction, rehabilitation or improvement upon such terms and conditions as may be agreed upon, (iii) the leasing or subleasing of such combined occupancy structures and property, or separately of the school and non-school portions thereof, by the fund upon completion for a term not exceeding ninety-nine years and upon such terms and conditions including annual rental as may be agreed upon, and (iv) the conveyance to the board of education in the name of the city of Yonkers of title to the school portion of any such combined occupancy structure at the expiration of the term of the lease, or any renewal or extension thereof, or upon earlier payment in full of the total amount specified therein, without additional charge therefor. The board of education shall approve any such agreement and shall be a party thereto.

2. a. Any lease, sublease or other agreement entered into between the fund and the owner or developer of a proposed combined occupancy structure shall provide for payment to the fund of the fair market value of such easements, space rights, air rights or other fee or leasehold interests as are to be held or retained by such owner or developer or his successor in interest under the terms of such agreement.

b. Whenever the easements, space rights, air rights or other fee or leasehold interests held or retained by such owner or developer, if other than the Yonkers city housing authority, and/or the non-school improvements constructed or erected therein or thereon, shall be exempt from real property taxes pursuant to the provisions of section four hundred ninety-two of this article, such lease, sublease or other agreement shall also provide for the payment to the fund of annual or other periodic amounts equal to the amount of real property taxes that would otherwise have been paid or payable with respect to such easements, space rights, air rights or other fee or leasehold interests, and with respect to the non-school improvements constructed or erected therein or thereon, over the term of such lease, sublease or other agreement.

c. (1) Notwithstanding the provisions of section fifty-two of the public housing law, whenever the Yonkers city housing authority is such owner or developer, such lease, sublease or other agreement shall also provide for the payment by such authority to the fund or the city of such amount, for any year or years, as payment in lieu of real property taxes on the non-school portion constituting a project, as defined by the public housing law, as may be agreed upon among the fund, the city and the authority, and as may be approved by the commissioner of the state division of housing and community renewal if such project is a state project as defined in the public housing law, and by the federal government if such project is a federal project as defined in the public housing law.

(2) For any of the purposes of the public housing law, including, specifically, section seventy-three thereof, and notwithstanding any other provision in the public housing law for establishing the amount of taxes paid or payable with respect to a project for such year and the resulting amount of tax exemption, in computing the amount of tax exemption granted to such non-school portion constituting a project, as defined by the public housing law, the amount of such payment in lieu of taxes paid or payable with respect thereto for any year shall be deemed to be the amount of taxes paid or payable for such year.

3. Any lease, sublease or other agreement entered into between the fund and city of Yonkers or the board of education pursuant to section four hundred fifty-four of this chapter shall provide for (i) the construction, acquisition, reconstruction, rehabilitation or improvement of one or more combined occupancy structures and (ii) the leasing or subleasing of the school portion of such structures to the city or the board at an annual cost or rental not in excess of the average annual cost or rental of comparable new public school facilities in the city of Yonkers and for a term not exceeding ninety-nine years, and upon such other terms and conditions as may be agreed upon.

4. Every lease, sublease or other agreement executed pursuant to this article shall be subject to the approval of the commissioner of finance with respect to all rentals or other payments to be made thereunder by the city of Yonkers, the board of education or by the owner or developer of a combined occupancy structure and shall contain a clause that any agreement of the city of Yonkers thereunder shall be deemed executory to the extent of the moneys available to the city therefor and no liability on account thereof shall be incurred by the city beyond the moneys available for the purpose thereof.

§ 485. Notes and bonds of the fund. 1. (a) Subject to the provisions of section four hundred eighty-six of this chapter, the fund shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in such principal amount as, in the opinion of the fund, shall be necessary, after taking into account other monies which may be available for the purpose, to provide sufficient funds for achieving its corporate purposes, including the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of combined occupancy structures pursuant to this article, the payment of interest on bonds and notes of the fund, establishment of reserves to secure such bonds and notes, and all other expenditures of the fund incident to and necessary or convenient to carry out its corporate purposes and powers;

(b) The fund shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes and, whenever it deem refunding

expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded;

(c) Except as may otherwise be expressly provided by the fund, every issue of its notes or bonds shall be general obligations of the fund payable out of any revenues or monies of the fund, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues;

(d) Whether or not the notes or bonds are of such form and character as to be negotiable instruments under the provisions of article eight of the uniform commercial code, the notes or bonds shall be and hereby are made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

2. The notes and bonds of the fund shall be authorized by resolution of the trustees, shall bear such date or dates, and shall mature at such time or times, in the case of any such note, or any renewals thereof, not exceeding five years, from the date of issue of such original note, and in the case of any such bond not exceeding forty years from the date of issue, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes and bonds of the fund may be sold by the fund, at public or private sale, at such price or prices as the fund shall determine. No notes or bonds of the fund may be sold by the fund at private sale, however, unless such sale and the terms thereof have been approved in writing by the city comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to:

(a) pledging all or any part of the fees and charges made or received by the fund, and all or any part of (i) the rentals or other payments to be received by the fund with respect to the school portion of combined occupancy structures financed with the proceeds of such bonds and notes, and (ii) the rentals or other payments to be received by the fund with respect to the non-school portion of combined occupancy structures and (iii) any other monies, assets or accounts received or to be received by the fund or pledged or assigned to the fund to secure the payment of such notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the fund to secure the payment of such notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of the gross income of the fund in connection with combined occupancy structures financed or constructed, acquired, reconstructed, rehabilitated or improved by it or on its behalf;

(d) the setting aside of reserves or sinking funds and the regulation and disposition thereof;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging such proceeds to secure the payment of the notes or bonds or of any issue thereof;

(f) limitations on the issuance of additional notes or bonds; the terms upon which additional notes or bonds may be issued and secured; the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) limitations on the amount of monies to be expended by the fund for operating, administrative or other expenses of the fund;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the fund may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this article, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or

limiting the rights, powers and duties of such trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

4. It is the intention hereof that any pledge made by the fund shall be valid and binding from the time when the pledge is made; that the monies or property so pledged and thereafter received by the fund shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the fund, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

5. Neither the trustees of the fund nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

6. The fund, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the fund, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

7. Neither the state nor the city of Yonkers shall be liable on the notes or bonds of the fund and such notes and bonds shall not be a debt of the city or the state, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 486. Reserve funds, appropriations and other funds and accounts. 1. (a) The fund shall create and establish a special fund (herein referred

to as capital reserve fund), and shall pay into such capital reserve fund (1) any monies appropriated and made available by the state or the city of Yonkers for the purposes of such fund, (2) any proceeds of sale of notes or bonds to the extent provided in the resolution of the fund authorizing the issuance thereof, and (3) any other monies which may be made available to the fund for the purpose of such capital reserve fund from any other source or sources. All monies held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the fund as the same mature, the purchase of bonds of the fund, the payment of interest on such bonds of the fund or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in such capital reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year on all bonds of the fund then outstanding, except for the purpose of paying principal of and interest on such bonds of the fund maturing and becoming due and for the payment of which other monies of the fund are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred to other funds or accounts to the extent it does not reduce the amount of the capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the fund then outstanding.

(b) The fund shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding fiscal year on such bonds then to be issued and on all other bonds of the fund then outstanding will exceed the amount of the capital reserve fund at the time of issuance unless the fund, at the time of issuance of such bonds, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year on such bonds then to be issued and on all other bonds of the fund then outstanding.

(c) To assure the continued operation and solvency of the fund for the

carrying out of the public purposes of this article, provision is made in paragraph (a) of this subdivision for the accumulation in the capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year on all bonds of the fund then outstanding. In order further to assure such maintenance of the capital reserve fund, the board of education shall annually request from the city of Yonkers and pay over to the fund, for deposit in the capital reserve fund, such sum, if any, as shall be certified by the chairman of the fund to the board, the mayor and the director of the budget of the city of Yonkers as necessary to restore the capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in the next succeeding fiscal year on the bonds of the fund then outstanding; provided, however, that such sum shall have been first appropriated by the city to the board or shall otherwise have been made lawfully available to the board for such purpose. The chairman of the fund shall annually, not later than the fifteenth day of February in each year, make and deliver to the board and the mayor his certificate stating the amount, if any, required to restore the capital reserve fund to the amount aforesaid and the amount so stated, if any, shall be paid to the fund by the board during the then current fiscal year of the fund. In the event of the failure or inability of the board to pay over the stated amount to the fund on or before August first of the same year, the chairman of the fund shall forthwith make and deliver to the mayor a further certificate restating the amount so required and such amount shall be paid over to the fund by the commissioner of finance out of the next payment of state aid apportioned to the city of Yonkers on behalf of the city school district of the city of Yonkers for the support of common schools. Any amount so paid over to the fund shall be deducted from the corresponding apportionment of state aid otherwise credited to the board of education for its purposes and shall not obligate the state to make or entitle the city or the board of education to receive any additional or increased apportionment or payment of state aid for school purposes.

(d) In computing the amount of the capital reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the fund.

2. The fund may create and establish with the commissioner of finance or with a trustee one or more additional funds or accounts and, subject to agreements with bondholders and noteholders, may pay into such funds or accounts (i) fees and charges collected by the fund, (ii) monies which shall be transferred from the capital reserve fund pursuant to the provisions of paragraph (a) of subdivision one of this section, and (iii) any other monies which may be made available to the fund from any other source or sources. The monies held in or credited to any such reserve fund or account may, in the discretion of the fund but subject to agreements with bondholders and noteholders, be used by the fund (a) for the repayment of advances from the city of Yonkers, (b) to reimburse the board of education of the city of Yonkers the reasonable costs of services performed by the board for the fund pursuant to section four hundred seventy-nine of this article, (c) to pay all costs, expenses and charges of financing, including fees and expenses of trustees and paying agents, (d) for transfers to the capital reserve fund, (e) for the payment of principal of and interest on bonds or notes issued by the fund when the same shall become due, whether at maturity or on call for redemption, and for the payment of any redemption premium required to be paid where such bonds or notes are redeemed prior to their stated maturities, and to purchase bonds or notes issued by the fund, (f) for such other corporate purposes as the fund in its discretion shall determine and provide, or (g) for payment to the board of education for school purposes.

§ 487. Agreement with the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this article, that the state will not limit or alter the rights hereby vested in the fund to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The fund is authorized to include this pledge and agreement of the state in any agreement with the

holders of such notes or bonds.

§ 488. State and city's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, either the state or the city of Yonkers may, upon furnishing sufficient funds therefor, require the fund to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating in the city of Yonkers at least twice, the first publication to be at least thirty days before the date of redemption.

§ 489. Remedies of noteholders and bondholders. 1. In the event that the fund shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the fund shall fail or refuse to comply with the provisions of this article, or shall default in any agreement made with the holders of any issue of notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the city clerk of the city of Yonkers and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such notes or bonds then outstanding shall, in his or its own name:

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or

bondholders and require the fund to carry out agreements with such noteholders or bondholders and to perform its duties under this article;

(b) bring suit upon such notes or bonds;

(c) by action or suit, require the fund to account as if it were the trustee of an express trust for the holders of such notes or bonds;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum of the principal amount of such notes or bonds then outstanding, annul such declaration and its consequences.

3. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such noteholders or bondholders. The venue of any such suit, action or proceeding shall be laid in the county of Westchester.

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the mayor of the city of Yonkers, to the fund, to the board of education of the city of Yonkers and to the attorney general of the state.

§ 490. Notes and bonds as legal investments. The notes and bonds of the fund are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians,

executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

§ 491. Actions by and against fund. 1. The state supreme court shall have exclusive jurisdiction of any action, suit or special proceeding brought by or against or involving the fund. The venue of any action, suit or special proceeding brought against the funds shall be laid in the city of Yonkers and county of Westchester.

2. In every action against the fund for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a trustee or officer of the fund and that the fund has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

3. Except in an action for wrongful death, an action against the fund for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the fund within the time limit established by, and in compliance with all requirements of section fifty-e of the general municipal law. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

§ 492. Exemptions from taxation. 1. It is hereby declared that the creation of the fund and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city of Yonkers and state of New York and for the improvement of their health, safety,

welfare and security and is a public purpose and the fund shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this article.

2. The monies and properties of the fund, including all properties constructed, acquired, reconstructed, rehabilitated or improved by it or on its behalf and all properties under its jurisdiction, control or supervision, and all of its operations and activities shall be exempt from taxation.

3. The notes and bonds of the fund issued pursuant to this article, and the income therefrom, and all fees, charges, rents, gifts, grants, revenues, receipts and other monies received or to be received by the fund shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 493. Annual report of trustees. The trustees of the fund shall submit to the mayor, the board of education and the city council of the city of Yonkers annually on or before February first, a full report of its activities and operations through the thirtieth day of the preceding September, including: (1) details as to projects in planning, projects in the process of construction, acquisition, reconstruction, rehabilitation or improvement, and projects completed; (2) the performance record of the trustees in completing construction in accordance with the desired completion dates and within the estimated costs; (3) the architects, engineers and other private consultants engaged by the trustees of the fund on a contract basis and a statement of the total amount paid and yet to be paid, or estimated yet to be paid, under each such contract; (4) the monies made available for the purposes of the fund; (5) details as to any lease, sublease or agreement executed by the trustees of the fund and the annual rentals to be paid or received on account thereof; (6) its assets and liabilities at the end of the fiscal year, including the status of reserve funds and other funds and accounts; (7) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with the amounts redeemed and incurred during such fiscal year, and such other information related to

the activities and operation of the fund as the trustees may consider pertinent.

§ 494. Article not affected if in part unconstitutional or ineffective. If any section, subdivision, paragraph, sentence, clause or provision of this article shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 495. Inconsistent provisions of other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, or with the provisions of any charter or ordinance, the provisions of this article shall be controlling. The provisions of this article shall not be deemed to prevent the city of Yonkers from financing the cost of acquiring, constructing, reconstructing, rehabilitating or improving one or more school buildings by the issuance of bonds or capital notes pursuant to the local finance law.

ARTICLE 10-C
WINTER SPORTS EDUCATION TRUST FUND

Section 495-a. Winter sports education trust fund; appointment of board of trustees to administer fund.

§ 495-a. Winter sports education trust fund; appointment of board of trustees to administer fund. 1. There is hereby created in the custody of the comptroller the winter sports education trust fund.

2. Such fund shall consist of the state lottery revenues paid into the same by the division of the lottery pursuant to the provisions of subdivision five of section ninety-two-c of the state finance law and

all increments to principal derived from investment gain, interest accumulation, and other sources of income.

3. The comptroller shall invest and keep invested all moneys belonging to the fund in the manner authorized by section ninety-eight of the state finance law.

4. a. Commencing on or before August fifteenth, nineteen hundred eighty-one and on or before the fifteenth day of August of each succeeding year, the comptroller shall issue a certificate of earnings and accumulated income upon the principal of such trust fund as of the end of the preceding state fiscal year. Such certificate shall also include a statement of accumulated income for the prior fiscal years remaining unexpended at the close of such year.

b. The principal and the amount of earnings and accumulated income upon the principal of the trust fund for the prior fiscal year, as reported by the comptroller on August fifteenth annually, shall be available for appropriation to the New York state olympic regional development authority. Any funds so appropriated shall be used for the purpose of supporting athletic and recreational education within the olympic region as defined in subdivision three of section two thousand six hundred seven of the public authorities law and for retiring outstanding loan obligations of the olympic regional development authority in the state fiscal year nineteen hundred ninety-six--ninety-seven. All expenditures from the fund for the hereinabove purposes shall be made on the audit and warrant of the comptroller upon vouchers approved by the chairman of the fund.

ARTICLE 10-D

REGIONAL COLLEGE COOPERATIVE SERVICES BOARD

Section 496. Legislative declaration.
497. Establishment of regional college cooperative services board.
498. Powers and duties.
499. Additional members of a regional college cooperative

services board; withdrawal.
500. Standards for regional college cooperative services board; review of plans.

§ 496. Legislative declaration. The legislature hereby finds and declares that the scarcity of higher educational facilities within the state poses a serious threat to the future of the state's citizens. Recognizing this scarcity and the threat posed thereby, it is the sense of the members of the legislature that the higher educational needs of our citizens can best be served by the enactment of legislation that will allow for the wider use of existing educational facilities within the state.

§ 497. Establishment of regional college cooperative services board. 1. Upon the request of the governing board of at least two or more non-public institutions of higher education, the commissioner of education shall call a joint meeting of the members of such governing boards for the purpose of determining whether a regional college cooperative services board should be established within the geographic area in which such institutions are located. In the event that a regional college center with similar purposes is already in existence in the state, the commissioner of education shall extend to such center the opportunity to become a regional college cooperative services board.

2. If the commissioner determines that such board will strengthen and best develop the educational resources within the area to be served, he shall call a meeting to elect a board of trustees of such board. Notice of such meeting shall be mailed by the commissioner to each member of the governing board of each institution at his last known address at least five days prior to such meeting. At such meeting the governing board of each institution shall have one vote.

3. Within one month after taking office, the trustees-elect shall apply to the regents for a charter as a regional college cooperative services board.

4. Such board shall elect a president, a secretary and a treasurer. Before entering upon his duties, such treasurer shall execute and file with such board an official undertaking in such sum and with such sureties as directed by the board and approved by the commissioner. The treasurer need not be a member of such board. The funds of such board shall be deposited in a bank or banks designated by its board of trustees and shall be expended only under the direction of such board upon properly authenticated vouchers.

5. The term of office of the trustees of such board shall be five years except that the members of the first board of trustees shall determine by lot the year in which the term of office of each trustee shall expire so that as nearly as possible the terms of one-fifth of the members of such board will expire annually. Thereafter the successors of such trustees shall be elected annually at a joint meeting of the member institutions. Such meeting shall be called by the secretary of the board who shall mail a notice of such meeting to each trustee of each of the member institutions of the board at his last known address, at least ten days prior to such joint meeting. At such joint meeting the board of trustees of each member institution of the board shall have one vote. The board of trustees of any such member institution may, by resolution, designate one or more members of such board to attend such joint meeting and cast the vote of such board.

§ 498. Powers and duties. 1. Each board shall, within sixty days after the receipt of its charter, formulate a plan to provide for joint or cooperative programs, services and arrangements and shall include, but not be limited to, faculty or administrative staff, use of library, television, research and laboratory facilities and the granting of credit for courses of study leading to a degree.

2. Such plan shall provide for the sharing of expenses incurred by each participating member institution on such basis or division as may be jointly agreed upon.

§ 499. Additional members of a regional college cooperative services board; withdrawal. 1. The governing board of any non-public institution of higher education which is not a member institution in a regional college cooperative services board may adopt a resolution requesting that such institution become such a member institution in an existing board. Duplicate copies of such resolution certified by the clerk of such governing board shall be filed with the board of trustees of the regional board. If such board approves such resolution such approval shall be endorsed thereon and a copy thereof shall be filed with the commissioner. Upon application, the regents may amend the charter of such regional board by including such proposed member institution in such board and thereupon such member institution shall have the same rights and duties and privileges as other member institutions therein.

2. The refusal of the board of trustees of such regional board to approve an application for membership in such board by any higher educational institution shall be subject to review by the commissioner upon application of such applying institution and, if so directed by the commissioner, such board of trustees shall approve such application and request the regents to amend the charter of the regional board to include such institution as a member institution thereof.

3. A board of trustees of a member institution may file with the board of trustees of a regional board and with the commissioner not less than ninety days before the first day of July in any year, a resolution requesting the withdrawal of such member institution from such board. Thereafter, upon application of such member institution or such board, the regents may amend the charter of such board so that such institution shall cease to be a member thereof on such July first or such later date as shall be fixed by the regents.

§ 500. Standards for regional college cooperative services board; review of plans. The commissioner shall by regulation provide the standards for regional boards and the plans of such boards shall be reviewed by the commissioner at least every three years.

ARTICLE 11

STATE TEACHERS' RETIREMENT SYSTEM FOR PUBLIC SCHOOL TEACHERS

Section 501. Definitions.
502. Retirement system.
503. Membership of system.
504. Retirement board; members; terms of office; vacancies.
505. Election of the active teacher members of the board.
505-a. Election of retired teacher member of board.
506. Board meetings; oaths of office; quorum; expenses.
507. Officers of board; custody of funds.
508. Investment of funds; interest; accounts; reports.
508-a. New York state teachers' retirement system MWBE asset management and financial institution strategy.
509. Statements of teachers' service; determination of service creditable; service certificates.
510. Superannuation retirement.
511. Disability retirement.
511-a. Special service retirement.
512. Withdrawal and death benefits.
512-a. Deferred retirement.
512-b. Loans.
513. Optional allowances.
514. Benefits to participants in old retirement fund.
515. Funds enumerated.
516. Annuity savings fund; contributions and payments.
517. Annuity reserve fund; pension accumulation fund.
518. Pension reserve fund.
518-a. Supplemental retirement allowance fund.
519. Expense fund.
520. Duties of employer.
521. Collection of contributions.
522. Transfer of contributions between retirement systems.
523. State supervision.
524. Exemption from taxation and execution.
525. Protection against fraud.

526. Merger of local teachers' retirement and pension systems with the state system.
527. (Enacted without section heading)
528. Pensions-providing-for-increased-take-home-pay.
529. Pensions providing for increased take home pay for certain teachers.
530. Pensions-providing-for-increased-take-home-pay-for-teachers.
531. Abandonment of unclaimed contributions or other benefits; transfer to the pension accumulation fund.
532. Supplemental retirement allowance.
532-a. Cost-of-living adjustment.
533. Non-contributory retirement plan.
535. Career retirement plan.
536. Deductions from benefits of certain retired members.
537. Lump sum payment of de minimis service retirement benefit.
538. Excess benefit plan.
539. Certain actions by retiring members.

§ 501. Definitions. The following words and phrases used in this article shall have the following meanings unless a different meaning is plainly required by the context: 1. "Retirement system" shall mean the New York state teachers' retirement system provided for in section five hundred two of this article.

2. "Retirement board" shall mean the retirement board provided by section five hundred four of this article.

3. "Employer" shall mean the state of New York, the city, the village, school district board or trustee, or other agency of and within the state by which a teacher is paid.

4. "Teacher" shall mean any regular teacher, special teacher, including any school librarian or physical training teacher, principal, vice-principal, supervisor, supervisory principal, director, superintendent, city superintendent, assistant city superintendent,

district superintendent and other member of the teaching or professional staff of any class, public school, vocational school, truant reformatory school or parental school, and of any or all classes of schools within the state of New York, including schools on the Indian reservation, conducted under the order and superintendence of and wholly or partly at the expense of the New York state education department or of a duly elected board of education, board of school directors or board of trustees of the state or of any city or school district thereof, provided that no person shall be deemed a teacher within the meaning of this article who is not so employed for full time outside vacation periods. The word, "teacher," shall also include any person employed in the state education department who at the time he entered such employment, or within one year prior thereto, was a teacher within the foregoing definition, or who was engaged in such department in the performance of duties pertaining to instructional services prior to September first, nineteen hundred eighty-six or who provides instructional services at the New York state school for the blind or the New York state school for the deaf, but shall not include a person who is a teacher within the foregoing definition, and who elects to become a member of the New York state employees' retirement system pursuant to paragraph five of subdivision c of section forty of the retirement and social security law upon his entry, on or after April first, nineteen hundred fifty, into his employment as such a teacher in a state-operated institution or community college under the jurisdiction of the board of trustees of the state university, or who is a teacher within the foregoing definition, and who elects to become a member of the New York city employees' retirement system, upon his entry, on or after April first, nineteen hundred fifty-six, into his employment as such a teacher in a community college operated by the city of New York, or who is a teacher within the foregoing definition, and who elects the optional retirement program established either by article eight-b or by article three, part V of this chapter. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this article.

5. "Present teacher" shall mean any teacher who was a teacher on or before the first day of August, nineteen hundred twenty-one, whose

membership in the retirement system created by this article has been continuous and

a. who became a member of the retirement system created by this act on or before the first day of May, nineteen hundred twenty-four, provided that any such teacher becoming a member after the establishment of the system pay to the system on entrance the amount he would have contributed had he become a member as of the date of establishment; or

b. who was a member of a local district pension system on or before the first day of August, nineteen hundred twenty-one, who continued thereafter to be a member until he, with the membership of such local district pension system, became a member of the retirement system created by this article.

6. "New entrant" shall mean any teacher who is a member of the retirement system except a present teacher.

7. "Contributor" shall mean any member of the retirement system who has an account in the annuity savings fund as provided by this article.

8. "Beneficiary" shall mean any person in receipt of a retirement allowance or other benefit as provided by this article.

9. "Regular Interest" a. For the purpose of crediting interest to individual accounts in the annuity savings fund, regular interest shall mean interest at five per centum per annum, compounded annually.

b. For the purpose of the actuarial valuations specified in subdivision two of section five hundred seventeen of this article, regular interest shall mean the valuation rate of interest recommended by the system's actuary and approved by the retirement board from time to time.

c. Notwithstanding any other provision of this article, the annuity values, option factors and reserves to be used to determine the amount of any benefit payable under the provisions of this article, except the

benefit payable under paragraph three of subdivision b of section five hundred twelve of this article, provided that the right to the initial payment of the benefit accrues during the period that this subdivision is in effect, shall be based upon an assumed interest rate of four per centum per annum compounded annually. In the case of any person retiring on or after January first, nineteen hundred eighty-six, the assumed interest rate shall be such rate as recommended by the system's actuary and approved by the retirement board from time to time not to exceed seven per centum per annum compounded annually, provided, however, that the authority to use a rate in excess of four per centum per annum compounded annually shall only become effective if the courts have already finally determined, as to all members, beneficiaries and retirees of the retirement system, the proper application of the decision of the United States supreme court in the case of Arizona Governing Committee for Tax Deferred Annuities and Deferred Compensation Plans v. Norris, 103 S.Ct. 3492 (1983). The exercise of this authority with respect to any class of annuitants, shall be an authority which is vested exclusively in the retirement board and nothing herein shall be construed as requiring a retroactive application of this authority at the time when such authority becomes available to the retirement board as set forth above.

10. "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a contributor, and credited to his individual account in the annuity savings fund together with regular interest thereon. The interest on any contributions made after July first, nineteen hundred fifty-seven and prior to the date of receipt of them by the board shall be added to the accumulated contributions of the member in accordance with regulations of the retirement board.

11. a. "Final average salary" shall mean the average annual compensation earnable as a teacher during the five years of service immediately preceding his date of retirement, or it shall mean the average annual compensation earnable as a teacher during any five consecutive years of state service, said five years to be selected by the applicant prior to date of retirement. In the case of a member with a membership date prior to the seventeenth day of June, nineteen hundred

seventy-one, a contribution by an employer on behalf of such member to a defined contribution plan qualified under subsection a of section four hundred one of the Internal Revenue Code of nineteen hundred eighty-six, as amended and maintained by such employer may be treated as compensation for the purposes of this paragraph, provided such contribution would otherwise have been treated as compensation, had it been paid directly to the member at the time the contribution was made.

b. Notwithstanding anything to the contrary in this article, commencing July first, nineteen hundred sixty-nine, "Final Average Salary" shall mean the average regular compensation earned as a teacher during the three years of actual service immediately preceding his date of retirement, or any other three years of consecutive service upon application of the member, exclusive of any lump sum payments for sick leave, annual leave or any other form of termination pay; provided, however, if the compensation earned in any twelve months exceeds that of the previous twelve months by more than twenty percentum, the amount in excess of twenty percentum shall be excluded in the computation of final average salary. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this paragraph b shall apply only to those retiring from service prior to July first, nineteen hundred seventy-four.

12. "Annuity" shall mean the annual payments for life derived from contributions made by contributor as provided in this article. All annuities shall be paid in equal monthly installments.

13. "Pension" shall mean the annual payments for life derived from payments made by an employer as provided in this article. All pensions shall be paid in equal monthly installments.

14. "Retirement allowance" shall mean the pension plus the annuity

15. "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

16. "Pension reserve" shall mean the present value of all payments to be made on account of any pension, or benefit in lieu of any pension, computed upon the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

17. "Retirement fund" shall mean the state teachers' retirement fund for public school teachers of the state of New York as created by chapter one hundred forty of the laws of nineteen hundred ten, chapter four hundred forty-nine of the laws of nineteen hundred eleven, chapter forty-four of the laws of nineteen hundred fourteen, chapter one hundred three of the laws of nineteen hundred nineteen and chapter one hundred sixty-one of the laws of nineteen hundred twenty-three.

18. "Local district pension system" shall mean any teachers' retirement system or other arrangement for the payment of pensions or annuities to teachers exclusive of the retirement fund, created in any city or school district of this state prior to the first day of August, nineteen hundred twenty-one.

19. "Service" shall mean actual teaching or supervision by the teacher during regular school hours of the day, and shall mean governmental service in the state of New York in another capacity where the teacher was a member of the New York state employees retirement system, and where such service was credited to the teacher in the said New York state employees retirement system. Leave of absence with pay granted by the employer may be considered service under regulations prescribed by the retirement board. In all such leaves of absence the salary actually received shall be deemed to be the earnable compensation of such teacher within the meaning of this article, provided, however, that in the case of a member who dies at any time during the period from July first, nineteen hundred sixty-four through June thirtieth, nineteen hundred seventy-four, who is entitled to a death benefit in accordance with paragraph two of subdivision b of section five hundred twelve and who was on a leave of absence with pay in the last twelve months of service, then the compensation earnable by such member during the last twelve months of service while a member shall be the amount of salary such

member would have earned had such member not been on such leave of absence.

§ 502. Retirement system. 1. The "New York state teachers' retirement system" is hereby continued.

2. Such retirement system shall have the powers and privileges of a corporation, and under its corporate name, or in the name of its nominees, all of its business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property shall be held.

3. In accordance with paragraph two of subsection a of section four hundred one of the Internal Revenue Code, it shall be impossible at any time prior to the satisfaction of the retirement system's liabilities to its members and their beneficiaries under law, for any part of the assets of the retirement system, or income thereon, to be (within any taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of the members of the retirement system or their beneficiaries.

§ 503. Membership of system. 1. The membership of the retirement system shall consist of the following:

a. All teachers who were teachers on or before the first day of August, nineteen hundred twenty-one, who shall file with the retirement board applications for membership, except those specifically excluded under subdivision four of this section.

b. All teachers who were not teachers on or before the first day of August, nineteen hundred twenty-one, except those specifically excluded under subdivision four of this section.

2. The retirement board may, in its discretion, deny the right to become members to any class of teachers whose compensation is only

partly paid by the employer or who are serving on a temporary or any other than a per annum basis, and it may also, in its discretion, make optional with members in any such class their individual entrance into membership.

3. The membership of any person in the retirement system shall cease when seven years have elapsed since the member has performed service as a teacher which was credited with the system except as provided in section five hundred twelve-a of this article, or upon the withdrawal by a contributor of his accumulated contributions as provided in this article, or upon retirement on a pension, or at death, except that the membership of a teacher, who has not withdrawn his contributions shall not be cancelled if he (a) has not had sufficient service to be eligible for disability retirement, and proves to the satisfaction of the retirement board that absence from service was caused by personal illness constituting disability or (b) is eligible to receive a retirement allowance from the system for other than disability.

4. Teachers who are members or who become members of a local district pension system maintained under the laws of the state from appropriations or contributions made wholly or partly by an employer shall be excluded from membership in this retirement system.

5. A retired teacher receiving a retirement allowance for other than disability may return to active public service. Any such retired teacher returning to active service shall immediately notify the retirement board of his intention. Except as otherwise provided in sections two hundred eleven and two hundred twelve of the retirement and social security law and section one hundred fifty of the civil service law, his retirement allowance shall be suspended during the time he is in active service. If such teacher has not elected an optional benefit, the payments of his annuity so suspended shall be held in the annuity reserve fund at regular interest, and upon the resumption of his retirement allowance after again leaving the active service such accumulated amounts shall be applied to increase the annuity otherwise payable to him or in the event of his death while in active service such accumulated amounts shall be paid to his estate or to such person as

last designated as the beneficiary of his accumulated contributions. If such teacher has elected an optional benefit and dies while in active service, the optional benefit in respect of his annuity shall be payable as if no annuity payments had been suspended, but the optional benefit in respect of his pension shall not be payable in excess of the proportion that the cost of such optional pension, when measured by the difference between his pension without optional modification and the optional pension, is currently covered by the amount of the annuity payments suspended while he is in active service, which difference shall be paid during the period of his active service from the annuity reserve fund to the fund from which his pension was payable. If, however, such full cost of the optional pension is greater than the suspended annuity payments, the teacher may elect upon returning to active service to pay the amount of such difference directly to the retirement system to be credited to the fund from which his pension was payable, and subject to such payments monthly in advance, or at such other intervals as may be agreed upon with the retirement board, the optional benefit in respect of the pension shall be payable in the event the teacher dies while in active service, as if no pension payments had been suspended. If the suspended annuity payments are greater than such full cost of the optional pension, the amount of such difference shall be held at regular interest in the annuity reserve fund, and upon the resumption of his retirement allowance after again leaving active service such accumulated amounts shall be applied to increase the annuity otherwise payable to him, or in the event of his death while in active service such accumulated amounts shall be paid to his estate or to the beneficiary nominated under the option.

6. Credit for service in war after world war I, which shall mean military service during the period commencing the first day of July, nineteen hundred forty, and terminating the thirtieth day of June, nineteen hundred forty-seven, or during the period commencing the twenty-seventh day of June, nineteen hundred fifty, and terminating the thirty-first day of January, nineteen hundred fifty-five, or during both such periods, as a member of the armed forces of the United States, of any person who (i) has been honorably discharged or released under honorable circumstances from such service, or (ii) has a qualifying

condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and (iv) who was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred

forty-one through August fourteenth, nineteen hundred forty-five, and who (vii) was discharged or released therefrom under honorable conditions, or (viii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (ix) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, and who was a teacher in the public schools of this state at the time of his or her entrance into the armed forces of the United States, provided no compensation was received under the provisions of section two hundred forty-two of the military law, and who returned to public school teaching following discharge or completion of advanced education provided under servicemen's readjustment act of nineteen hundred forty-four, or who following such discharge or release entered into a service which would qualify him or her pursuant to section forty-three of the retirement and social security law to transfer his or her membership in the New York state teachers' retirement system, shall be provided as follows, any provisions of section two hundred forty-three of the military law to the contrary notwithstanding.

(a) Service in war after world war I as defined in this subdivision shall be deemed to be service for all purposes of the retirement fund, provided claim for such service shall be filed by the member with the retirement board within two years following his return to active teaching service or the entry of the member into a service which would qualify him pursuant to section fifty-nine of the civil service law to transfer his membership to the New York city employees' retirement system or to the New York state employees' retirement system or the fifteenth day of April, nineteen hundred sixty-seven, whichever is later.

(b) For the purposes of computing final average salary, compensation during any period of service in war after world war I shall be deemed to have been at the member's rate of compensation in effect immediately prior to such period, or based on additional increments due him if he had continued teaching.

(c) Contributions paid by any member under the provisions of section two hundred forty-three of the military law shall be refunded directly

to the member and the corresponding contribution paid by the district shall also be returned directly to the district.

(d) On the retirement of a member with credit for service in war after world war I as defined in this subdivision, there shall be transferred from the pension accumulation fund to the annuity reserve fund a sum equivalent to the contributions the member would have made to the annuity savings fund had he contributed during his period of service in war after world war I at the rate in effect immediately prior to such period, or on additional increments due him if he had continued teaching, with interest to the date of retirement, which amounts shall be used to provide an annuity for him.

(e) In addition to the contributions required of employers to the retirement system as otherwise provided, there shall be paid an additional contribution to the pension accumulation fund to cover the cost of the additional benefits covered by this subdivision. The additional contributions shall be collected by increasing the regular contributions of the employers in the same proportion as the liabilities of the pension accumulation fund are increased by the adoption of this subdivision.

7. A teacher, who was a member of the New York state teachers retirement system but who withdrew his or her accumulated contributions immediately prior to his or her entry into, or during his or her service in the armed forces of the United States in war after World War I, who (i) has been honorably discharged or released from service, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, provided no compensation was received under the provisions of section two hundred forty-two of the military law, and who returned to public school teaching in the state of New York following such discharge or release, or following completion of advanced education provided under servicemen's readjustment act of nineteen hundred forty-four, any provisions of section two hundred forty-three of the military law to the contrary notwithstanding, will be entitled to credit for service in war

after World War I, cost free, provided, however, that such credit will not be allowed until he or she claims and pays for all prior teaching service credited to him or her at the time of his or her termination of membership in the New York state teachers retirement system, and provided further that claim for such service in war after World War I shall be filed by the member with the retirement board before the first day of July, nineteen hundred sixty-eight.

8. A teacher who had been granted credit for service in war after world war I as provided in this section and whose membership in the New York state teachers retirement system subsequently ceased by reason of withdrawal of his accumulated contributions will, upon rejoining the New York state teachers retirement system, be entitled to the same credit for service in war after world war I, cost free, that he was credited with upon termination of his membership in the New York state teachers retirement system, provided, however, that such credit will not be allowed until he claims and pays for all prior teaching service credited to him at the time of his termination of membership in the New York state teachers retirement system.

9. Credit for emergency service on or after October first, nineteen hundred sixty-one, shall mean active duty (other than for training) in the armed forces of the United States as defined in title ten of the United States code on or after October first, nineteen hundred sixty-one and terminating on June thirtieth, nineteen hundred sixty-three or on the date that no reserve component unit originally ordered into the active service of the United States from the state on or after October first, nineteen hundred sixty-one remains on such active service, whichever sooner occurs, of any person who:

a. was a teacher in the public schools of this state at the time of his entrance into such armed forces,

b. was a member of the New York state teachers' retirement system and an employee of the state or of an employer at the time he entered such armed forces,

c. (i) has been honorably discharged or released under honorable circumstances from such service, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, and

d. returned to public school teaching within one year following discharge or release, or completion of advanced education provided by the United States for education of Korean conflict veterans, or who following such discharge or release entered into a service which would qualify him, pursuant to section forty-three of the retirement and social security law, to transfer his membership in the New York state teachers retirement system. Such service shall not include any periods during which compensation was received by the member for accrued vacation and overtime credit or under the provisions of section two hundred forty-two of the military law or section six of chapter six hundred eight of the laws of nineteen hundred fifty-two.

Emergency service on or after October first, nineteen hundred sixty-one, shall for the purposes of this article be deemed credit for service in war after world war I.

10. Credit for certain World War II service. a. In addition to credit for military service pursuant to section two hundred forty-three of the military law and subdivisions six through nine of this section, a member employed as a full-time teacher by an employer as defined in subdivision three of section five hundred one of this article and who joined the retirement system prior to July first, nineteen hundred seventy-three, may obtain credit for military service not in excess of three years and not otherwise creditable under section two hundred forty-three of the military law and subdivisions six through nine of this section, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, or on service by one who was employed by the War Shipping Administration or Office of Defense

Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense or on service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or on service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in

section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, by a person who was a resident of New York state at the time of entry into such service and at the time of being discharged therefrom under honorable circumstances, and who makes the payments required in accordance with the provisions of this subdivision.

However, no military service shall be creditable under this subdivision in the case of a member who is receiving a military pension (other than for disability) for military service in the armed forces of the United States.

b. To obtain such credit a member shall: (1) deposit in the annuity savings fund a sum equal to the product of his required contribution rate at time of entry into full-time New York state teaching service, his annual full-time rate of compensation at that time, and the period of military service being claimed, with regular interest, and (2) deposit in the pension accumulation fund a sum equal to the product of the employer's contribution rate exclusive of the rate for supplemental pensions at the time of the member's entry into such teaching service, his annual full-time rate of compensation at that time, and the period of military service being claimed, with regular interest. Such deposit must be made on or before October fourteenth, nineteen hundred seventy-seven, provided, however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed, in which case such payments must commence no later than October fourteenth, nineteen hundred seventy-seven. If the full amount of such payments is not paid to the retirement system at the time of retirement, the amount of service credited shall be proportional to the total amount of the payments made.

c. The credit for military service hereunder shall not be used to increase a service retirement benefit if, at the time of retirement, such member (1) is retiring from service with less than ten years of full-time service credit or (2) is retiring with less than three years of member service rendered subsequent to the date that he last became a member of this system. Upon retirement, as specified in (1) or (2),

there shall be refunded to such member the amount of such deposit plus accrued interest exclusive of the amount deposited to the pension accumulation fund attributable to death and disability benefits.

d. (1) In the case of members who have transferred into this system from another public retirement system within the state of New York, their rate of contribution shall be computed as though they had been a member of this system from the date of membership in the retirement system from which they transferred.

(2) Any other provision of law to the contrary notwithstanding, the rate of contribution to be used in calculating contributions to the annuity savings fund pursuant to this subdivision shall be at the rate of four per centum of earnable compensation for members whose date of membership is on or before June thirtieth, nineteen hundred forty-eight and at the rate of five per centum of earnable compensation for members whose date of membership is on or after July first, nineteen hundred forty-eight.

e. In no event shall credit be granted pursuant to this subdivision if credit is granted for the same period of time pursuant to other provisions of law.

f. No application for credit pursuant to the provisions of this subdivision shall be honored if made on or after April fifteenth, nineteen hundred seventy-seven.

10-a. Credit for certain World War II service. a. In addition to credit for military service pursuant to section two hundred forty-three of the military law and subdivisions six through nine of this section, a member who joined the retirement system prior to July first, nineteen hundred seventy-three, and who was not eligible for credit for military service under subdivision ten of this section as a result of being on a leave of absence without pay between July twentieth, nineteen hundred seventy-six and October fifteenth, nineteen hundred seventy-seven or on leave of absence with less than full pay between July twentieth, nineteen hundred seventy-six and October fifteenth, nineteen hundred seventy-seven, may obtain credit for military service not in excess of

three years and not otherwise creditable under section two hundred forty-three of the military law and subdivisions six through nine of this section, rendered on active duty in the armed forces of the United States during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, or on service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or on service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or on service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict,

December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, by a person who was a resident of New York state at the time of entry into such service and at the time of being discharged therefrom under honorable circumstances, and who makes the payments required in accordance with the provisions of this subdivision.

However, no military service shall be creditable under this subdivision in the case of a member who is receiving a military pension (other than for disability) for military service in the armed forces of the United States.

b. To obtain such credit a member shall: (1) deposit in the annuity savings fund a sum equal to the product of his required contribution rate at time of entry into full-time New York state teaching service, his annual full-time rate of compensation at that time, and the period of military service being claimed, with regular interest, and (2) deposit in the pension accumulation fund a sum equal to the product of the employer's contribution rate exclusive of the rate for supplemental pensions at the time of the member's entry into such teaching service, his annual full-time rate of compensation at that time, and the period of military service being claimed, with regular interest. Such deposit must be made on or before October fourteenth, nineteen hundred eighty, provided, however, such member may elect to deposit such amount over a period of time no greater than the period for which credit is being claimed, in which case such payments must commence no later than October fourteenth, nineteen hundred eighty. If the full amount of such payments is not paid to the retirement system at the time of retirement, the amount of service credited shall be proportional to the total amount of the payments made.

c. The credit for military service hereunder shall not be used to increase a service retirement benefit if, at the time of retirement, such member (1) is retiring from service with less than ten years of full-time service credit or (2) is retiring with less than three years of member service rendered subsequent to the date that he last became a member of this system. Upon retirement, as specified in (1) or (2), there shall be refunded to such member the amount of such deposit plus accrued interest exclusive of the amount deposited to the pension accumulation fund attributable to death and disability benefits.

d. (1) In the case of members who have transferred into this system from another public retirement system within the state of New York, their rate of contribution shall be computed as though they had been a member of this system from the date of membership in the retirement system from which they transferred.

(2) Any other provision of law to the contrary notwithstanding, the rate of contribution to be used in calculating contributions to the annuity savings fund pursuant to this subdivision shall be at the rate of four per centum of earnable compensation for members whose date of membership is on or before June thirtieth, nineteen hundred forty-eight and at the rate of five per centum of earnable compensation for members whose date of membership is on or after July first, nineteen hundred forty-eight.

e. In no event shall credit be granted pursuant to this subdivision if credit is granted for the same period of time pursuant to other provisions of law.

f. No application for credit pursuant to the provisions of this subdivision shall be honored if made on or after October fifteenth, nineteen hundred eighty.

11. a. If a retired member, receiving a retirement allowance for other than disability, returns to active public service, except as otherwise provided in sections two hundred eleven or two hundred twelve of the retirement and social security law, and is eligible for membership in the retirement system, such employee shall become a member and their

retirement allowance shall be suspended in the same manner as provided in subdivision five of this section. Upon subsequent retirement such employee shall:

1. Be credited with all member service earned since they last became a member of the retirement system, and

2. Receive a retirement allowance which shall consist of the pension which such employee was receiving immediately prior to the last restoration to membership as provided in subdivision five of this section, plus a pension based upon the service credit earned since such employee last became a member. Such latter pension shall be computed as if they were a new member when they rejoined the system pursuant to the provisions of this subdivision.

b. Where such member shall have earned at least two years of service credit after restoration to active service, the total service credit to which such member was entitled at the time of the earlier retirement may, at their option, again be credited to them and upon subsequent retirement such member shall be credited in addition for purposes of computation of the pension portion of the retirement allowance with all service credit earned subsequent to the last restoration to membership. Such total service credit to which such member was entitled at the time of the earlier retirement shall be so credited only in the event that such member returns to the retirement system with regular interest the actuarial equivalent of the amount of the pension received, or in the event that such amount is not so repaid the actuarial equivalent thereof shall be deducted from such member's subsequent retirement allowance.

c. Notwithstanding the foregoing provisions of this subdivision, a retired member who is receiving a retirement allowance for other than physical disability, and who returns to active public service, may elect not to be restored to membership in the retirement system until such retired member has rendered one year of service following their return to public service. In such event the retirement allowance shall be suspended during such year of service in the same manner as provided in subdivision five of this section. Upon restoration to membership

following completion of such year of service, service in such year shall be deemed to be service while a member for purposes of subdivision b of section five hundred twelve of this article. Such retired member may purchase service credit for such year, which shall be deemed earned service credit. If a retired member receiving a retirement benefit allowance for other than physical disability, returns to active public service, and is then ineligible for membership in the retirement system, the retirement allowance shall be suspended in the same manner as provided in this section.

d. Notwithstanding any other provision of this article, a retired member who rejoins the system under the provisions of this subdivision shall only be entitled to a death benefit according to the provisions of paragraph two of subdivision b of section five hundred twelve of this article and of no other subdivision thereof and for the purposes of such paragraph two of subdivision b of section five hundred twelve the credited service as a teacher shall be service as a teacher credited since last joining the system.

§ 504. Retirement board; members; terms of office; vacancies. 1. The general administration and responsibility for the proper operation of the retirement system and for making effective the provisions of this article shall continue to be vested in a retirement board. The retirement board shall from time to time establish rules and regulations for the administration and transaction of its business and for the control of the funds created herein and shall perform such other functions as are required for the execution of the provisions of this article.

2. The retirement board shall consist of ten members as follows.

a. One member, who is not an employee of the state, who shall be or shall have been an executive officer of a bank authorized to do business in this state, elected by the board of regents of The University of the State of New York to serve for a term of three years.

b. Two members who are not employees of the state, each of whom shall be or shall have been a trustee or member of the board of education of a school district in this state, and at least one of whom shall be or shall have been an executive officer of an insurance company, elected by the board of regents of The University of the State of New York to serve for a term of three years, from a list of five or more persons having broad experience and ability in the fields of finance and investment to be presented to the regents by the board of directors of the New York State School Boards Association, Inc.

c. Two administrative officers of the New York state school system, appointed by the commissioner of education, each to serve for a term of three years. Members of the present state teachers' retirement fund board shall be deemed to be administrative officers of the New York state school system within the meaning of this provision.

d. The comptroller of the state of New York or one member appointed by him who shall serve until his successor is appointed.

e. Three members elected from among the members of the retirement system, each to serve for a term of three years.

f. One member, who must be a retired teacher, who shall be elected in accordance with the provisions of section five hundred five-a of this article to serve for a term of three years.

3. A vacancy occurring during the term of a member elected by the board of regents or appointed by the commissioner of education shall be filled for the unexpired term by the election or appointment of a successor in the same manner as his predecessor. A vacancy occurring during a term in the case of a member elected from among the active members of the retirement system shall be filled, until the next annual convention of delegates, by the commissioner of education and shall be filled for the unexpired term by the delegates at the next annual convention in addition to the regular election. A vacancy occurring during the term of a retired teacher member shall be filled in accordance with the provisions of section five hundred five-a of this

article.

§ 505. Election of the active teacher members of the board. 1. An annual convention of the members of the retirement system shall be held within the state of New York during the month of October or November, at an hour and place set by the retirement board on or before May first of each year, for the purpose of electing members of the retirement board.

2. Said convention shall be composed of delegates selected as hereinafter provided from each territory constituting the jurisdiction of, unless otherwise provided for herein, a district superintendent, of a village or a city superintendent, or from a school district within a supervisory district and having at least seventy-five members of the retirement system, or from the department, or from a unit of the state university, which territory, school district, department or unit shall constitute a territorial unit of representation in the assembly of delegates. Each territorial unit shall be entitled to be represented in such convention by one delegate for each two hundred members of the retirement system employed on a per annum basis in said unit. The total entitlement to delegates for each territorial unit shall be the number of such members divided by two hundred, rounded off to the nearest whole number; provided, that each unit shall be entitled to at least one delegate.

3. Delegates from each territorial unit shall be elected, for a two-year term to commence on August first of the year of election, by the vote of a plurality of the members of the retirement system within such territorial unit voting by secret ballot. If there is more than one delegate entitled to be elected to represent a territorial unit, the voters shall be instructed to cast a vote for sufficient persons in the number needed to represent the territorial unit and those candidates receiving the most votes shall be declared elected.

4. The election of delegates shall be held in odd numbered years, no earlier than March first and no later than June first, in accordance with rules adopted by the chief administrative officer of each

territorial unit or his designee. The chief administrative officer of each territorial unit or his designee shall, no later than July first, file with the retirement system a certificate of election containing the names and addresses of the delegates elected to the annual convention and such other information as may be required by the retirement board and shall furnish the delegates elected with a copy of said certificate of their election. The certificate of election shall be in a form prescribed by the retirement board.

5. An alternate shall be elected, in the same manner as prescribed for delegates, for each delegate to serve if the delegate is absent or unable to serve.

6. Each delegate and alternate must be a member of the retirement system and employed as a teacher in the territorial unit which he or she represents. A person may be elected to only one position, and each delegate shall be entitled to only one vote.

7. If both a delegate position and its corresponding alternate position become vacant, a special election shall be held, no later than October first, in the same manner as the regular election to fill the remaining portion of the term, and the chief administrative officer or his designee shall no later than October sixth file with the retirement system a certificate of election and shall furnish the delegate so elected with a copy of said certificate of election.

8. Said convention shall be called to order by a member of the retirement board designated by said board, and shall organize the election of a chairman and a secretary. A majority of all delegates entitled to seats in said convention shall constitute a quorum for the transaction of business.

9. Members of the retirement board shall be elected by a majority of those present and voting at the convention held pursuant to this section for a term commencing on the first day of February following the election. In order to be eligible to be elected to the retirement board pursuant to this section, a person must be a member of the retirement

system.

10. The provisions of this section shall be deemed mandatory and not directory.

§ 505-a. Election of retired teacher member of board. 1. Election of retired teacher member. An election shall be held during the month of October, nineteen hundred ninety-three, and thereafter during the month of October immediately preceding the expiration of a term in office as prescribed in this section, for the purpose of electing the retired teacher member of the retirement board from among the retired members of the retirement system. All retired members of the retirement system who are retired as of October first in the year in which such election is held shall be eligible to vote. Such election shall be by secret ballot held in accordance with the provisions of this section and such rules and regulations as may be adopted by the retirement board. A retired teacher member elected to the retirement board pursuant to the provisions of this section shall serve for a term of three years commencing on the first day of January next following said election.

2. Nominations. Nominations of candidates for the position of retired teacher member of the retirement board shall be by petition on forms provided pursuant to this subdivision. The retirement board shall prepare printed forms for nominating petitions for candidates for the office of retired teacher member of the retirement board. Such forms shall be available to retired members of the retirement system not later than July first of a year in which an election is to be held. Each candidate's petition shall be signed by not less than one hundred retired members of the retirement system and shall be filed with the retirement board not later than August fifteenth in such year. Each such petition shall contain the position and term of office, together with the name and address of the candidate, and shall also contain the name and address of the retired member of the retirement system who shall be the alternate candidate in the event of a vacancy caused by the death, disability, disqualification or withdrawal of the candidate occurring prior to the election. Each petition shall be accompanied by a notarized

written acceptance of the nomination by the candidate named in the petition and by a notarized written statement of the retired member named as alternate candidate that, in the event of the death, disability, disqualification or withdrawal of the candidate prior to the election or in the event of the death, disability, disqualification or resignation of the candidate from the position of retired teacher member of the retirement board following election, he or she will accept the nomination or serve on the retirement board in such a contingency. The retirement board shall implement one mailing for each qualified candidate that so requests and makes payment therefor prior to the time of mailing by bank or certified check. The board shall establish procedures to merge mailings for more than one qualified candidate in order to reduce postage costs and for administrative convenience if each affected candidate approves. Nothing in this subdivision or in this section shall be construed to impair existing law preserving the confidentiality of the home addresses of retirees of the retirement system.

3. Election procedures. Such election shall be in the form of a mail referendum with appropriate provisions, such as the use of double envelopes, made to insure that the identity of the individual retired members will not be disclosed as their marked ballots are submitted and counted. The retirement board shall prepare and mail a ballot and instructions for voting to each eligible retired member by first class mail not earlier than October first and not later than October fifteenth. The names of candidates and alternate candidates listed on the ballot shall be in the order in which the petitions are filed with the retirement board. The ballots shall be such that they may be machine counted. Such ballots shall be returned to the address within the state of New York designated by the retirement board and shall be postmarked not later than October thirty-first. Notwithstanding the foregoing, the retirement board may by resolution establish an alternative procedure for the conduct of an election pursuant to this section by electronic, telephonic or other means which provide comparable security and convenience for voting by retired teacher members.

4. Board of elections. At the time of filing a petition or not later

than September fifteenth, each candidate shall appoint two active or retired members of the retirement system to a board of elections. Such board of elections shall consist of such appointees of the candidates and one member of the retirement system named by the president of the retirement board, who shall act as its chairman. Members of the board of elections shall not themselves be candidates or alternate candidates. Such board of elections shall supervise the election. Such board of elections shall meet at the location within the state designated by the retirement board at one o'clock in the afternoon on the second Monday in November to certify the election of the candidate receiving the largest number of valid votes cast. The retired member so elected shall be notified of such election by the chairman of the board of elections within five days of such certification. The ballots shall be kept in the custody of the retirement board for at least ninety days after such certification. Members of the board of elections shall be reimbursed by the retirement board for reasonable expenses actually incurred, in accordance with rules and regulations adopted by the retirement board.

5. Special election. In the event that no candidate can be certified as having won the election as the result of a tie vote, then the board of elections shall order a special election with the ballot containing only the names of such candidates with a tie vote. Such special election shall be conducted in the same general manner as the regular election. Ballots shall be mailed during the month of November as soon as reasonably practical after the tie vote has been determined and shall be returned to a location within the state designated by the retirement board, postmarked no later than the fourteenth day of December. The board of elections shall meet at the location within the state designated by the retirement board on a mutually selected date prior to January first to certify the election of the candidate receiving the largest number of valid votes cast.

6. Suspension of election. In the event that only one candidate is nominated, then no election shall be held and such candidate shall be deemed to be elected effective at the same time as if an election had been held.

7. Vacancies. A vacancy occurring during the term of a retired teacher member of the retirement board shall be filled by the retired member who was the alternate candidate at the time such retired teacher member was last elected to the board. In the event that such alternate candidate has died, become disqualified, or is unwilling or unable to serve or in the event that the alternate candidate dies, is disqualified, becomes disabled, or resigns after entering upon the position of retired teacher member of the retirement board, then the vacancy shall be filled by the concurrent appointment of a successor from among the retired members of the system by the members of the retirement board who were elected from among the active members of the retirement system. Such alternate candidate or such appointee, as applicable, shall serve out the unexpired term of the retired teacher member.

8. Certain expenses of alternate candidate. The retired member who was the alternate candidate at the time a retired teacher member was last elected to the position of the retired teacher member of the retirement board shall be entitled to be reimbursed from the expense fund for actual and necessary expenses incurred in connection with attendance at the annual meeting and stated meetings of the retirement board pursuant to subdivision one of section five hundred six of this article.

§ 506. Board meetings; oaths of office; quorum; expenses. 1. The retirement board shall meet annually at Albany on a business day in the month of January to be fixed by the board and shall have stated meetings at the same place at least once in each three months as determined by the regulations of the board.

2. Each member of the retirement board shall, within ten days after his appointment or election, take the constitutional oath of office and cause the same to be filed in the office of the department of state.

3. A majority of the members of the retirement board shall constitute a quorum for the transaction of any business.

4. The members of the retirement board shall serve without

compensation, but they shall be reimbursed from the expense fund for all actual necessary expenses and for any loss of salary or wages they may suffer through serving on the retirement board.

5. Notwithstanding any other provision of law, the affirmative vote of a majority of the board and the concurrence of one member of the board elected from among the active members of the retirement system shall be required to adopt, amend or repeal any rule or regulation relating to member benefits.

6. Notwithstanding any other provision of law to the contrary, a member of the retirement board who is elected from among the members of the retirement system shall, upon his request, be granted a leave of absence without pay by his employer for the period of time he serves as a member of the retirement board. During the period of said leave of absence, such member of the retirement board shall receive full credit in the retirement system for the period of such leave of absence. The provisions of this subdivision shall not be construed as prohibiting an employer at its discretion from granting a leave of absence with pay. The retirement board is authorized to adopt such rules and regulations as it finds necessary in administering the provisions of this subdivision.

§ 507. Officers of board; custody of funds. 1. The retirement board shall elect from its membership a president and vice-president, and shall have power to employ a secretary and to secure the services of such technical and administrative employees as may be necessary for the transaction of the business of the retirement system. The compensation of all persons engaged by the retirement board and all other expenses of the board necessary for the proper operation of the retirement system shall be paid at such rates and in such amounts as the retirement board shall approve.

2. The retirement board shall appoint a counsel to serve as its legal adviser.

3. The head of the division of the treasury in the department of taxation and finance shall be the custodian of the funds of the retirement system, except any asset consisting of evidence of a loan to a member of the retirement system pursuant to section five hundred twelve-b which such asset shall be in the custody of the retirement board. Disbursements from the funds of the retirement system shall be made by the custodian or such person as may be authorized by him only upon warrants signed by a member of the retirement board, or an official thereof, authorized to do so by resolution of the board duly adopted at a meeting of the board by a majority of its members. The commissioner of taxation and finance shall authorize a person who in the absence or disability of the head of the division of the treasury in the department of taxation and finance shall exercise and perform the functions, powers and duties conferred or imposed on the head of the division of the treasury in the department of taxation and finance as the custodian of the funds of the retirement system, and such person so authorized shall continue to exercise and perform such functions, powers and duties during any period that the office of the head of the division of the treasury in the department of taxation and finance is vacant.

4. The custodian shall furnish annually to the retirement board a sworn statement of the amount of the funds in his custody belonging to the retirement system.

6. The retirement board shall appoint a medical board of three physicians who shall hold office at the pleasure of the retirement board. Such medical board shall meet at regular intervals and shall perform such duties as are assigned to it by the retirement board, including, but not limited to, a review of applications for disability retirement and a review of the continued disablement of pensioners retired for disability. The medical board shall report to the retirement board its recommendation approving or disapproving each disability retirement application. The medical board may designate other physicians to make such medical examinations of a disability applicant as it may require and shall review the findings of such physicians prior to making its own recommendation to the retirement board.

7. a. The system shall save harmless and indemnify all members of the retirement board, officers and employees of the system from financial loss arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act by such board member, officer or employee provided that such board member, officer or employee at the time of such alleged negligence or act was acting in the discharge of his duties and within the scope of his employment and that such damages did not result from the willful and wrongful act or gross negligence of such board member, officer or employee and provided further that such board member, officer or employee shall, within five days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy thereof to the system's legal advisor.

b. Upon such delivery the system's legal advisor may assume control of the representation of such board member, officer or employee. Such board member, officer or employee shall cooperate fully with the system's legal advisor's defense.

c. This section shall not in any way impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

d. The benefits of this section shall inure only to board members, officers and employees of the system and shall not enlarge or diminish the rights of any other party.

8. Notwithstanding the provisions of subdivision seven of this section and in lieu thereof, the retirement board may, by adoption of a board regulation, provide for the indemnification and defense by the system of members of the retirement board and employees of the system in accordance with section eighteen of the public officers law.

§ 508. Investment of funds; interest; accounts; reports. 1. The members of the retirement board shall be the trustees of the several funds created by this article, and shall determine from time to time what part of the moneys belonging to the retirement system shall be

invested. When such board shall determine upon the investment of any moneys or upon the conversion or sale of any securities, it shall, by resolution duly adopted by a majority vote of the members of the board, direct the custodian to so invest the moneys or convert or sell the securities. Investments shall be made only in securities in which the trustees of a savings bank may invest the moneys deposited therein as provided by law except that the retirement system shall have the authority to own any of its nominee corporations organized pursuant to subdivision seventeen of this section. It shall be the duty of the custodian to collect the interest thereon as the same becomes due and payable and also the principal thereof and place the same when so collected to the credit of the retirement system.

2. The retirement board shall annually allow regular interest on the mean amount for the preceding year in each of the funds created by this article, excepting the expense fund. The amount so allowed shall be payable to said funds and shall be annually credited thereto by the retirement board. All interest earned upon the entire amount of the funds belonging to the retirement system shall be used for this purpose, unless the amount so earned is in excess of the requirements, in which case the excess amount shall be credited to the pension accumulation fund. Any deficiency in the amount required to cover the interest requirements of the funds, exclusive of the pension accumulation fund, shall be paid from the pension accumulation fund.

3. Except as herein provided, no member nor employee of the retirement board shall have any interest direct or indirect in the gains or profits of any investment made by the board nor as such directly or indirectly receive any pay or emolument for his services. And no member nor employee of the said board directly or indirectly, for himself or as an agent or partner of others, nor a corporation of which he is an officer, stockholder or member, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the board; nor shall any member or employee of said board become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed of the board. Nothing herein contained shall be construed to prevent a member or an employee

of the retirement board, who is also a member of the retirement system, from borrowing from his accumulated contributions in the retirement system in accordance with section five hundred twelve-b of this article.

4. The retirement board shall provide for maintenance of an individual account with each member showing the amount of the member's contributions and the interest accumulations thereon. It shall report annually to each member who has furnished the board with a mailing address the accumulated contributions credited to such account together with the amount of service then credited to the member. It shall collect and keep in convenient form such data as shall be necessary for the preparation of the required mortality and service tables, and for the compilation of such other information as shall be required for the actuarial valuation of the assets and liabilities of the various funds created by this article. Upon the basis of the mortality and service experience of the members and beneficiaries of the system, the retirement board from time to time shall adopt the tables to be used for valuation purposes and for determining the amount of annuities to be allowed on the basis of the contributions of members.

5. At such time as the retirement board may deem it necessary and at least once each quinquennial period, the retirement board shall have its actuary prepare a report showing a complete valuation of the present and prospective assets and liabilities of the various funds created by this article with the exception of the expense fund. The actuary shall make an investigation of the mortality and service experience of the members of the retirement system and shall report fully upon its conditions as well as estimated future investment earnings with such recommendations as he shall deem advisable for the information of the retirement board in the proper operation of the retirement system.

6. The records of the retirement board shall be open to public inspection.

7. The retirement board shall publish annually a report showing the condition of the various funds created by this article, certifying to the accumulated cash and securities of the funds and giving an account

of the operation of the system.

8. The retirement system may use a part of its funds, not exceeding ten per centum of its net assets, (1) for purchasing or leasing of land within the county of Albany and the construction thereon of a suitable office building or buildings for the transaction of the business of the retirement system and (2) for purchasing or leasing of land in the cities of Albany, Binghamton, New York, Rochester and Utica and the construction thereon of a suitable office building or buildings for purposes of lease or sale to the state and (3) for purchasing or leasing of land in locations approved by the state university trustees and the construction, acquisition, reconstruction, rehabilitation or improvement of suitable buildings or facilities thereon for purposes of lease or sale to the state university construction fund, such buildings or facilities to be used by the state university or by state-operated institutions or statutory or contract colleges under the jurisdiction of the state university or by the students, faculty and staff of the state university or of any such state-operated institution or statutory or contract college, and their families.

The retirement system from time to time may lease to any public agency any portion of a building constructed for the transaction of its business which may not be required for such purpose, upon such terms and conditions as shall be deemed to be for the best interest of the retirement system.

Real property of the retirement system acquired or constructed pursuant to this subdivision shall be exempt from taxation as provided in the real property tax law.

10. The retirement system may invest, within the limitations authorized for investments in conventional mortgages, a part of its funds in first mortgages on real property located anywhere within the boundaries of the United States and leased to the government of the United States, provided however, that no such investment shall be made unless the terms of the mortgage shall provide for amortization payments in an amount sufficient to completely amortize the loan within the

period of the lease.

11. The funds of the retirement system may be invested in the purchase of promissory notes or bonds from the farmers home administration issued in connection with the purchase or improvement of real property and which are insured by the farmers home administration.

13. Where any benefit accruing under the provisions of this article is payable to a minor, incompetent, or any other person under a legal disability and no guardian of the property, committee or other such legal representative is duly appointed within six months of the date the benefit accrues to such person, the retirement board shall be authorized to adopt rules and regulations providing for a savings account to be established for each such person to which shall be paid the amounts of such benefits due and owing to such persons. Interest shall be credited to each savings account established pursuant to this subdivision in the same manner and amount as is credited to the accumulated contributions of members in their individual accounts in the annuity savings fund pursuant to this article. The funds in such accounts shall be payable, within a reasonable time after proper notification to the system, to a guardian of the property, committee or other such legal representative after such person is duly appointed or to the beneficiary once the legal disability is removed. A payment made pursuant to the provisions of this subdivision shall release the system from any liability whatsoever.

14. The retirement board is hereby authorized to buy securities under an agreement providing for the repurchase thereof. The retirement board is also authorized to assign commitments to invest system funds pursuant to an agreement providing for the subsequent purchase of such investments. The securities purchased pursuant to this subdivision shall meet the eligibility standards prescribed for such class of investments.

15. During the period ending June thirtieth, nineteen hundred seventy-seven, the retirement board is authorized, in order to obtain the funds necessary to make investments without the conversion or sale of securities it holds, to borrow an amount not exceeding the amount to

be invested, upon such terms and conditions as the board, by resolution, shall approve, which terms may include the pledge of any assets of such system as may be necessary to secure the repayment of the amount borrowed, provided that the total amount of such borrowing at no time shall exceed five per centum of the system's assets.

16. (a) The retirement system is authorized to photograph, microphotograph, film, record, copy, image or otherwise reproduce all or any part of its records by any process which accurately reproduces or forms a durable medium for reproducing any original document or record. Whenever the retirement system shall have so reproduced such records and whenever such reproductions or media have been placed in conveniently accessible files and provision has been made for preserving, examining and using the same, the retirement system may cause the original record which has been so reproduced to be disposed of or destroyed.

(b) Any reproduction or reproduction from any media authorized pursuant to this subdivision shall have the same force and effect as the originals thereof would have had and shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. Duly certified or authenticated copies of such reproductions shall be admitted in evidence equally with the original reproductions.

(c) A duly authorized representative of the retirement system is hereby authorized to certify to the authenticity of any reproduction herein authorized and the retirement system shall make such charges therefor as may be authorized by law.

17. Any real estate interests acquired by the retirement system pursuant to this section, or pursuant to any other provision of law, shall be conveyed to it directly by name, or may be taken in the name of a duly authorized nominee. The retirement system shall have the authority to organize corporations for the purpose of carrying out the intent of this subdivision, and may make loans to said corporations for the purpose of operating, preserving, or otherwise servicing any property being held by said corporations.

18. Notwithstanding any other provision of this section, the

retirement board shall have the power to delegate to one or more investment managers its authority to invest moneys belonging to the retirement system. The term "investment managers" as used in this subdivision shall include but not be limited to independent contractors selected by the retirement board.

19. Whenever a statute requires that a document must be filed or moneys deposited with the system within a prescribed period of time or by a specified date in order for a member to be eligible for service credit or a benefit from the system the document shall be deemed filed or the moneys deposited with the system on the date mailed if mailed to the system either through (1) the United States postal service by registered or certified mail or (2) such other equivalent postal mail service as the retirement board may specifically permit by rule or regulation with a tracking service confirming a date of mailing. Notwithstanding the provisions hereof, no such document shall be deemed filed or moneys deposited with the system on the mailing date unless actually received by the retirement system as the result of such mailing.

§ 508-a. New York state teachers' retirement system MWBE asset management and financial institution strategy. 1. Within the discretion of the retirement board and in accordance with and subject to its fiduciary duties and obligations as trustees of the teachers retirement system and to the members, retirees and beneficiaries of such system and such other investment limitations as may be prescribed by this chapter, the retirement board is authorized to establish on MWBE asset management and financial institution strategy pursuant to section four hundred twenty-three-c of the retirement and social security law including reasonable goals for utilization of MWBE asset managers, MWBE financial institutions and MWBE financial and professional services firms, as such terms are defined in section one hundred seventy-six of the retirement and social security law which strategy shall include, but shall not be limited to, the following objectives:

a. investing assets of the teachers' retirement system with MWBE asset

managers;

b. subject to best execution, (1) conducting trades of public equity securities with MWBE financial institutions and (2) conducting trades of fixed-income securities through MWBE financial institutions;

c. allocating investments of assets of the teacher's retirement system either through (1) direct investments in the equities and debt securities of MWBEs or (2) indirectly through special programs involving MWBE asset managers; and

d. awarding contracts for accounting, banking, financial advisory, insurance, legal, research, valuation and other financial and professional services to MWBE financial institutions and other MWBE professional services firms.

As used in this section, the terms "MWBE asset manager", "MWBE financial institutions", "MWBE", "fidiuciary-controlled entities", and "best execution" shall have the meanings specified in section one hundred seventy-six of the retirement and social security law, and shall be certified in a manner consistent with the provisions of subdivision three of section four hundred twenty-three-c of the retirement and social security law.

2. The retirement board is also authorized to:

a. periodically advertise the existence of such strategy so that MWBE asset managers, MWBE financial institutions and other MWBE professional service firms are made aware of the opportunities made available pursuant to such strategy;

b. within sixty days of the end of each fiscal year following the effective date of this section, the retirement board shall report to the governor, legislature and the chief diversity officer of the state of New York on the participation of MWBE asset managers, MWBE financial institutions and MWBE professional service providers in investment and brokerage transactions with or as providers of services for the

teachers' retirement system, including a comparative analysis of such activity relative to such activity with all asset managers, financial institutions and professional service providers for the relevant period and on the progress and success of the efforts undertaken during such period to achieve the goals of such strategy. Each report shall be simultaneously published on the website of the teachers' retirement system for not less than sixty days following its release to the governor and the other recipients named above;

c. work with the other fiduciary-controlled entities to create a database of such MWBE entities; and

d. periodically, but not less than annually, hold a conference to promote such strategy in conjunction with the other fiduciary-controlled entities.

§ 509. Statements of teachers' service; determination of service creditable; service certificates. 1. Under such rules and regulations as the retirement board shall adopt, each present teacher shall file a detailed statement of all service as a teacher and service in a similar capacity in other states rendered by him prior to the first day of August, nineteen hundred twenty-one, for which he claims credit, and of such other facts as the retirement board may require for the proper operation of the retirement system.

2. a. Each new entrant shall file a detailed statement of (1) service as a teacher; (2) service in other states, territories, possessions and commonwealths of the United States, which would constitute service as a teacher within the meaning of subdivision four of section five hundred one of this article had it been performed within New York state rendered by him prior to so becoming a member; (3) governmental service in the state of New York where he was a member of the New York state and local employees' retirement system, and where such service was credited to him in the said New York state and local employees' retirement system; (4) service with the New York city corrections department prior to nineteen hundred fifty-six which would constitute service as a teacher within the

meaning of subdivision four of section five hundred one of this article had it been performed in the employ of a public school in New York state; (5) such service that would have been creditable in one of the public retirement systems of the state, as defined in subdivision twenty-three of section five hundred one of the retirement and social security law, at the time the service was rendered, had the individual been a member of such retirement system; (6) a statement as to the number of years on account of which he desires to contribute; and (7) such other facts as the retirement board may require for the proper operation of the system.

b. No credit shall be allowed for service which has been credited in any retirement system if the member on or after the effective date of this paragraph withdraws his contributions to such retirement system and terminates his membership therein during the period in which his membership in such other system would have been valid and because of such withdrawal or termination transfer of such credit from such other retirement system cannot be made to the New York state teachers retirement system pursuant to section five hundred twenty-two of this article.

c. No prior service claim will be allowed for any service for which the person is receiving a benefit or will be entitled to receive a benefit at any future time from some other public retirement system, in this state, in any other state or from the federal government.

3. The retirement board shall fix and determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in computing such service or in computing average compensation, it shall credit no period of more than a month's duration, during which a member was absent without pay, nor shall more than one year of service be credited for all service in any calendar year.

4. Subject to the above restrictions and to such other rules and regulations as the retirement board shall adopt, said board shall verify as soon as practicable the statement of service submitted.

5. After the member has rendered at least two full years of service since he last became a member, upon verification of the statement of service submitted and receipt of any contribution required to be paid by the member pursuant to paragraph a of subdivision eight of this section, the retirement board shall credit the member with the length of such prior service as set forth in (1), (3), (4) and (5) of paragraph a of subdivision two of this section and the aggregate length of such prior service not to exceed ten years as set forth in (2) of paragraph a of subdivision two of this section provided that in no case shall the number of years of credited service outside the state of New York be more than the number of years of credited service within the state of New York.

6. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service unless thereafter modified by the retirement board upon application made by the member within one year after the date of issuance or modification of a prior service certificate or upon the discovery by the retirement board of an error or fraud. When membership ceases, such certificate shall be void. Should membership be resumed by the teacher, such teacher shall enter the system as a new entrant, except as provided by subdivisions five and six of section five hundred eleven of this article.

7. The total state service credited a member shall consist of the service as a teacher rendered by him since he last became a member, and any prior service as set forth in (1), (3), (4) and (5) of paragraph a of subdivision two of this section. The total service credited a member shall consist of the service rendered by him as a teacher since he last became a member and all credited prior service.

8. a. Any member of the retirement system who is credited with at least two full years of teaching service rendered in the state since he last became a member may claim such uncredited prior service as set forth in (2), (3), (4) and (5) of paragraph a of subdivision two of this section, pursuant to subdivision five of this section by paying to the retirement board four per centum of the salaries earned for the years

claimed and such uncredited prior service as set forth in (1) of paragraph a of subdivision two of this section by paying to the retirement board the amount he would have been required to contribute at the time such service was rendered, not to exceed four per centum of the salaries earned for the years claimed. The amount due, if any, for such service shall be deposited with the retirement board prior to retirement in accordance with the requirements of this article and the regulations of the retirement board. The retirement board, upon verification of the claim and payment made, shall credit such member with such service.

Notwithstanding any other provision of this paragraph, any member who last joined the retirement system prior to July twenty-seventh, nineteen hundred seventy-six and who did not receive credit with the retirement system prior to July first, nineteen hundred eighty-eight for prior service, may obtain credit for prior service pursuant to the provisions of this section or pursuant to the provisions of subdivision b of section four hundred forty-six of the retirement and social security law, whichever is applicable, without making the payments required by this paragraph.

b. Any member who applies for superannuation retirement and who on joining the system claimed and paid for all his uncredited service, shall be reclassified as a "present teacher" and shall be credited with all state teaching service rendered before the first day of August, nineteen hundred twenty-one, provided he was a teacher on or before the first day of August, nineteen hundred twenty-one, and provided that he is credited with at least fifteen years of teaching service rendered in the state and has not ceased teaching for a period in excess of five years in any period of ten consecutive years since the first day of August, nineteen hundred twenty-one, and provided that his membership has been continuous since first joining the system and that he would have been entitled to the status of "present teacher" and to the credit for service rendered prior to the first day of August, nineteen hundred twenty-one, had he applied for membership and claimed such credit at the time he was given the privilege so to do. Any such member who claimed and paid for service rendered prior to the first day of August, nineteen hundred twenty-one, shall, upon being reclassified as a "present

teacher", have the amount so paid applied on the payment for uncredited service rendered on and after the first day of August, nineteen hundred twenty-one, and the balance if any, shall be refunded to the member.

c. After the member retires, the next ensuing contribution of the employers, collected in the manner provided in subdivision two of section five hundred twenty-one, shall be increased by the lump sum actuarial cost to the employers attributable to such prior service credit as is granted to members who retire under the provisions of this subdivision, computed on the basis of the mortality tables and interest rate applicable to members at the time of retirement. The proper funds shall be credited with the amount of such contributions, and such amount of pension shall be charged to the amount so collected.

9. No final determination made by the system with respect to benefits provided by the system, or matters related thereto, shall be subject to review in any court of the state of New York, except as provided in article seventy-eight of the civil practice law and rules.

10. Notwithstanding any other provision of law to the contrary, any law insofar as and to the extent it shall establish or affect a benefit provided by the system shall be deemed to have been in full force and effect on the earlier of the effective date provided for in such law or the thirtieth day of June of the calendar year of enactment by the legislature, unless such law expressly provides that it shall not be subject to this subdivision.

11. Notwithstanding any other provision of law to the contrary, a member of the retirement system subject to this article or article fourteen or fifteen of the retirement and social security law who, subsequent to such member's date of membership in the retirement system, rendered service which was credited in another public retirement system of the state but thereafter failed to make timely transfer of such membership to the retirement system prior to the time the membership in such other public retirement system ceased by reason of: a. insufficient service; b. withdrawal of accumulated contributions; or c. withdrawal of membership, may obtain credit for such service on the same basis and in

the same manner as if such service had been rendered prior to such member's date of membership in the retirement system.

* 12. Notwithstanding any other provision of law, any member eligible to purchase credit for previous service with a public employer pursuant to this section or to purchase credit for military service pursuant to article twenty of the retirement and social security law, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to the completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of the agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service -- expires per ch. 627/2007 §22

§ 510. Superannuation retirement. 1. Retirement upon a superannuation allowance shall be made under the following conditions:

a. A member who has completed twenty-five years of total credited service and who has attained the age of sixty years or over while in service, or any member who has completed thirty-five years of total credited service shall be retired, if he files with the retirement board a statement duly attested setting forth at what time not less than thirty days nor more than ninety days subsequent to the execution and filing thereof he desires such retirement.

b. Any member who has attained age seventy may be retired at his own request or at the request of his employer if he or his employer files with the retirement board a statement duly attested setting forth at

what time subsequent to the execution and filing thereof retirement is desired, and if throughout the year immediately preceding the filing of such statement he shall have been in service as a teacher in this state. The retirement board shall retire said member as of the date so specified or as of such other time within thirty days thereafter as the retirement board may find advisable.

2. Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of:

a. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

b. A pension of one quarter (1/4) of his final average salary or if his total service is less than twenty-five years, a pension of one one-hundredth (1/100) of his final average salary multiplied by the number of years of total service, and

c. A further pension of one one-hundred fortieth (1/140) of his final average salary multiplied by the number of years of total state service in excess of thirty-five years, and

d. If the member be a present teacher, a further pension of one one-hundred fortieth (1/140) of his final average salary multiplied by the number of years of total service certified on his prior service certificate, and

e. If the member has contributed pursuant to paragraph c of subdivision three of section five hundred sixteen, a further pension of one one-hundred twentieth (1/120) of his final average salary for each year of total service in excess of twenty-five years but not in excess of thirty-five years, nor in excess of the number of years for which credit is allowed under paragraph d of subdivision three of section five hundred sixteen, and

f. A further pension, of such amount as shall be required to bring the total retirement allowance of members with twenty-five or more years of

state service up to four hundred dollars per annum, and

g. The provision of paragraph (c) of subdivision two of this section shall apply only to members retiring on and after the date on which paragraph (c) of subdivision two of this section becomes operative.

§ 511. Disability retirement. 1. Retirement on account of disability shall be made under the following conditions: A member who has completed at least fifteen years of total state service or a member who is a present teacher and who has completed twenty years of service, the last ten of which were state service, may be retired on account of disability either upon the application of his employer or upon his own application or that of a person acting in his behalf, if the retirement board, after a medical examination of said member by a physician or physicians designated by said board shall determine upon the basis of a report submitted by said physician or physicians that the said member is physically or mentally incapacitated for the performance of duty, that he was incapacitated at the time he ceased teaching and that said member ought to be retired.

2. On retirement for disability, a member shall receive a superannuation retirement allowance if his state service is twenty-five or more years and he has attained age sixty or if his total service is thirty-five or more years; otherwise, he shall receive a disability retirement allowance which shall consist of:

a. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

b. A pension of one-fifth (1/5) of his final average salary, with the exception that in no case shall the rate of such pension exceed four-fifths (4/5) of the rate of pension to which he might have been entitled had retirement been deferred until the age of seventy as provided under paragraph b of subdivision one of section five hundred ten; and

c. If he be a present teacher, a further pension of one one-hundred fortieth (1/140) of his final average salary multiplied by the number of years of total service certified on his prior service certificate, and

d. If the member has contributed pursuant to paragraph c of subdivision three of section five hundred sixteen, a pension, in lieu of the pension provided under paragraph b of subdivision two of this section, of nine-tenths (9/10) of one one-hundredth (1/100) of his final average salary multiplied by the number of years of total service not in excess of twenty-five years, but not less than twenty (20) per centum of his final average salary, plus nine-tenths (9/10) of one one-hundred twentieth (1/120) of his final average salary multiplied by the number of years of total service in excess of twenty-five years but not in excess of thirty-five years, nor in excess of the number of years for which credit is allowed under paragraph d of subdivision three of section five hundred sixteen.

3. On and after July first, nineteen hundred seventy, a member who has credit for ten years of full time state service, including at least two years of such service rendered subsequent to June thirtieth, nineteen hundred sixty-seven and subsequent to the date upon which he last joined the retirement system and who is under age fifty-five, and otherwise meets the requirements of subdivision one of this section, may be retired on account of disability by the filing of an application with the retirement board as required by subdivision one of this section. Upon such retirement, he shall receive, in lieu of the retirement allowance specified in subdivision two of this section and the pension for increased-take-home-pay otherwise authorized in this article, a disability retirement pension consisting of:

a. a pension of one-sixtieth of his final average salary multiplied by the number of his years of credited state service rendered after June thirtieth, nineteen hundred fifty-nine and

b. a pension of one-seventieth of his final average salary multiplied by the number of his years of credited state service rendered before July first, nineteen hundred fifty-nine and

c. a pension of one one-hundred twentieth of his final average salary multiplied by the number of his years of credited out-of-state service.

In no event shall the disability pension be less than one-sixtieth of the member's final average salary multiplied by the number of years of total service, not to exceed twenty, which would have been credited to the member had he remained in service until age sixty; provided, however, that for members who are credited with service prior to July first, nineteen hundred fifty-nine, the minimum pension as so determined shall be reduced by one quarter of one per cent of final average salary multiplied by the number of his years of service prior to July first, nineteen hundred fifty-nine.

On retirement for disability, in addition to the pension hereinabove provided, a member shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

On and after July first, nineteen hundred seventy-seven, a member who is age fifty-five or over and who otherwise meets the requirements of this subdivision, shall receive on retirement for disability the retirement allowance he would have received had he filed for a service retirement.

On or after October sixteenth, nineteen hundred ninety-two, the disability pension shall in no event be less than:

a. in the case of a member under age sixty, the greater of (i) one-sixtieth of the member's final average salary multiplied by the number of years of total service, which formula is to be used if the pension so computed exceeds one-third of the member's final average salary, or (ii) one-sixtieth of the member's final average salary multiplied by the number of years of total service, not to exceed twenty, which would have been credited to the member had he remained in service until age sixty; or

b. in the case of a member age sixty or over, one-sixtieth of the member's final average salary multiplied by the number of years of total service.

Notwithstanding anything to the contrary in this article, any member who shall receive a disability retirement allowance pursuant to this subdivision shall be required once each year or at such other interval as the retirement board may determine to undergo a medical examination by a physician or physicians designated by the retirement board. Should any disability beneficiary refuse to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should refusal continue for one year all rights in and to his pension shall be forfeited.

In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only until July first, nineteen hundred seventy-four.

4. Once each year or at such other interval as the retirement board may determine, following the retirement of a teacher who joined the New York state teachers retirement system on or after July first, nineteen hundred sixty-one, on a disability allowance, or once each year during the first five years following the retirement of the teacher who joined the New York state teachers retirement system prior to July first, nineteen hundred sixty-one, on a disability allowance the retirement board may, and upon his application shall, require any disability beneficiary to undergo medical examination by a physician or physicians designated by the retirement board. Should any disability beneficiary refuse to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to his pension shall be forfeited.

5. Should the physician or physicians designated by the retirement board report and certify to the retirement board that such disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his

final average salary, and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, when added to the amount earnable by him, together with his annuity shall equal the amount of his final average salary. Should his earning capacity be later changed, then the amount of his pension may be further altered; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which when added to the amount earned by the beneficiary, together with his annuity equals the amount of his final average salary. A beneficiary restored to active service at a salary less than the final average salary or upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced pension. Notwithstanding any other provision of this article, the term "final average salary" as used in this subdivision four, shall mean either "final average salary" as defined by subdivision eleven of section five hundred one, or the maximum salary or compensation which the retired member currently would be receiving in the position from which he was last retired for disability, if he had not been so retired, whichever is greater, provided, however, that if the position from which he was so retired has been abolished, the retirement board, upon the basis of salary or compensation currently paid by the retired member's last employer to persons in similar or comparable position, shall determine, for the purposes of this subdivision four, the maximum amount of salary or compensation which such retired member currently would be receiving in such position.

6. Should a disability beneficiary be restored to active service at a salary as great as his final average salary, his retirement allowance shall cease, and he shall again become a member of the retirement system, and his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account as a part of his accumulated contributions in the latter fund, and he shall contribute to the said fund thereafter in the same manner and at the same rate as he paid prior to his disability. His prior service certificate on the basis of which his service was computed at the time of his retirement shall be renewed and shall again be in full force and effect, and in addition, upon his subsequent retirement, he

shall be credited with all his service as a member subsequent to the period covered by his prior service certificate.

7. The retirement board shall adopt appropriate rules and regulations providing for the reimbursement of reasonable expenses actually incurred by a member in attending medical examinations by physicians designated by the retirement board pursuant to this section. After determining the reasonableness thereof, the retirement board shall approve payment of such expenses from the expense fund.

8. a. Notwithstanding any other provision of law to the contrary, a member who has applied for disability retirement pursuant to this section, or, in the case of a member subject to article fifteen of the retirement and social security law, pursuant to section six hundred five of such law and has validly elected the applicable optional allowance specified in paragraph e of this subdivision and is otherwise eligible to retire for disability pursuant to the provisions of this section shall be entitled to the benefits of this subdivision in lieu of any pre-retirement death benefit which otherwise would have been payable, but for the operation of this subdivision. Such member shall be deemed to have elected the benefits of this subdivision unless the member shall have indicated in a manner prescribed by the retirement board that the member does not wish to avail himself of such benefits.

b. In the event such member dies, and such application for disability retirement has not become effective and has not been rejected, and it is determined by the retirement board, upon recommendation of the medical board, that the physical or mental incapacitation specified in such application was directly related to the cause of the member's death, such application shall be deemed approved by the retirement board, effective one day prior to the date of the member's death. In such event, the optional allowance elected by such member shall be effective and no pre-retirement death benefit shall be payable.

c. In the event no optional allowance specified in paragraph e of this subdivision was elected by the member, or it is determined by the retirement board, upon recommendation of the medical board, that the

physical or mental incapacitation specified in such application was not directly related to the cause of the member's death, this subdivision shall not apply and the applicable pre-retirement death benefit, if any, shall be payable.

d. If a member satisfying the provisions of paragraph a of this subdivision is, at the time the member files an application for disability retirement, eligible to retire for service under this article, the member may simultaneously apply for service retirement, provided the member indicates the application for disability retirement is without prejudice to the member's application for service retirement. Upon retirement for service, the member's application for disability retirement shall be deemed cancelled.

e. An eligible optional allowance for the purposes of this subdivision shall only include Option one and Option four pursuant to section five hundred thirteen of this article in the case of a member who has applied for disability retirement pursuant to this section, and the Alternative Option pursuant to subdivision a-one of section six hundred ten of the retirement and social security law in the case of a member who has applied for disability retirement pursuant to section six hundred five of such law, provided that in the case of Option four and the Alternative Option, the optional allowance elected by the member must provide only for the payment upon the member's death of a lump sum and such lump sum must be greater in amount than the amount of the death benefit, if any, which would have been paid but for the operation of this subdivision.

f. The retirement board is authorized to adopt such rules and regulations as it deems necessary to implement the provisions of this section.

9. a. Any law to the contrary notwithstanding, a member who satisfies the requirements of paragraph b of this subdivision and is otherwise eligible (disregarding any service requirement) to retire for disability pursuant to this section or section five hundred six or six hundred five of the retirement and social security law, as applicable, may elect to

receive a benefit equal to the death benefit which would have been paid, had such member died on the member's last day on the payroll in full pay status, pursuant to section five hundred twelve of this article or section four hundred forty-eight, five hundred eight or six hundred six of the retirement and social security law, as applicable.

b. To be eligible for the benefit provided in paragraph a of this subdivision, a member must have been determined by the system to have (i) a terminal illness resulting in a life expectancy of no more than twelve months, or (ii) a medical condition of a long continued and indefinite duration requiring extraordinary care or treatment regardless of life expectancy.

c. The benefit provided in paragraph a of this subdivision shall be in lieu of any disability benefit to which the member may otherwise be entitled. A member who is otherwise eligible to retire for disability must elect the benefit provided in paragraph a of this subdivision no later than the thirtieth day following the day on which (i) the system notifies the member that the member has been retired for disability, or (ii) the member is first eligible to commence receiving a disability retirement benefit, whichever is later. Such election, when made, shall be irrevocable.

d. Except as provided in this paragraph, a member electing the benefit provided in paragraph a of this subdivision shall for all purposes be deemed to have been retired for disability. Notwithstanding the foregoing, should a member who has elected the benefit provided in paragraph a of this subdivision thereafter be restored to active service and again become a member of the system,

(i) no death benefit shall be payable pursuant to section five hundred twelve of this article or section four hundred forty-eight, five hundred eight or six hundred six of the retirement and social security law, as applicable in the event of the member's subsequent death, and

(ii) unless such member shall have rendered five years of credited service since last becoming a member of the system, any retirement benefit to which such member may thereafter become entitled shall be reduced by the actuarial value of the benefit paid pursuant to paragraph

a of this subdivision (less the actuarial value of any applicable post-retirement death benefit which would have been available, but for this paragraph).

e. The retirement board is authorized to adopt such rules and regulations as it may deem necessary to implement the provisions of this subdivision.

§ 511-a. Special service retirement. 1. Retirement upon a special service retirement allowance shall be made under the following conditions: Any member, by written notice duly acknowledged and filed with the retirement board before the first day of July, nineteen hundred sixty-seven, or within two years after he last became a member, whichever is later, may elect to contribute pursuant to this section on the basis of retirement at an age within five years of the age when he would be eligible for superannuation retirement as provided under subdivision one of section five hundred ten, but not before age fifty-five. After such election the rate of deduction from the earnable compensation of the contributor shall be six and one-half per centum if his normal rate as provided under section five hundred sixteen is four per centum, and shall be eight per centum if such normal rate is five per centum. Where a member elects to contribute pursuant to this section, contributions at such higher rate shall be made from the first day of July, nineteen hundred sixty-seven, or from the first of the month following the expiration of thirty days subsequent to the filing of his election, whichever is later. If, at the time of retirement, the member's accumulated contributions are insufficient to provide an annuity equal to the pension provided under paragraph b of subdivision four of this section, he shall have the privilege of paying into the retirement system by a single payment the amount required in addition to his accumulated contributions to provide an annuity equal to said pension.

2. One year or more after the filing thereof, a member may withdraw his election to contribute pursuant to this section on the basis of special service retirement. Such withdrawal shall be by written notice

duly acknowledged and filed with the retirement board. Such member thereafter shall contribute on the basis of his rate of normal contribution. Such member, upon application at any time prior to retirement and with the approval of the retirement board, shall be entitled to a refund of the amount of his contributions and regular interest thereon, which is in excess of the amount of the accumulated contributions which he would then have to his credit had he been contributing on the basis of his rate of normal contribution.

3. Any member electing to contribute towards a special service retirement allowance under the provisions of this section, who has attained age fifty-five or over while in service, shall be eligible to retire at any time within five years before the date he would be eligible for superannuation retirement as provided under subdivision one of section five hundred ten, if he files with the retirement board a statement duly attested setting forth at what time not less than thirty days nor more than ninety days subsequent to the execution and filing thereof he desires such retirement.

4. Upon special service retirement, a member shall receive a special service retirement allowance which shall consist of:

a. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

b. A pension of one quarter of his final average salary or if his total service is less than twenty-five years, a pension of one one-hundredth of his final average salary multiplied by the number of years of total service, and

c. If the member be a present teacher, a further pension of one one-hundred fortieth of his final average salary multiplied by the number of years of total service certified on his prior service certificate, and

d. If the member has contributed pursuant to paragraph c of subdivision three of section five hundred sixteen, a further pension of

one one-hundred twentieth (1/120) of his final average salary multiplied by the number of years of total service in excess of twenty-five years but not in excess of thirty-five years, nor in excess of the number of years for which credit is allowed under paragraph d of subdivision three of section five hundred sixteen.

§ 512. Withdrawal and death benefits. Benefits upon withdrawal and death shall be payable as follows:

a. A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall be paid on demand the accumulated contributions standing to the credit of his individual account in the annuity savings fund. A member who has no accumulated contributions credited to his individual account in the annuity savings fund and who ceases to be a teacher for any cause other than death or retirement may withdraw from membership in the system by filing a notice of withdrawal with the system pursuant to rules and regulations adopted by the retirement board.

b. 1. Should a contributor die before retirement, his accumulated contributions shall be paid to his estate or to such person as he shall have nominated to receive such benefit. In the event such designated beneficiary does not survive him, or if he shall not have so designated a beneficiary, such benefit shall be payable to the deceased member's estate or as provided in section one hundred three-a of the decedent estate law. Such nomination must be by written designation duly executed and filed with the retirement board.

2. In addition to the return of accumulated contributions, a death benefit also shall be payable upon the death of a member who dies before the effective date of his retirement, and was in service upon which his membership was based when he died or was on the payroll in such service and paid within a period of twelve months prior to his death and had not been otherwise gainfully employed since he ceased to be on such payroll or if, during the period that membership is valid, the retirement board shall determine to its satisfaction that said member was physically or

mentally incapacitated for the performance of duty at the time he ceased to be on the payroll in such service and that he had been so incapacitated and had not been otherwise gainfully employed since he ceased to be on such payroll; provided he had credit for one or more years of service while actually a member. The amount of death benefit shall be computed by multiplying one twelfth of the compensation earnable by such member during his last twelve months of service while a member by the number of years, not to exceed twelve, of his total credit for service as a teacher in this state. Where the member has more than twelve years of credited service as a teacher in this state and when his death occurs on or after July first, nineteen hundred sixty-one, and before July first, nineteen hundred seventy-four, there shall be added to such benefit one twenty-fourth of such compensation multiplied by the number of years in excess of twelve, but not to exceed twenty-four such years, of his total credit for service as a teacher in the state. The death benefit shall be paid to such person as he shall have nominated to receive such benefit. In the event such designated beneficiary does not survive him, or if he shall not have so designated a beneficiary, such benefit shall be payable to the deceased member's estate or as provided in section one hundred three-a of the decedent estate law. Such nomination must be by written designation duly executed and filed with the retirement board. The provisions of this paragraph two of subdivision b of this section shall apply only to deaths occurring on and after July first, nineteen hundred fifty-nine.

3. Notwithstanding any other provisions of this article or any rules or regulations adopted thereunder by the retirement board, the death benefit payable pursuant to paragraph two of this subdivision, in the case of a member who dies after having become eligible to apply and be retired for special service or superannuation pursuant to the provisions of this article, shall be increased by the amount, if any, that the actuarial equivalent of the pension portion of his retirement allowance, computed as if he had been retired on the day immediately preceding his death, and computed in accordance with the provisions of subdivision two of section five hundred ten and subdivision four of section five hundred eleven-a of this article, exceeds the amount of the death benefit otherwise payable pursuant to paragraph two of this subdivision. The

provisions of this paragraph three of subdivision b of this section shall apply only to deaths occurring after the date on which said paragraph three becomes operative and prior to July first, nineteen hundred seventy-four.

4. Notwithstanding any other provision of this article, the requirement of one or more years of credited service, as set forth in paragraph two of this subdivision, shall be deemed to have been satisfied by any member who has credit for three or more months of service rendered since last becoming a member. The provisions of this paragraph shall apply only to deaths occurring after June thirtieth, nineteen hundred seventy and before July first, nineteen hundred seventy-five.

5. Notwithstanding any other provision of this article, the death benefit payable pursuant to paragraph two of this subdivision shall be increased by the excess, if any, of the greater of a or b over the sum of c and d, where a, b, c and d are as set forth hereunder:

a. One-twelfth of the member's compensation multiplied by the number of years, not to exceed thirty-six, of his total credited state service.

b. The lesser of three times the member's compensation or twenty thousand dollars.

c. The death benefit which, in accordance with the provisions of paragraph two of this subdivision, is payable in addition to the return of accumulated contributions.

d. The reserve for increased-take-home-pay.

The term "compensation", as used in this subparagraph, shall mean (1) in the case of a member who has credit for one or more years of service rendered since last becoming a member, the compensation earned by such member during his last twelve months of service, and (2) in the case of a member who has credit for less than one year of service rendered since last becoming a member, it shall mean his annual rate of compensation at

the time of his death. The provisions of this paragraph shall apply only to deaths occurring after June thirtieth, nineteen hundred seventy and before July first, nineteen hundred seventy-five. The additional death benefits payable hereunder shall be construed as being payable under paragraph two of this subdivision for the purpose of computing benefits payable under paragraph three of this subdivision.

c. The member or, within ninety days after his death, the person nominated by him to receive any benefit payable on his account, may file with the retirement board a written designation, duly executed, providing that such benefit shall be paid in the form of an annuity to the person so nominated. Such annuity shall be determined as the actuarial equivalent of the benefit otherwise payable, on the basis of the interest rate and the mortality tables adopted by the retirement board for use in the calculations of such annuities. Such annuity shall be payable throughout the life of the person so nominated, with no payments at his death unless the member or, within ninety days after his death, the person nominated by him to receive his benefit, shall elect to have the actuarial equivalent of such annuity paid in the form of a reduced annuity payable for life with the provision that if the person so nominated should die before the annuity payments received by him are equal to such actuarial equivalent, the balance thereof shall be paid in a lump sum to such beneficiary's estate or to such person as such member or his nominee shall have designated. Such designation of a beneficiary to receive such benefit may be made or changed at any time by the person who made it. Such election or change shall be made by written designation duly executed and filed with the retirement board. Notwithstanding the foregoing provisions, the retirement board reserves the right to pay any benefit in the form of a lump sum payment if the annuity determined as the actuarial equivalent of the benefit otherwise payable is less than one hundred dollars per month.

d. 1. The retirement board may adopt rules and regulations providing that a trustee of an inter vivos or testamentary trust shall be eligible to be nominated to receive a lump sum benefit pursuant to subdivision b of this section.

2. Any proceeds received by a trustee under this section shall not be subject to the debts of the member or to transfer or estate taxes to any greater extent than if such proceeds were payable to the beneficiaries named in the trust and not to the estate of the member.

3. A payment made in good faith under this section to either a designated trustee of an inter vivos trust, a successor trustee of an inter vivos trust who provides a copy of his appointment or a trustee of successor trustee of a testamentary trust who provides a copy of the letters of trusteeship shall be a complete discharge to the system to the extent of the payment.

4. If no qualified trustee claims the proceeds within eighteen months after the death of the member, or if satisfactory evidence is furnished within such period showing that there is or will be no trustee to receive the proceeds, payment shall be made to the deceased member's estate.

e. Notwithstanding any other provision of law, a member with ten or more years of credited service in such system who dies before a retirement benefit becomes payable and who is otherwise not entitled to a death benefit from the retirement system shall be deemed to have died on the last day that he or she was in service upon which his or her membership was based for purposes of eligibility for the payment of a death benefit pursuant to the provisions of this section. The death benefit payable in such case shall be one-half of that which would have been payable had such member died on the last day that service was rendered.

f. Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for the death benefit payable pursuant to this section, a person subject to this section shall be considered to have died while in teaching service provided such person was in such service at the time he or she was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code and died

while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five. Provided, further, that any such person ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed servicers pursuant to Chapter 43 of Title 38 of the United States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

g. Notwithstanding any other provision of law to the contrary, any member of the retirement system subject to article fourteen or fifteen of the retirement and social security law who has permanently ceased teaching shall have the right to elect the return of his or her accumulated contributions and thereby terminate his or her membership in the retirement system without regard to the amount of service to his or her credit, provided a public employee retirement system in another state has certified in a manner satisfactory to the system that such member is a member of such other retirement system, has at least five years of retirement credit in such other system, and is eligible, upon the termination of his or her membership in the system, to obtain retirement credit in such other retirement system for the service which has been credited to his or her membership in the system. Upon refund of such accumulated contributions, any and all obligations of the retirement system to such member shall be totally discharged. The retirement board is authorized to adopt such rules and regulations as may be necessary to implement this subdivision.

§ 512-a. Deferred retirement. 1. Any member, who discontinues service other than by death or retirement, and who is credited with at least fifteen years of teaching service rendered in the state, by written notice duly acknowledged and filed with the retirement board at any time before his membership would otherwise terminate pursuant to section five hundred three of this article, may elect, in lieu of the return of his accumulated contributions pursuant to section five hundred twelve of this article, to continue membership with the privilege of applying for retirement pursuant to this section on or after the date he would first

be eligible for retirement had he remained in service but in no case prior to the date he attains age sixty. Any member, who discontinues service other than by death or retirement on or after June thirtieth, nineteen hundred sixty-five and who is credited with at least ten years of teaching service rendered in the state, by written notice duly acknowledged and filed with the retirement board at any time before his membership would otherwise terminate pursuant to section five hundred three of this article, may elect, in lieu of the return of his accumulated contributions pursuant to section five hundred twelve of this article, to continue membership with the privilege of applying for retirement pursuant to this section on or after the date he would first be eligible for retirement had he remained in service but in no case prior to the date he attains age fifty-five; provided, that in the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this paragraph shall apply only until July first, nineteen hundred seventy-four.

2. The retirement allowance for a member who has made the election pursuant to subdivision one of this section shall consist of (a) an annuity which shall be the actuarial equivalent of such member's accumulated contributions at the time of retirement and (b) a pension of one-one hundred fortieth (1/140) of final average salary multiplied by the total number of years of credited service as of the date of discontinuing service.

3. Any member who discontinues service other than by death or retirement on or after June thirtieth, nineteen hundred seventy and who is credited with at least ten years of full time teaching service rendered in the state, at least two of which were rendered since the date he last joined the retirement system and subsequent to June thirtieth, nineteen hundred sixty-seven, by written notice duly acknowledged and filed with the retirement board at any time before his membership would otherwise terminate pursuant to section five hundred three of this article, may elect, in lieu of the return of his accumulated contributions pursuant to section five hundred twelve of this article, to continue membership with the privilege of applying for retirement pursuant to this subdivision on or after the date he attains

age fifty-five. The pension for a member who has made the election pursuant to this subdivision shall be computed in accordance with the procedures set forth in subdivision four of section five hundred thirty-five of this article, unless the member has been credited with at least twenty years of full time New York state service, in which event his pension shall be computed in accordance with subdivisions two and three of the aforementioned section. In no event, however, shall the pension so computed exceed seventy-five per cent of the member's final average salary. In addition to the pension provided by this subdivision, the member shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this subdivision shall apply only to those who discontinue service other than by death or retirement prior to July first, nineteen hundred seventy-four.

4. Any person who is a member on or after June thirtieth, nineteen hundred ninety-eight and who discontinues service other than by death or retirement and who is credited with five years or more of full-time teaching service rendered in the state, at least two of which were rendered since the date he or she last joined the retirement system, by written notice duly acknowledged and filed with the retirement board at any time before his or her membership would otherwise terminate pursuant to section five hundred three of this article, may elect, in lieu of the return of his or her accumulated contributions pursuant to section five hundred twelve of this article, to continue membership with the privilege of applying for retirement pursuant to this subdivision on or after the date he or she attains age fifty-five. The pension for a member who has made the election pursuant to this subdivision shall be computed in accordance with the procedures set forth in paragraph b of subdivision five of section five hundred thirty-five of this article, unless the member has been credited with at least twenty years of full-time New York state service, in which event his or her pension shall be computed in accordance with paragraph a of subdivision five of the aforementioned section. In no event, however, shall the pension so computed exceed three-quarters of the member's final average salary. In

addition to the pension provided by this subdivision, the member shall receive an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

5. Such member, when applying for retirement, may exercise the options pursuant to section five hundred thirteen of this article.

6. Interest on the contributions of such member after his membership otherwise would have been terminated pursuant to section five hundred three of this article shall be credited at the rate fixed for contributions by new entrants at the time of discontinuation of service.

7. If such member should die before the effective date of retirement, his accumulated contributions shall be paid to his estate or beneficiary in accordance with the provisions of paragraph one of subdivision b of section five hundred twelve of this article.

8. In the event that such member returns to service, such election shall be considered to be withdrawn as of the date upon which he returns to service and membership in the retirement system will continue pursuant to subdivision three of section five hundred three of this article.

9. Any other provision of law to the contrary notwithstanding, any member who fails to file the election pursuant to subdivisions one or three of this section and whose membership would otherwise cease pursuant to subdivision three of section five hundred three of this article, shall be deemed to have filed such election the day before his membership shall have ceased.

10. Notwithstanding any provision of this section to the contrary, a person who has elected to continue membership pursuant to the provisions of this section, and who is qualified to transfer pursuant to the provisions of section five hundred twenty-two of this chapter or section forty-three of the retirement and social security law, shall be deemed eligible to transfer, pursuant to such sections of law.

11. Any other provision of law to the contrary notwithstanding, any former member who met all the eligibility requirements of subdivision one or three of this section, but failed to file the election required by such subdivisions, as a result of which his membership in the system was terminated because his service amounted to less than five years in a period of ten consecutive years, shall be deemed to have filed such election the day before membership ceased, provided such former member files an application with the system requesting that his membership be reinstated pursuant to this subdivision and deposits the accumulated contributions withdrawn from the system with regular interest; provided however that no such application shall be valid if (i) the service which would be credited thereunder is credited in any public retirement system in the United States, or (ii) a benefit is being received from any public retirement system based upon such credit.

12. Notwithstanding any other provision of this section a person who has elected to continue membership pursuant to the provisions of this section may withdraw from membership in the system in accordance with the provisions of this article.

§ 512-b. Loans. 1. Any member in active service or on leave of absence who has credit for at least one year of member service may borrow from his accumulated contributions in the retirement system once during each six month period an amount of not less than three hundred dollars providing the retirement board shall approve such loan. The total of any such loans shall not exceed seventy-five per centum of his accumulated contributions.

2. Repayment. An amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid in equal installments which shall be made by the borrower directly to the retirement board or, with the consent of the employer, through regular payroll deduction. The state comptroller is authorized to provide through regular payroll deduction for such repayment of loans made by employees of the state of New York. Such installments shall be in such amount as the retirement board shall approve; however, they shall be at least (a) two percent of

the member's contract salary, and (b) sufficient to pay the interest on the unpaid balances thereof. In the event that a member is on leave of absence without pay or is not regularly employed by an employer subject to the provisions of this article, any such outstanding loan shall be repaid in such installments of principal and interest as the retirement board shall determine. In the event of default the retirement board shall be authorized to collect such payments due from the employer of such member through payroll deduction and such member shall forfeit all future entitlement to borrow from the retirement system until the unpaid balance of the loan outstanding at the time of default is fully paid. The retirement board, at any time, may accept payments on account of any loan in addition to the installments fixed for repayment thereof. All payments of principal and interest at the minimum rate permitted pursuant to subdivision three of this section made by the member shall be credited to his accumulated contributions. Any additional interest paid by the member shall be credited to the pension accumulation fund.

3. Interest. The rate of interest payable upon loans made pursuant to this section shall be set by the retirement board. The retirement board shall have power, from time to time and at any time, to decrease such rate to not less than that currently being credited on the member's accumulated contributions or to increase the same to not more than six per centum per annum. Any such decrease or increase shall apply, from the effective date thereof, to unpaid balances of loans outstanding on such date and to new loans made thereafter.

4. Service Charge. A uniform service charge payable upon loans made pursuant to this section shall be set by the retirement board in an amount sufficient to cover the cost to the retirement system of administering the loans. Such charge shall be deducted from the member's accumulated contributions when the loan is made or in equal annual installments over the period the loan is outstanding.

5. Insurance. Each loan made pursuant to this section shall be insured against the death of the member in an amount equal to the amount of the loan outstanding at any given time; with the exception that until thirty days have elapsed after the making thereof no part of the loans shall be

insured. Such insurance shall be provided by the retirement board through the retirement system. Upon the death of the member the amount of insurance so payable shall be credited to his accumulated contributions. The premium payable by the member for such insurance shall be set by the retirement board at a rate of not to exceed one per centum of the amount loaned.

A premium of one per centum per annum of the amount loaned, prorated to July first next, shall be deducted from the accumulated contributions of the member when the loan is made. Thereafter, a premium of one per centum per annum of the present value of the outstanding loan as of July first shall be deducted from the accumulated contributions of the member each succeeding year until such loan is repaid or the member is retired.

The retirement board in its discretion on any July first may increase or reduce the premium, modify the terms or conditions of coverage, or discontinue the insurance of loans. In no event shall this subdivision impose any obligation upon the retirement board to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms or conditions.

6. Special Funds. The retirement board is authorized to establish such funds as may be necessary to carry out the provisions of subdivisions four and five of this section.

7. Withdrawals and retirements when loan is outstanding. Whenever a member becomes entitled to the return of his accumulated contributions because of withdrawal from the system or because of having become eligible for a death benefit or a retirement allowance or because of an election to withdraw his accumulated contributions pursuant to subdivision six of section five hundred sixteen of this article the amount of any loan outstanding on such date shall be construed to have been already returned to such member and the accumulated contributions to which he shall then be entitled shall be the net amount of such contributions together with interest thereon standing to his credit in the annuity savings fund on such date.

8. Rules and Regulations. The retirement board is authorized to adopt such rules and regulations as it finds to be necessary in administering the provisions of this section. Anything in this section notwithstanding, the retirement board is authorized to adopt rules and regulations permitting a loan at any time prior to retirement to a teacher who is not in active service or on leave of absence, provided such loan would otherwise be permitted under this section and under applicable provisions of the Internal Revenue Code relating to loans from pension plans.

9. The retirement board shall have the power to discharge any evidence of a loan to a member pursuant to this section upon the satisfaction of the obligation of the member thereunder.

§ 513. Optional allowances. 1. With the exception that no election of an optional benefit shall become effective in case a member dies within thirty days after the filing of an application for a retirement allowance, until the first payment on account of any benefit becomes normally due, any member, at the time of his retirement, may elect to receive his benefits in a retirement allowance payable throughout life or he may on retirement elect to receive the actuarial equivalent at that time of his retirement allowance in a lesser retirement allowance, payable throughout life with the provision that:

Option 1. If he die before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board.

Option 2. Upon his death, his retirement allowance shall be continued through the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement.

Option 3. Upon his death, one-half of his retirement allowance shall

be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate, provided such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board.

2. If any retired member who has not elected an optional benefit, or who has elected a benefit under Option 4 providing for the payment at death of the amount, if any, by which his accumulated contributions at the time of his retirement exceed the aggregate amount of his annuity payments, dies within thirty days after the date his retirement becomes effective, notwithstanding any other provisions of this law to the contrary, benefits shall be paid in accordance with subdivision (b) or (c) of section five hundred twelve, except that the amount of his accumulated contributions payable under paragraph (1) of said subdivision (b) shall be reduced by any annuity payments received by him prior to his death and the benefit payable under paragraph (2) of said subdivision (b) shall be reduced by any pension payments received by him prior to his death. The amounts payable shall be paid to the beneficiary or beneficiaries entitled thereto as provided under section five hundred twelve, except that if the member has elected Option 4, as provided above, the beneficiary nominated under such Option 4 shall be substituted for any beneficiary previously nominated and all amounts payable shall be paid to the beneficiary nominated under such Option 4.

3. In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of subdivision two of this section shall apply only to deaths occurring after the date on which said subdivision two becomes operative and prior to July first, nineteen hundred seventy-four.

4. a. The retirement board may adopt rules and regulations providing

that a trustee of an inter vivos or testamentary trust shall be (1) eligible to be nominated to receive a lump sum benefit under option one and (2) eligible to be nominated to receive any benefit under option four which the retirement board shall deem appropriate.

b. Any proceeds received by a trustee under this section shall not be subject to the debts of the member or to transfer or estate taxes to any greater extent than if such proceeds were payable to the beneficiaries named in the trust and not to the estate of the member.

c. A payment made in good faith under this section to either a designated trustee of an inter vivos trust, a successor trustee of an inter vivos trust who provides a copy of his appointment or a trustee or successor trustee of a testamentary trust who provides a copy of the letters of trusteeship shall be a complete discharge to the system to the extent of the payment.

d. If no qualified trustee claims the proceeds within eighteen months after the death of the retired member, or if satisfactory evidence is furnished within such period showing that there is or will be no trustee to receive the proceeds, payment shall be made to the deceased retired member's estate.

§ 514. Benefits to participants in old retirement fund. All annuities of annuitants on the rolls of the retirement fund on the thirty-first day of July, nineteen hundred twenty-one, shall be paid thereafter from the pension accumulation fund created by this article. The amount of the annuity of any annuitant on the rolls of such retirement fund, at such time, who retired on a full annuity shall be not less than one-half of his final average salary, and not less than four hundred dollars per annum; nor shall the allowance of any annuitant on such roll retired from disability be less than a proportionate amount of such minima based on the annuitant's years of service.

§ 515. Funds enumerated. The funds created are:

a. The annuity savings fund.

b. The annuity reserve fund.

c. The pension accumulation fund.

d. The pension reserve fund.

e. The supplemental retirement allowance fund.

f. The expense fund.

§ 516. Annuity savings fund; contributions and payments. The annuity savings fund shall be the fund in which shall be accumulated the deductions made from the compensation of contributors. Contributions to and payments from the annuity savings fund shall be made in the following manner:

1. Each employer shall deduct from the compensation of each contributor on each and every payroll of such contributor for each and every payroll period subsequent to the date upon which such contributor became a member an amount equal to four per centum of such contributor's earnable compensation in the cases of teachers who last became members on or before the thirtieth day of June, nineteen hundred forty-eight and five per centum of earnable compensation in the cases of teachers who last became members on or after the first day of July, nineteen hundred forty-eight except if membership is renewed upon restoration to active service after retirement for disability, regular interest shall be credited at the rate allowed to the member at the time his retirement for disability last became effective. But no employer shall make any deduction for annuity purposes from the compensation of a member who has completed at least thirty-five years of total service, or who has attained the age of sixty and completed at least twenty-five years of total state service, if such member elects not to contribute.

2. In determining the amount earnable by a contributor in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a contributor on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any contributor by such an amount as shall not exceed one-tenth of one per centum of the compensation upon the basis of which said deduction is to be made.

3. a. In addition to the deductions from compensation hereinbefore required, any contributor may redeposit in the annuity savings fund by a single payment an amount equal to the total amount which he withdrew therefrom as provided in this article, or he may deposit therein by a single payment an amount computed to be sufficient, together with the retirement allowance otherwise provided to provide for him a total retirement allowance of one-half of his final average salary upon superannuation retirement, or any member or annuitant may deposit therein by a single payment an amount permitted so to be deposited by the retirement board for the purpose of purchasing additional annuity, provided that no such member or annuitant shall be permitted to purchase a total additional annuity thereby in excess of one-half his final average salary; such additional annuity shall afford the usual optional privileges. Such additional amounts so deposited shall become a part of his accumulated contributions.

b. Notwithstanding anything to the contrary in this article, in addition to the deposits hereinbefore permitted by this subdivision, any contributor to this system, who is actually on the payroll of a school district or the state, may, for the purpose of purchasing additional annuity, deposit in the annuity savings fund once in any school year by a single payment an amount not in excess of four per centum of his earnable rate of compensation for the school year immediately preceding the date when such payment is made. Any such amount so deposited shall be credited with regular interest and, on the basis of said rate of interest, shall become a part of the contributor's accumulated

contributions in all respects including computation of benefits upon retirement.

c. Any member by written notice duly acknowledged and filed with the retirement board before the first day of July, nineteen hundred sixty-seven or within two years after he last became a member, whichever is later, may elect to contribute pursuant to this paragraph c of subdivision three of this section in order to qualify for an increased pension for total service in excess of twenty-five years. After such election the rate of deduction from earnable compensation shall be increased by two and one-half per centum in the cases of teachers who last became members on or before the thirtieth day of June, nineteen hundred forty-eight and by three per centum in the cases of teachers who last became members on or after the first day of July, nineteen hundred forty-eight and such deductions shall be added to the accumulated contributions of each member. Where a member elects to contribute pursuant to this paragraph c of subdivision three of this section, such additional contributions shall be made from the first day of July, nineteen hundred fifty-seven or from the first day of the month following the expiration of thirty days subsequent to the filing of his election, whichever is later, except that if the member is contributing pursuant to subdivision one of section five hundred eleven-a, such additional contributions pursuant to this paragraph c of subdivision three of this section shall be made from the first day of July following the completion of twenty-five years of total service. If such a member, upon the completion of twenty-five years of total service, wishes to forfeit his right to special service retirement under the provisions of section five hundred eleven-a, he may cease making contributions pursuant to subdivision one of such section, leave such contributions in the retirement system and commence making contributions pursuant to this paragraph c of subdivision three of this section in order to receive credit for service rendered after the completion of twenty-five years of total service. If such a member, upon the completion of twenty-five years of total service wishes to maintain his right to special service retirement, he shall continue to make contributions pursuant to subdivision one of section five hundred eleven-a and commence making contributions pursuant to this paragraph c. Contributions made pursuant

to this paragraph c shall cease on the first day of July following the completion of thirty-five years of total service, except that, any member who has completed more than twenty-five years of service on the first day of July, nineteen hundred sixty-seven may deposit in a lump sum an amount equivalent to the sum of the contributions he would have made prior to the first day of July, nineteen hundred sixty-seven, had this paragraph c become effective as of the date when twenty-five years of service was completed or as of any date thereafter which the member may elect for the purpose of determining the amount to be so deposited.

d. Members of the retirement system who elect to contribute pursuant to paragraph c of subdivision three of this section, shall receive credit for each year, not in excess of ten, of service in excess of twenty-five years for which contributions were made pursuant to paragraph c of subdivision three of this section.

4. The accumulated contributions of a contributor returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death as provided in this article shall be paid from the annuity savings fund.

5. Upon the retirement of a contributor his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

6. The retirement board may adopt rules and regulations providing for the withdrawal at retirement by members of the accumulated contributions credited to their individual accounts in the annuity savings fund. Such rules and regulations shall provide that the application for withdrawal of contributions be filed no earlier than the date the member files the application for retirement and no later than the day preceding the effective date of retirement. Provided, however, this section has no application to members subject to article fourteen or article fifteen of the retirement and social security law.

§ 517. Annuity reserve fund; pension accumulation fund. 1. The annuity

reserve fund shall be the fund from which shall be paid all annuities and all benefits in lieu of annuities.

2. The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all benefits with the exception of the annuities provided by the accumulated contributions of members, and with the exception of supplemental retirement allowances payable in accordance with section five hundred thirty-two of this chapter. Contributions to and payments from the pension accumulation fund shall be made as follows:

a. On account of each teacher who is a member of the retirement system there shall be paid annually into the pension accumulation fund by employers, a certain percentage of the earnable compensation of each of such members of the retirement system to be known as the "normal contribution" and a further percentage known as the "deficiency contribution." The rates per centum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuations.

b. On the basis of regular interest and of such mortality and other tables as shall be adopted by the retirement board, the actuary engaged by the retirement board to make each valuation required by this article during the period over which the deficiency contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant, who is a contributor, which if contributed on the basis of the compensation of such contributor throughout his entire period of active service, would be sufficient to provide for the payment of a death benefit payable on his account and to provide at the time of his retirement the total amount of his pension reserve. The rate per centum so determined shall be known as the "normal contribution" rate. After the deficiency contribution has ceased to be payable, the normal contribution shall be the rate per centum of the earnable salary of all contributors obtained by deducting from the total liabilities of the pension fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one per centum of the present value of the

prospective future salaries of all contributors as computed on the basis of the mortality and service tables adopted by the retirement board and on the basis of regular interest. The normal rate of contribution shall be determined by the actuary after each valuation and shall continue in force until a new valuation and certification.

c. The actuary engaged by the retirement board shall compute the rate per centum of the total compensation of all contributors during the preceding school year which is equivalent to four per centum of the amount of the total pension liability on account of all contributors and beneficiaries not dischargeable by the aforesaid normal contribution made on account of such contributors during the remainder of their active service. The contribution derived by deductions at the rate per centum, so determined or at a rate increased therefrom as hereinafter provided shall be known as the "deficiency contribution." On the basis of the actuarial valuation as of the thirtieth day of June, nineteen hundred fifty-seven, the actuary shall determine the amount of the pension liability which is not dischargeable by the funds in hand and the present value of the normal and deficiency contributions otherwise payable. Such pension liability shall be known as the special deficiency. The actuary shall determine the annual payment which if made in each fiscal year commencing with the year beginning the first day of July, nineteen hundred fifty-eight, for a period of thirty years will provide for such special deficiency and the per centum of the total compensation of all contributors during the preceding school year which is equivalent to such annual payment shall be known as the special deficiency contribution rate. Notwithstanding anything to the contrary in this chapter, the special deficiency contribution rate for use in determining the annual payments to be made in each fiscal year commencing with the year beginning with the first day of July, nineteen hundred sixty, shall be increased to liquidate the total unfunded special deficiency adjusted to include the prospective deficit in the annuity reserve fund as shown by the valuation as of the thirtieth day of June, nineteen hundred fifty-nine in the period originally set, and until the special deficiency so increased has been liquidated an annual contribution at the increased special deficiency rate but not less than the annual payment determined on the basis of the valuation as of the

thirtieth day of June, nineteen hundred fifty-nine, shall be made by employers in addition to the regular normal and deficiency contributions.

d. The total amount payable annually by all employers into the pension accumulation fund shall be certified by the retirement board to the commissioner of education and such amount shall equal the sum of the rates per centum known as the normal contribution rate and the deficiency contribution rate of the total compensation earnable by all contributors during the preceding school year, provided that the amount of each annual deficiency contribution shall be at least three per centum greater than the preceding annual payment. The aggregate of all such payments by employers shall be sufficient, when combined with the amounts in the pension accumulation fund, to provide the pensions payable out of the fund during the year then current, and if not, the additional amount so required shall be collected by means of an increased contribution which shall continue in force for the period of one year, anything to the contrary notwithstanding.

e. The deficiency contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the retirement board, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the normal contributions to be received on account of teachers who are at that time contributors.

f. Any other provision of law to the contrary notwithstanding, beginning with the valuation for the fiscal year ending June thirtieth, nineteen hundred seventy, the actuarial valuation of the liabilities, required by subdivision five of section five hundred eight of this article, shall be made on the following basis:

1. On the basis of the valuation rate of interest and of such mortality and other tables as have been adopted by the retirement board, the actuary shall determine, as of June thirtieth, nineteen hundred seventy, the additional accrued liability which exists as of that date,

on account of service rendered prior to that date, by reason of legislation enacted during the years nineteen hundred sixty-eight, nineteen hundred sixty-nine and nineteen hundred seventy, affecting article eleven of the education law. The actuary shall then determine a schedule of annual contributions which will amortize such additional accrued liability and interest thereon over a period of twenty-five years. Such interest shall be at the rate of four and one-half per cent during the first ten years beginning July first, nineteen hundred seventy and at the rate of four per cent thereafter, compounded annually. Each contribution after the first shall equal one hundred four per cent of the preceding contribution. Each year, the actuary shall determine a rate of contribution which is equivalent to the amount of the contribution next due in accordance with the aforesaid schedule. However, in no event shall such rate of contribution be less than the rate of contribution determined in the first year in accordance with the provisions of this subdivision. The amount of the contribution produced by such rate which is in excess of the amount required according to the aforesaid schedule shall be added to the contingency reserve. Such contingency reserve shall be maintained in the pension accumulation fund for the purpose of providing for such future strengthening of the retirement system's reserve basis as the retirement board, upon the recommendation of its actuary, deems appropriate.

2. On the basis of the valuation rate of interest and of such mortality and other tables as have been adopted by the retirement board, the actuary shall compute the rate of normal contribution in the following manner. From the total actuarial liabilities as of each valuation date, there shall be deducted the sum of the funds in hand and the present value of the remaining contributions still to be paid under the provisions of sub-paragraph one of this paragraph. The remainder shall be divided by one per cent of the present value of the prospective future salaries of all members of the system, to obtain the rate of normal contribution.

3. Notwithstanding any other provision of law to the contrary, for contributions determined on the basis of the June thirtieth, nineteen hundred sixty-eight valuation and subsequent annual valuations, the

payment of employer contributions pursuant to section five hundred nine of this article shall be discontinued and the lump sum actuarial cost attributable to the purchase of prior service, as authorized therein, shall be included in the actuarial liabilities used for the determination of the rate of normal contribution.

4. The retirement board is hereby empowered to re-establish employer contribution rates based upon the annual valuation as of June thirtieth, nineteen hundred sixty-eight.

g. All pensions with the exception of those payable to new entrants shall be paid from the pension accumulation fund and benefits provided under section five hundred twelve, subdivision b, paragraph two and section five hundred fourteen shall be paid from the pension accumulation fund.

h. Upon the retirement of a new entrant, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

i. The retirement board from time to time shall transfer from the pension accumulation fund to the annuity reserve fund such amounts as are necessary under this article.

§ 518. Pension reserve fund. The pension reserve fund shall be the fund from which shall be paid the pensions to new entrants on account of which reserves shall be transferred from the pension accumulation fund. Should any disability pension payable from said fund be canceled, the pension reserve thereon shall thereupon be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of a disability beneficiary be reduced as a result of an increase in his earning capacity, the amount of the annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

§ 518-a. Supplemental retirement allowance fund. The supplemental retirement allowance fund shall be the fund from which shall be paid the supplemental retirement allowances provided by section five hundred thirty-two of this article.

§ 519. Expense fund. The expense fund shall be the fund from which the expense of the administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances and as other benefits provided herein. Contributions shall be made to the expense fund as follows:

1. The retirement board shall determine the amount required to defray the expenses allocated to those functions which directly or indirectly affect the system's investment operations. This amount so determined shall be collected from net investment income which shall include but not be limited to interest, dividends, and realized gains and losses.

2. The retirement board shall determine annually the amount required to defray the remaining estimated expenses in the ensuing fiscal year and shall certify such amount to the commissioner of education who shall apportion to each employer a proportionate part thereof as provided under subdivision two of section five hundred twenty-one. Each employer shall make payment for the amount so apportioned to him in the same way as he shall make other payments provided for by this article.

§ 520. Duties of employer. 1. Each employer shall keep such records and from time to time shall furnish such information as the retirement board in the discharge of its duties may require.

2. a. Upon the employment of any teacher to whom this article may apply, he shall be informed by his employer of his duties and obligations in connection with the retirement system as a condition of his employment. Every teacher accepting employment shall be deemed to consent and agree to any deductions from his compensation required herein and to all other provisions of this article.

b. Upon the employment of any teacher whose right to membership in the system has been made optional by the retirement board pursuant to subdivision two of section five hundred three of this article the employer shall inform such teacher in writing of the right to join the system. Each such teacher shall acknowledge the receipt of such notice by signing a copy thereof and filing it with such employer. Provided, however, the failure to inform such teacher shall not in any way be construed to waive the requirement that membership for such a teacher commences only when an application for membership is filed with the system nor shall it be construed to waive any of the eligibility requirements for previous service credit.

3. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other prerequisites or tenure of any teacher to whom this article applies, or shall apply, and notwithstanding that the minimum salary, pay, compensation or other prerequisites, provided by law for such teacher shall be reduced thereby, payment less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for service rendered by such member during the period covered by such payment.

4. During September of each year, or at such other times as the retirement board shall approve, each employer shall certify to the retirement board the names of all teachers to whom this article applies.

5. Each employer shall on the first day of each calendar month or at such less frequent intervals as the retirement board may approve, notify the retirement board of the employment of new teachers, removals, withdrawals and changes in salary of members that shall have occurred during the month preceding or the period covered since the last notification.

§ 521. Collection of contributions. 1. The collection of members' contributions shall be as follows:

a. Each employer shall cause to be deducted on each and every payroll of a contributor for each and every payroll period, the contribution payable by such contributor as provided in this article. Each employer shall certify to the treasurer of said employer on each and every payroll a statement as voucher for the amounts so deducted.

b. The treasurer of each employer on receipt from the employer of the voucher for deductions from the salaries of teachers as provided in this article shall transmit monthly or at such times as the retirement board shall designate, the amount specified in such voucher to the secretary of the retirement board. The secretary of the retirement board after making record of all such receipts shall transmit them to the head of the division of the treasury in the department of taxation and finance for use according to the provisions of this article.

But nothing in this section shall prevent the retirement board from modifying the method of collecting the contribution of members so that employers may retain the amounts so deducted and have a corresponding amount deducted from the appropriation for the support of common schools otherwise payable to them.

2. The collection of employers' contributions shall be made as follows:

a. Upon the basis of each actuarial determination and appraisal provided herein, the retirement board shall annually prepare and certify to the commissioner of education a statement of the total amount necessary to be paid by all employers for the ensuing fiscal year to the pension accumulation and expense funds as provided under subdivision two of section five hundred seventeen and under section five hundred nineteen of this article. Upon the basis of the rate of contribution for supplemental retirement allowances, determined in accordance with section five hundred thirty-two of this article, the retirement board shall certify to the commissioner of education a statement of the total amount necessary to be paid by all employers for the ensuing fiscal year to the supplemental retirement allowance fund. Said certification shall include interest on amounts necessary to repay advances made to the

supplemental retirement allowance fund pursuant to subdivision f of section five hundred thirty-two of this article computed from the date of such advances at the rate determined in accordance with paragraph f of this subdivision.

b. The commissioner of education shall include in the certificate which he files with the state comptroller showing the amount of state funds apportioned to the school districts within each county for the support of common schools, a statement showing the amount to be contributed by each employer in each of such counties as required under this article.

The amount to be contributed by each employer except those who operate local district pension systems, shall be such percentage of the total compensation or salaries of all teachers in his employ who are members of the retirement system as the aggregate amount of the normal and deficiency contributions for the year shall bear to the total compensation or salaries paid by all employers, except those who operate local district pension systems, to all teachers who are members of the retirement system.

c. The comptroller shall issue his warrant to the custodian of such fund directing such custodian to credit to the pension accumulation fund and expense fund respectively, from the appropriation for the support of common schools the amounts required to be made as contributions to such funds by the employers as shown by the certificate of the commissioner of education filed with him as directed in paragraph b of this subdivision.

d. The comptroller, in issuing his warrant to the custodian for payment to each county treasurer of that portion of the moneys apportioned for the support of common schools, shall deduct therefrom an amount equal to the amount required to be contributed by employers of such county, as shown by the certificate of the commissioner of education of this state filed with the comptroller as required by paragraph b of this subdivision.

e. In order to meet the financial requirements of this article, employers who obtain funds directly by taxation are hereby authorized and directed to levy annually such additional taxes as are required to provide the funds deducted from the amounts apportioned to such employers from the appropriation of the state for the support of the common schools.

f. Employers whose payments from the moneys apportioned from the state for the support of common schools are insufficient to pay the amount due and owing the system, or who do not receive such payments, shall pay the system each year the amount of contributions due and owing from the employer pursuant to this article within thirty days from the date a bill is mailed by the system. Interest, at a rate equal to the average yield payable on fifty-two week United States treasury bills on June thirtieth immediately preceding the day the bill is mailed by the system, shall accrue on the outstanding amount due and owing commencing with the thirty-first day after the bill is mailed.

g. Whenever the system determines the contributions made by an employer are less than the percentage of total compensation or salaries of members of the system in the employ of such employer, as required by this article, such employer shall pay the system such deficiency within thirty days from the date a bill is mailed by the system. Interest, at a rate equal to the average yield payable on fifty-two week United States treasury bills on June thirtieth immediately preceding the day before the bill is mailed by the system, shall accrue on the outstanding amount due and owing commencing with the thirty-first day after the bill is mailed.

h. Notwithstanding any provision of law to the contrary, commencing with the payments made in the fiscal year beginning July first, nineteen hundred ninety, and each fiscal year thereafter, the employer contributions due and payable as determined pursuant to the provisions of this article and the employee contributions due and payable pursuant to this article and articles fourteen and fifteen of the retirement and social security law, on account of compensation paid in the fiscal year immediately preceding, and those employer contributions due and payable

in each fiscal year pursuant to chapter six hundred sixty-five of the laws of nineteen hundred eighty-four shall be made to the retirement system and collected in the manner set forth in this section each fiscal year in three payments, each equal to thirty-three and one-third percent of the total amount due for such fiscal year. Such payments shall be paid on September fifteenth, October fifteenth, and November fifteenth of each fiscal year. If a participating employer underpaid its obligation to the retirement system, such underpayment as determined by the retirement system shall be deducted from the amounts apportioned to such employer from the appropriation of the state for the support of the common schools due and payable the next April fifteenth. Employers whose payments from such appropriation are insufficient to pay the amount due and owing the system, or who do not receive such payments, shall be billed by the system for such underpayment and shall pay the system the amount due within thirty days from the date a bill is mailed by the system. The amount of any employer overpayment of its obligation to the retirement system, as determined by such system shall be a credit to the employer and shall reduce by an equal amount thereof the initial payment to be made by such employer to such system on the next succeeding September fifteenth.

i. Notwithstanding any provision of law to the contrary, the employer and employee contributions due and payable in the nineteen hundred eighty-nine--ninety fiscal year on account of compensation paid in the nineteen hundred eighty-eight--eighty-nine fiscal year which were paid prior to April first, nineteen hundred ninety shall be deemed (to the extent such amount is sufficient) to have consisted of all the employee contributions due and payable pursuant to this article and articles fourteen and fifteen of the retirement and social security law in the nineteen hundred eighty-nine--ninety fiscal year and those employer contributions due and payable in such fiscal year pursuant to chapter six hundred sixty-five of the laws of nineteen hundred eighty-four; and the remaining employer contributions so paid shall be applied evenly to the payments due and payable on September fifteenth, nineteen hundred ninety, October fifteenth, nineteen hundred ninety and November fifteenth, nineteen hundred ninety and the employer contributions amounting to eight hundred seventy-three million seven hundred eleven

thousand six hundred fifteen dollars ($873,711,615), due and payable pursuant to the provisions of this section in the nineteen hundred eighty-nine--ninety fiscal year on account of compensation paid in nineteen hundred eighty-eight--eighty-nine fiscal year, except those employer contributions due and payable in such fiscal year pursuant to chapter six hundred sixty-five of the laws of nineteen hundred eighty-four, shall be deferred and payment shall be made to the retirement system in fifteen equal annual payments of ninety-eight million five hundred thirty-seven thousand five hundred seven dollars ($98,537,507) on October fifteenth, commencing on October fifteenth, nineteen hundred ninety. Such payments are calculated at an interest rate of eight percent per annum. Provided, however, the retirement board is directed to permit the pre-payment of the amounts outstanding under this paragraph. The retirement board shall: (1) On or before September first, nineteen hundred ninety, in addition to the amount due for the current fiscal year billing and for the payment of the amortized annual installment, furnish the total amount due and be authorized to accept pre-payment in full of said amount by October fifteenth, nineteen hundred ninety. (2) On or before each September first thereafter, in addition to the amount due for the current fiscal year billing and for the payment of the annual amortized installment, furnish the total amount still outstanding and be authorized to accept the pre-payment of any portion of the balance remaining to be paid by October fifteenth of that year.

j. Prior to June first, nineteen hundred ninety, the valuation rate of interest adopted by the retirement board on April twenty-seventh, nineteen hundred eighty-nine, may be retroactively revised to eight percent by the retirement board, as recommended by the actuary, as if adopted at the April twenty-seventh, nineteen hundred eighty-nine board meeting, and the employer contribution rate, adopted by the retirement board at the April twenty-seventh, nineteen hundred eighty-nine board meeting, revised by the retirement board at the July twenty-seventh, nineteen hundred eighty-nine board meeting, may be retroactively amended by the retirement board as if adopted at the July twenty-seventh, nineteen hundred eighty-nine board meeting and applied to contributions paid in the nineteen hundred ninety--ninety-one fiscal year.

Notwithstanding any provision of law to the contrary, the actions of the retirement board pursuant to the provisions of this paragraph shall be deemed reasonable, prudent and proper. No member of the retirement board, officer, or employee of the New York state teachers' retirement system shall incur or suffer any liability whatsoever by reason of any actions pursuant to this paragraph, and such system shall save harmless and indemnify all members of the retirement board, its officers and employees from financial loss arising out of any claim, demand, suit, action or judgment as a result of the actions taken pursuant to this paragraph provided that such person shall, within five days after the date on which he is served with any summons, complaint, process, notice, demand, claim or pleading, deliver the original or a true copy thereof to the legal advisor of such system. Upon such delivery, the legal advisor of such system may assume control of the representation of such person in connection with such claim, demand, suit, action or proceeding. Such person shall cooperate fully with the legal advisor of the system or any other person designated to assume such defense in respect of such representation or defense.

k. The retirement board is authorized to adopt procedures and/or to promulgate rules and regulations as it deems necessary to adjust and reconcile any payments from employers to actual amounts due whether such payments were received prior or subsequent to the effective date of the chapter of the laws of nineteen hundred ninety which added this paragraph to this section.

l. The provisions of paragraphs h and i of this subdivision shall constitute a contract and the rights of the New York state teachers' retirement system thereunder shall not be impaired in any way whatsoever.

m. In addition to any other payment or collection procedure provided by this article, if the amounts credited from the appropriation for the support of common schools are insufficient to fully cover the amounts to be contributed by the employers, the retirement board is authorized to certify the unpaid amount to the state comptroller, and the state comptroller shall, to the extent not otherwise prohibited by law,

withhold such amount from any succeeding payment from any other form of state aid provided to the employer. If any employer fails to pay the amounts required to be contributed pursuant to this section, the retirement system shall be entitled to reasonable attorney fees and other expenses incurred to collect such amounts due and owing. Fees shall be determined pursuant to prevailing market rates for the kind and quality of the services furnished.

n. Notwithstanding any other provision of law to the contrary, the board of education or trustees of a school district which is a participating employer, which has elected to make payments of the employer contributions due and payable to the retirement system pursuant to paragraph i of this subdivision in amortized annual installments, and which has determined to make pre-payment of the total amount of such contributions outstanding in accordance with said paragraph i, may adopt a bond resolution authorizing the refinancing of such debt by the issuance of bonds in the amount of such pre-payment without conducting a vote on a tax to be collected in installments, provided that such refinancing will result in savings to the school district, as certified by the state comptroller, and provided further that the issuance of such obligations otherwise complies with the requirements of the local finance law and this chapter.

3. Stable contribution option for participating educational employers for the two thousand thirteen - two thousand fourteen plan year. a. In addition to the definitions in section five hundred one of this article, when used in this subdivision:

(1) "participating educational employer" shall mean a school district or board of cooperative educational services which elects to pay the stable contribution amount in the manner provided in this subdivision;

(2) "stable contribution amount" shall mean an amount equal to the stable contribution rate multiplied by the pensionable salary base (exclusive of payments for group term life insurance, deficiency contributions, adjustments relating to prior fiscal years' obligations, obligations pertaining to retirement incentives or any other obligations that a participating educational employer is permitted to pay on an amortized basis);

(3) "stable contribution rate" shall mean fourteen percent for the two thousand thirteen - two thousand fourteen plan year and the two thousand fourteen - two thousand fifteen plan year and the rate as adopted by the retirement board in accordance with paragraph h of this subdivision; and

(4) "deferred employer contribution amount" shall mean an amount adequate to fund the benefits for active and retired members associated with such participating educational employer had such participating educational employer not elected the provisions of this subdivision. Such deferred employer contribution amount shall be calculated for each year of participation in the stable contribution option with associated interest determined specific to each applicable plan year's deferred amount.

b. Notwithstanding the provisions of this chapter or any other law to the contrary, the retirement board, in its discretion, shall have authority to implement the provisions of this subdivision. If the retirement board elects to implement the provisions of this subdivision, the provisions shall apply to the payment of participating educational employer contributions in the plan year commencing July first, two thousand thirteen, for the pension bill paid on September fifteenth, October fifteenth, and November fifteenth of two thousand fourteen, and for the subsequent six plan years. If a participating educational employer does not elect the stable contribution option in the fiscal year commencing on July first, two thousand thirteen for the pension bill paid on September fifteenth, October fifteenth, and November fifteenth of two thousand fourteen, it shall not be eligible to elect the stable contribution option in any succeeding plan year.

c. For each of the seven plan years to which the provisions of this subdivision apply, the retirement board shall use a stable contribution rate established by the retirement board for participating educational employers.

d. If the retirement board, in its discretion, decides to adopt a stable contribution option pursuant to this subdivision, the retirement board shall determine the stable contribution amount in each plan year for a participating educational employer pursuant to subparagraph two of

paragraph a of this subdivision. Such stable contribution amount shall be in lieu of a participating educational employer's actuarially required contribution rate of normal and administrative contributions pursuant to sections five hundred seventeen and five hundred nineteen of this article for the plan year commencing July first, two thousand thirteen, and for the next six subsequent plan years.

e. Any participating educational employer which elects to pay the stable contribution amount pursuant to this subdivision shall pay the amount based on the stable contribution rate for a period of seven years and such option shall be available to participating educational employers from the two thousand thirteen - two thousand fourteen plan year through the two thousand nineteen - two thousand twenty plan year. In the sixth plan year, the two thousand eighteen - two thousand nineteen plan year, the participating educational employer shall pay the stable contribution rate and, in addition, commence payment for deferred employer contributions in accordance with paragraph j of this subdivision. Commencing with the plan year beginning July first, two thousand twenty, the participating educational employer shall resume payment of the actuarially required contribution rate of normal and administrative contributions pursuant to sections five hundred seventeen and five hundred nineteen of this article and, in addition, any payment for deferred employer contribution amounts in accordance with paragraphs j and k of this subdivision.

f. A participating educational employer paying a stable contribution amount shall remit, commencing with the July first, two thousand thirteen plan year, an amount determined by the retirement board by adding the following two amounts together:

(1) the stable contribution amount calculated pursuant to this subdivision; and

(2) payments for group term life insurance, deficiency payments, adjustments relating to prior fiscal years' obligations and obligations pertaining to retirement incentives or any other obligations that a participating educational employer is permitted to pay on an amortized basis.

g. The stable contribution amount must be paid in full by participating educational employers on the dates specified in paragraph h of subdivision two of this section.

h. Prior to July first, two thousand fifteen and July first, two thousand seventeen the retirement board is authorized to evaluate the stable contribution rate used to calculate participating educational employer stable contribution amounts. Such evaluation shall be based on a projection of assets and liabilities so as to ensure that contributions by participating educational employers which participate in the stable contribution option are adequate to ensure that system assets are sufficient to fund benefits for active and retired members. The retirement board is authorized to increase the stable contribution rate by up to two percentage points on July first, two thousand fifteen and on July first, two thousand seventeen. The revised stable contribution rate resulting from the foregoing evaluations and July first, two thousand fifteen and July first, two thousand seventeen stable rate increases may not, in combination, exceed eighteen percent. The retirement board is authorized to decrease the stable contribution rate, if warranted, but in no event shall the stable contribution rate be less than fourteen percent.

i. A participating educational employer may elect to terminate participation in the stable contribution option and resume payment of the actuarially required contribution of normal and administrative contributions in accordance with sections five hundred seventeen and five hundred nineteen of this article. Provided, however, that such participating educational employer which elects to terminate participation shall make a reconciliation contribution to the retirement system, at an amount to be determined by the retirement board, adequate to fund the benefits for active and retired members associated with such participating educational employer had such participating educational employer not elected the provisions of this subdivision. Such reconciliation contribution shall be made over a period not to exceed five years and shall be made in addition to the normal and administrative contributions pursuant to sections five hundred seventeen and five hundred nineteen of this article for the plan year in which

such participating educational employer chooses to resume payment of the normal and administrative contributions pursuant to sections five hundred seventeen and five hundred nineteen of this article. For the purposes of determining the reconciliation contribution amount, the retirement board shall assume interest on the deferred employer contribution amount at a rate which approximates the monthly average yield on United States treasury securities at ten-year constant maturity for the twelve-month period preceding August first of each year plus one percentage point. The interest rate associated with such deferred employer contribution amount shall be specific to each applicable plan year's deferred amount.

j. In the sixth plan year, commencing July first, two thousand eighteen, all participating educational employers having elected the stable contribution option shall continue to contribute the stable contribution amount to the retirement system and remit to the retirement system the accrued deferred employer contributions accumulated in the first five plan years. The stable payment of the deferred employer contribution accrued by the participating educational employer shall be paid to the retirement system in equal annual installments over a five-year period, with interest on the unpaid portion to be based on the monthly average yield on United States treasury securities at a ten-year constant maturity for the twelve-month period preceding August first of each year plus one percentage point. The interest rate associated with such deferred employer contribution amount shall be specific to the rate as measured on August first of the applicable plan year to such deferred amount. Payments of the stable installments shall be made in the same manner as other employer contributions as prescribed in this article. Nothing in this subdivision shall be construed as prohibiting such participating educational employer from making a reconciliation contribution in accordance with paragraph i of this subdivision.

k. In the eighth plan year, commencing July first, two thousand twenty, all participating educational employers having elected the stable contribution option shall resume payment of the actuarially required contribution rate of normal and administrative contributions in accordance with section five hundred seventeen and five hundred nineteen

of this article. Additionally, such employer will remit to the retirement system the accrued deferred employer contributions accumulated during the plan years commencing July first, two thousand eighteen and July first, two thousand nineteen of the stable contribution option. The stable payment of the deferred employer contribution accrued by the participating educational employer shall be paid to the retirement system in equal annual installments over a five-year period with interest on the unpaid portion to be based on the monthly average yield on United States treasury securities at a ten-year constant maturity for the twelve-month period preceding August first of each year plus one percentage point. The interest rate associated with such deferred employer contribution amount shall be specific to the rate as measured on August first of the applicable plan year to such deferred amount. Payments of the stable installments shall be made in the same manner as other employer contributions as prescribed in this article. Nothing in this subdivision shall be construed as prohibiting such participating educational employer from making a reconciliation contribution in accordance with paragraph i of this subdivision.

l. Notwithstanding the provisions of this subdivision, if the retirement board decides to adopt a stable contribution option, in accordance with this subdivision, and the funded status of the retirement system reaches a threshold below eighty percent at the end of any plan year during the seven plan year term of this option, the option shall cease and participating educational employers who have elected the stable contribution option shall resume payment of the actuarially required contribution rate of normal and administrative contributions in accordance with section five hundred seventeen and five hundred nineteen of this article. Additionally, such employer will make a reconciliation contribution to the retirement system, at an amount to be determined by the retirement board, adequate to fund the benefits for active and retired members associated with such participating educational employer had such participating educational employer not elected the provisions of this section. The payment of the deferred employer contribution accrued by the participating educational employer shall be paid to the retirement system in equal annual installments over a five-year period with interest on the unpaid portion to be based on the monthly average

yield on United States treasury securities at a ten-year constant maturity for the twelve-month period preceding August first of each year plus one percentage point. The interest rate associated with such deferred employer contribution amount shall be specific to the rate as measured on August first of the applicable plan year to such deferred amount. Payments of the stable installments shall be made in the same manner as other employer contributions as prescribed in this article.

m. The retirement board is authorized to promulgate rules and regulations for implementation of this subdivision.

§ 522. Transfer of contributions between retirement systems. 1. Any contributor, withdrawing from the retirement system and at such time giving notice to the retirement board of his intention of becoming within two years a member of another teachers' retirement system which is being operated on an actuarial basis either under the laws of this state or under the laws of another state, provided the system has a provision similar to this provision permitting reciprocal transfer, may, upon depositing within two years his accumulated contributions in such other retirement system or if the member had no accumulated contributions credited to his individual account in the retirement system, upon joining such other retirement system within two years, apply to the retirement board for a transfer from the pension accumulation fund to the corresponding fund of such other retirement system of the amount of his pension reserve as of the time when he withdrew his contributions from the annuity savings fund or filed a notice of withdrawal with the system, and the retirement board shall transfer to such other retirement system the amount of such reserve, provided that, if such other retirement system is not under the laws of this state, credit for a pension benefit of equivalent actuarial value to the amount of reserve transferred shall be given the teacher in the other retirement system and that the retirement board is satisfied that the retirement system to which said transfer is made is on a solvent basis.

2. Any contributor entering the retirement system after having

withdrawn from another retirement system and having given notice at the time of withdrawal to the retirement board of such system of his or her intention of becoming a member of the retirement system, may deposit in the annuity savings fund the amount of his or her accumulated contributions withdrawn from such other retirement system or if the member had no accumulated contributions credited to his or her individual account in such other retirement system, such member shall in lieu of depositing moneys in the annuity savings fund, file a notice of intent to transfer pursuant to rules and regulations adopted by the retirement board. Upon the filing of a notice of intent to transfer as provided by this subdivision, the pension reserve to his or her credit in such other retirement system, if such other retirement system is operated upon an actuarial basis under the laws of this state, shall be transferred, and if such other system is operated upon an actuarial basis under the laws of another state, may be transferred to the pension accumulation fund. Notwithstanding anything to the contrary in this article, such contributor shall be classified in this retirement system as a present teacher or as a new entrant accordingly as he or she would have been classified had the service rendered in the other retirement system been rendered while a member of this retirement system. A person so transferred to this retirement system or who has heretofore transferred to this retirement system shall be deemed to have been a member of this retirement system during the entire period of membership service credited to him or her in the system from which he or she has transferred. Such transferee, however, shall not receive more than three per cent interest on his or her contributions and accumulated contributions unless he or she has continuously been a member in either the system from which he or she has transferred or in this retirement system since a date prior to the first day of July, nineteen hundred forty-eight. This shall not be construed to prevent a change in the interest rate to such member if the interest rate payable to other members of this retirement system is changed. In case he or she comes from a retirement system not under the laws of this state, he or she shall be given a prior service certificate showing a period of service such that the liability incurred by the retirement system on his or her account by reason of prior service shall be equal in amount to the amount of the reserve so transferred, provided that in no case shall

such a contributor who is classified as a new entrant be given less credit in his or her prior service certificate than he or she would have received had no reserve been transferred on his or her account. In case a contributor transfers between retirement systems under the laws of this state, he or she shall be credited in the system to which he or she is transferring with all service allowed to him or her in the first system. Such contributor, notwithstanding any other provision of law, shall on retirement be entitled to a pension based on salary earned during member service in both retirement systems together, pursuant to the statutory requirements of the second retirement system.

3. Notwithstanding any other provisions of the law, a former member of the New York city teachers' retirement system who holds membership in the New York state teachers' retirement system on the effective date of this act and who would have been entitled to transfer service credit to such latter retirement system pursuant to this section had his membership in the former retirement system not terminated, due to no negligence on the part of the member, may have his transfer rights under this section restored by depositing, within one year of the effective date of this act, in the former retirement system an amount equal to the contributions withdrawn from such system with regular interest thereon.

4. In the case of a member of the New York city teachers' retirement system with a membership date prior to July twenty-seventh, nineteen hundred seventy-six and not less than twenty years of credited service in that system who has transferred his/her membership to the system pursuant to this section or section forty-three of the retirement and social security law, as applicable and is a member of the system on or after July first, nineteen hundred ninety-eight, the actuary shall compute the actuarial accrued liability for the member's pension under subdivision five of section five hundred thirty-five of this article immediately following transfer as if such member had always been a member of the system, using the service credited to such member which was transferred to the system, the member's salary in connection with such service and the actuarial assumptions used to compute pension reserves pursuant to subdivision one of this section. If the sum of the reserve-for-increased-take-home-pay, if any, and the pension reserve

received by the system from the New York city teachers' retirement system in respect of such member exceeds such accrued liability as determined by the actuary, such excess shall be allocated as of the date of the receipt of such reserve-for-increased-take-home-pay to the annuity savings fund for the benefit of such member and shall be treated as if it had been contributed to such fund by the member, provided, however, that, in no event, may the amount so allocated to the annuity savings fund as provided herein exceed the amount of such reserve-for-increased-take-home-pay, if any, actually received from the New York city teachers' retirement system. In the case of any member retiring prior to July first, two thousand one, any accumulated contributions to the credit of such member in the annuity savings fund as of the member's date of retirement resulting from a determination of the actuary pursuant to this subdivision shall be paid to the retiree in a lump sum with interest at the rate of five per centum per annum from the date of retirement to the date of payment. The retirement board is authorized to promulgate such rules and regulations as it may deem necessary or appropriate to implement this subdivision.

5. Notwithstanding any other provision of law to the contrary, except for the purposes of providing the benefits, if any, of subdivision four of this section, with respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, no transfer of a pension reserve pursuant to subdivision one or two of this section shall be required when the member is transferring from a public retirement system of the state with less than ten years of credited service with the transferring retirement system at the time the transfer is initiated. With respect to transfers pursuant to subdivision one or two of this section which occur on or after the effective date of the chapter of the laws of two thousand twenty-three that amended this subdivision, the transfer of a pension reserve shall be required when the member is transferring ten or more years of credited service from a public retirement system of the state to any other public retirement system of the state, excluding any transfers within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement

system. For the purpose of giving the transferring member such status and crediting such service in the retirement system to which the member is transferring as such member was allowed in the retirement system from which the member has transferred, the transfer shall be deemed complete upon receipt by the transferee retirement system of (a) a statement from the transferor retirement system of the transferring member's date of membership in the transferor retirement system, tier status, service credited to the transferred membership, and such other information as the transferee retirement system may require to effectuate the transfer, (b) such member's accumulated contributions from the transferor retirement system, if same had not been previously withdrawn, or notice from the transferor retirement system that such member had no accumulated contributions, or notice from the transferor retirement system that such member's accumulated contributions had been withdrawn and the amount thereof and, as applicable, receipt from such member of such member's accumulated contributions and interest, and (c) the pension reserve in the case of a member who transfers in ten or more years of credited service, except when transferring within and between the New York city employees' retirement system, the New York city teachers' retirement system and the New York city board of education retirement system.

§ 523. State supervision. The operation of the retirement system shall be subject to the supervision of the state department of financial services.

§ 524. Exemption from taxation and execution. The right of a teacher to a pension, an annuity, or a retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this article, and the moneys in the various funds created hereunder, are hereby exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this article specifically provided.

§ 525. Protection against fraud. 1. Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of the state of New York.

2. Any violation of subdivision one of this section that results in a member or beneficiary of the retirement system receiving a benefit or payment in excess of one thousand dollars more than he or she would have been entitled to shall be a class E felony. Any violation of subdivision one of this section that results in a member or beneficiary of the retirement system to receive a benefit or payment in excess of three thousand dollars more than he or she would have been entitled to shall be a class D felony.

3. Should any change or error in records result in any employee or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, then, on the discovery of any such error, the retirement board shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

§ 526. Merger of local teachers' retirement and pension systems with the state system. 1. On April ninth, nineteen hundred twenty-three, the public school teachers' retirement fund or system or the teachers retirement or pension system of every city of the state having a population of less than one million, created, established or maintained under and pursuant to the provisions of any local act, having been dissolved and discontinued and said systems at such time having become a part of and been merged with the New York state teachers' retirement system created, established and maintained as provided in this article, on and after such date the provisions of this article shall apply, except as herein otherwise provided, to the city in and for which such

local system was created, established and maintained and to the teachers employed in the public schools therein, to the same extent and with the same purpose and effect as though the said system in every such city had been dissolved and discontinued and had become a part of the state teachers' retirement system under the provisions of former section eleven hundred nine-b of the education law, as added by chapter four hundred forty-nine of the laws of nineteen hundred eleven, prior to August first, nineteen hundred twenty-one.

Within thirty days after April ninth, nineteen hundred twenty-three, the trustees or other officers of any public school teachers' retirement fund or system dissolved and discontinued shall cause to be transferred to the state treasurer as ex officio treasurer and custodian of the funds of the New York state teachers' retirement system all the funds to the credit of such retirement fund or system so dissolved or discontinued. The treasurer or other custodian of any such public school teachers' retirement fund or system dissolved and discontinued shall pay and account for all moneys or funds in his possession, at such time, belonging to such retirement fund or system to the said state treasurer as ex officio treasurer and custodian of the funds of the New York state teachers' retirement system, and the funds so paid over shall thereupon become a part of the retirement fund of New York state teachers' retirement system.

2. All members of any public school teachers' retirement system or fund, dissolved and discontinued as herein provided, who are eligible to membership under the provisions of this article, may become members of the state teachers' retirement system, upon complying with the provisions of this article.

3. All persons who had been placed upon the retirement list in accordance with the provisions of the act creating any now dissolved and discontinued teachers' retirement system or fund, prior to April ninth, nineteen hundred twenty-three, shall be entitled to receive the same amounts which they would have been entitled to receive under the provisions of this article if the said retirement fund or system had been dissolved or discontinued as provided by law prior to August first,

nineteen hundred twenty-one. And the amount paid to such annuitants shall in no case be less than the amount which they would have respectively received had the retirement system or fund of which they were members not been dissolved and discontinued as herein provided.

§ 527. Notwithstanding any other provision of law to the contrary the retirement board shall determine the annuity payable as of the date of retirement to each member of the system retired prior to the twenty-eighth day of August, nineteen hundred fifty-eight, on the basis of the mortality tables in force either on the first day of July, nineteen hundred forty or the date such person joined the system, whichever occurred later, and shall cause any additional amount which would have been paid from the date of retirement had the annuity been determined on such basis at retirement, to be paid to any retired member, his designated beneficiary or estate, provided an application is filed with the retirement board in the manner prescribed by the retirement board and thereafter any such annuity as so determined shall be paid to each such retired member or his designated beneficiary.

§ 528. Pensions-providing-for-increased-take-home-pay.
1. Notwithstanding any other provision of law to the contrary,

a. beginning with the payroll period the first day of which is nearest to April first, nineteen hundred sixty, and ending with the payroll period immediately prior to that the first day of which is nearest to April first, nineteen hundred seventy, the contribution of each member of the retirement system who is a teacher within the provisions of subdivision four of section five hundred one of this article in the employ of the state of New York shall be reduced by five per centum of the compensation paid such member, and

b. beginning with the payroll period the first day of which is nearest to April first, nineteen hundred sixty-four, and ending with the payroll period immediately prior to that the first day of which is nearest to April first, nineteen hundred seventy, the contribution of each member

of the retirement system who is a teacher within the provisions of subdivision four of section five hundred one of this article in the employ of the state of New York shall be reduced by an additional three per centum of the compensation paid such member, and

c. beginning with the payroll period the first day of which is nearest to April first, nineteen hundred sixty-six, and ending with the payroll period immediately prior to that the first day of which is nearest to April first, nineteen hundred seventy, the contribution of each member of the retirement system who is a teacher within the provisions of subdivision four of section five hundred one of this article in the employ of the state of New York whose rate of contribution is in excess of eight per centum shall be suspended.

Where a member's rate of contribution is less than the per centum by which his contribution is reduced, such rate shall be discontinued. A member whose rate of contribution shall be reduced pursuant to the provisions of this subdivision shall be deemed to have elected to have his rate so reduced unless he files an election pursuant to the provisions of subdivision two of this section.

2. Any member whose rate of contribution is reduced pursuant to the provisions of subdivision one of this section may by a written notice, duly acknowledged and filed with the retirement board within one year after such reduction or within one year after he last became a member, whichever is later, elect to make an additional contribution in addition to other contributions otherwise allowed in this article equal to the amount of such reduction. One year or more after the filing of such notice a member may withdraw such election by filing a written notice duly acknowledged and filed with the retirement board.

3. For the period of time as the provisions of this section shall be in effect, contributions for each member of the system whose rate of contribution is reduced by virtue of the provisions of subdivision one of this section shall be made to the pension accumulation fund by the state of New York in the same manner and at the same time as other contributions made by the state as employer of members of the retirement

system at a rate fixed by the actuary which shall be computed to be sufficient to provide pensions-providing-for-increased-take-home-pay and other benefits which become payable on account of members in the employ of the state. The actuary engaged by the retirement board shall compute an additional contribution to be known as the "special deficiency contribution to provide a reserve-for-increased-take-home-pay." The amount of the reserve-for-increased-take-home-pay shall be the present value of that per centum of the member's compensation by which his contribution is reduced, or would otherwise be reduced if his rate of contribution equaled or exceeded eight per centum, during the period for which his rate of contribution was reduced as provided in subdivision one, plus regular and additional interest thereon to the date that pension and other benefits become payable.

4. Upon retirement a member whose rate of contribution shall be reduced pursuant to the provisions of subdivision one of this section will receive, in addition to the annuity and other pension benefits provided by this article, a pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which he may be entitled, if any.

5. In addition to the return of accumulated contributions and the death benefit provided by the provisions of section five hundred twelve of this article, upon the death of a member who died before the effective date of his retirement and was in service upon which his membership was based when he died or was on the payroll in such service and paid within a period of twelve months prior to his death and had not been otherwise gainfully employed since he ceased to be on such payroll, and provided further, he had credit for one or more years of service while actually a member, then the reserve-for-increased-take-home-pay attributable to such member shall be paid in the same manner and at the same time as the death benefit is paid by reason of such member's membership in the retirement system.

6. The reserve-for-increased-take-home-pay shall be a portion of the pension accumulation fund and upon the retirement of a new entrant an amount equal to the reserve-for-increased-take-home-pay for such member

shall be transferred from the pension accumulation fund to the pension reserve fund.

7. If a person has been a member of the retirement system and contributions have been made by the state as his employer to provide a reserve-for-increased-take-home-pay and such person has ceased to be a member of the system and upon rejoining the retirement system claims credit for such period, the member shall not be required to pay for such years of service as a contribution shall have been made by the state for pensions-providing-for-increased-take-home-pay pursuant to the provisions of this section.

8. Commencing with the payroll period the first day of which is nearest to April first, nineteen hundred sixty-one, the provisions of this section shall not apply to any member for any period or periods during which he ceases or has ceased contributing toward retirement pursuant to subdivision one of section five hundred sixteen of this article, provided, however, that such member shall receive credit pursuant to this section for such period or periods for which he contributes or has contributed toward retirement.

§ 529. Pensions providing for increased take home pay for certain teachers. Notwithstanding any other provisions of law to the contrary, beginning with the payroll period the first day of which is nearest to April first, nineteen hundred sixty-one and ending with the payroll period immediately prior to that the first day of which is nearest to April first, nineteen hundred seventy, any member of the retirement system who is a teacher within the provisions of subdivision four of section five hundred one of this article in the employ of a community college shall be deemed for the purposes of providing pensions for increased take home pay to be a teacher within the provisions of section five hundred twenty-eight of this article, provided that the board of trustees of the community college employing such teacher files with the retirement board a certified copy of the resolution, approved by the local sponsor acting through its local legislative body or board or other appropriate governing agency, of such board of trustees resolving

that teachers employed in such community college shall be eligible for pensions providing for increased take home pay. Such resolutions shall also specify the per centum of their compensation by which their contributions shall be reduced, which shall be five per centum unless eight per centum is specifically designated. In the event that such an approved resolution is so filed, the contributions of such teachers so employed in such community college shall be reduced by either five per centum or eight per centum of their compensation, as provided in such resolution, in the manner prescribed in section five hundred twenty-eight of this article beginning with the payroll period the first day of which is nearest to the first day of the month following the day such certified approved resolution is filed, and thereafter the contributions for each member of the retirement system employed by such community college whose rate of contribution is reduced by virtue of the provisions of this section and section five hundred twenty-eight of this article shall be made to the pension accumulation fund by such community college, the local sponsor, the local legislative body or board or other appropriate governing agency in the same manner and at the same time as other contributions are made by such community college, the local sponsor, the local legislative body or board or other appropriate governing agency as the employer of members of the retirement system at a rate to be fixed in accordance with the procedure prescribed in section five hundred twenty-eight of this article, and all applicable provisions of said section five hundred twenty-eight subject to the applicable per centum of a teacher's compensation by which his contribution shall be reduced shall apply to such community college, the local sponsor, the local legislative body or board or other appropriate governing agency and to members of the retirement system employed by such board of trustees.

§ 530. Pensions-providing-for-increased-take-home-pay-for-teachers. 1. Notwithstanding any other provision of law to the contrary, a. beginning on the first day of July, nineteen hundred sixty-five, and ending on the thirtieth day of June, nineteen hundred seventy, the contribution of each member of the retirement system who is a teacher within the provisions of subdivision four of section five hundred one of this

article who is not in the employ of the state of New York or who is not in the employ of a community college shall be reduced by five per centum of the compensation paid such member, and

b. beginning on the first day of July, nineteen hundred sixty-seven, and ending on the thirtieth day of June, nineteen hundred seventy, the contribution of each member of the retirement system who is a teacher within the provisions of subdivision four of section five hundred one of this article who is not in the employ of the state of New York or who is not in the employ of a community college shall be reduced by an additional three per centum of the compensation paid such member.

Where a member's rate of contribution is less than the per centum by which his contribution is reduced, such rate shall be discontinued. A member whose rate of contribution shall be reduced pursuant to the provisions of this subdivision shall be deemed to have elected to have his rate so reduced unless he files an election pursuant to the provisions of subdivision two of this section.

2. Any member whose rate of contribution is reduced pursuant to the provisions of subdivision one of this section may by a written notice, duly acknowledged and filed with the retirement board within one year after such reduction or within one year after he last became a member, whichever is later, elect to make an additional contribution in addition to other contributions otherwise allowed in this article equal to the amount of such reduction. One year or more after the filing of such notice a member may withdraw such election by filing a written notice duly acknowledged and filed with the retirement board.

3. For the period of time as the provisions of this section shall be in effect, contributions for each member of the system whose rate of contribution is reduced by virtue of the provisions of subdivision one of this section shall be made to the pension accumulation fund by his employer in the same manner and at the same time as other contributions made by the employer as employer of members of the retirement system at a rate fixed by the actuary which shall be computed to be sufficient to provide pensions-providing-for-increased-take-home-pay-for-teachers and

other benefits which become payable on account of members not employed by the state of New York or by a community college. The actuary engaged by the retirement board shall compute an additional contribution to be known as the "special deficiency contribution to provide a reserve-for-increased-take-home-pay-for-teachers." The amount of the reserve-for-increased-take-home-pay-for-teachers shall be the present value of that per centum of the member's compensation by which his contribution is reduced, or would otherwise be reduced if his rate of contribution equaled or exceeded eight per centum, during the period for which his rate of contribution was reduced as provided in subdivision one, plus regular and additional interest thereon to the date that pension and other benefits become payable.

4. Upon retirement a member whose rate of contribution shall be reduced pursuant to the provisions of subdivision one of this section will receive, in addition to the annuity and other pension benefits provided by this article, a pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay-for-teachers to which he may be entitled, if any.

5. In addition to the return of accumulated contributions and the death benefit provided by the provisions of section five hundred twelve of this article, upon the death of a member who died before the effective date of his retirement and was in service upon which his membership was based when he died or was on the payroll in such service and paid within a period of twelve months prior to his death and had not been otherwise gainfully employed since he ceased to be on such payroll, and provided further, he had credit for one or more years of service while actually a member, then the reserve-for-increased-take-home-pay-for-teachers attributable to such member shall be paid in the same manner and at the same time as the death benefit is paid by reason of such member's membership in the retirement system.

6. The reserve-for-increased-take-home-pay-for-teachers shall be a portion of the pension accumulation fund and upon the retirement of a new entrant an amount equal to the

reserve-for-increased-take-home-pay-for-teachers for such member shall be transferred from the pension accumulation fund to the pension reserve fund.

7. If a person has been a member of the retirement system and contributions have been made by his employer to provide a reserve-for-increased-take-home-pay-for-teachers and such person has ceased to be a member of the system and upon rejoining the retirement system claims credit for such period, the member shall not be required to pay for such years of service as a contribution shall have been made by his employer for pensions-providing-for-increased-take-home-pay-for-teachers pursuant to the provisions of this section.

8. The provisions of this section shall not apply to any member for any period or periods during which he ceases or has ceased contributing toward retirement pursuant to subdivision one of section five hundred sixteen of this article, provided, however, that such member shall receive credit pursuant to this section for such period or periods for which he contributes or has contributed toward retirement.

9. Each member of the retirement system as defined in subdivision one of this section who is employed in the city school districts of the cities of Buffalo and Yonkers may have his contribution reduced pursuant to this section by five percentum of the compensation paid such member during the school year commencing July first, nineteen hundred sixty-four, provided his employer shall adopt and file with the retirement board a resolution to such effect prior to July first, nineteen hundred sixty-four.

§ 531. Abandonment of unclaimed contributions or other benefits; transfer to the pension accumulation fund. 1. Except as otherwise specifically provided by this article, after at least seven years have elapsed since the member or contributor withdrew from service or ceased to be a teacher for any cause other than death or retirement or seven years have elapsed from the date any other person became entitled to a benefit pursuant to this article, the retirement board may send a

statement to such person at the last known address of the person setting forth the amount of the accumulated contributions or other benefits standing to the credit of such person and give notice to said person that unless he demands payment of said amount prior to a date at least one year from the date the notice is given, said amount will be deemed abandoned and will be transferred by the retirement board to the pension accumulation fund.

2. The retirement board shall cause to be published at least once in an appropriate publication of the New York state department of education, a publication for professional educators or in a periodical of general circulation, a list setting forth the names of persons who have unclaimed accumulated contributions or other benefits in the New York state teachers' retirement system.

3. At the expiration of six months from the date of the publication of the notices required by subdivision two of this section, the accumulated contributions or other benefits of the persons so listed shall be deemed abandoned and shall be placed in the pension accumulation fund to be used for the purposes of said fund.

4. Any accumulated contributions or other benefits so deemed abandoned and transferred to the pension accumulation fund may be claimed by the person entitled to the accumulated contributions or other benefits, or in the event of his death by his estate or by such person or persons as he shall have nominated to receive such accumulated contributions, by filing a claim with the retirement board in such form and in such manner as may be prescribed by the retirement board, seeking the return of such abandoned accumulated contributions or other benefits without interest, and in the event such claim is properly made the retirement board shall pay over to the person or persons or estate making such claim the amount of such accumulated contributions or other benefits without interest. The payment shall be made from the pension accumulation fund.

5. Notwithstanding any provision of this section to the contrary and in lieu of any other procedure provided for in this section, the retirement board is authorized to mandate the distribution of unclaimed

amounts not to exceed one thousand dollars in each case to former members or contributors, or persons entitled to a benefit from the system, in cases in which at least seven years have elapsed since the member or contributor withdrew from service or ceased to be a teacher for any cause other than death or retirement or at least seven years have elapsed from the date any other person became entitled to a benefit from the system pursuant to any provision of this chapter or of the retirement and social security law.

§ 532. Supplemental retirement allowance. a. A supplemental retirement allowance shall be paid to pensioners who have retired from the retirement system prior to the calendar year nineteen hundred ninety-four. Such supplemental retirement allowance shall be payable on the basis provided for herein, commencing with a payment for the month of September, nineteen hundred ninety-nine and continuing through the month of August, two thousand. Said supplemental retirement allowance shall be a percentage of the retirement allowance otherwise payable, computed without optional modification, but excluding any annuity derived from voluntary contributions made by members, except those made pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article. Said percentage, for each calendar year of retirement, is set forth in subdivision b of this section. Said supplemental retirement allowance shall be computed on the basis of the first fourteen thousand dollars of such annual retirement allowance and shall be payable commencing September first, nineteen hundred ninety-nine to all disability pensioners and recipients of an accidental death benefit, and to other pensioners who have attained age sixty-two or who have been retired for ten or more years and have attained age fifty-five.

b. 1. In calculating the supplemental retirement allowance in accordance with subdivision a of this section, the following percentages will be used for each calendar year of retirement, as appropriate:

Calendar year of retirement	Percentage
1993	1.5

1992	1.5
1991	1.5
1990	1.5
1989	2.8
1988	3.7
1987	4.5
1986	5.5
1985	6.3
1984	7.4
1983	8.3
1982	10.5
1981	12.5
1980	15.6
1979	19.9
1978	25.4
1977	30.3
1976	37.8
1975	42.5
1974	54.0
1973	73.0
1972	86.0
1971	96.7
1970	105.0
1969	141.8
1968	169.0
1967	195.9
1966	203.7
1965	230.5
1964	254.5
1963	278.6
1962	310.0
1961	330.0
1960	340.0
1959	390.0
1958	427.3
1957	442.3

The supplemental retirement allowance shall be rounded off to the nearest dollar.

1-a. For those pensioners retired from the retirement system prior to the calendar year nineteen hundred fifty-seven the percentage referred to in this section shall be determined by the ratio of two indexes, in the following manner. The average of the twelve monthly consumer price indexes of the calendar year nineteen hundred ninety-five divided by the average of the twelve monthly consumer price indexes of the calendar year of retirement shall be the ratio of the indexes. Said ratio, minus one, shall be expressed as a percentage and shall be adjusted to the lower one-tenth of one per centum. Such adjusted percentage shall be the percentage of the retirement allowance, computed without optional modification, which is payable as a supplement. Such percentage shall be computed by the actuary and certified to the retirement board which shall, by directive, promulgate a schedule of percentages by year of retirement to be used for this purpose. The supplemental retirement allowance shall be rounded off to the nearest dollar.

c. The benefits herein above provided for shall be in lieu of the benefits presently provided by section five hundred ten and articles four and six of the retirement and social security law, unless such benefits are in excess of those provided by this section, in which latter case such benefits shall be paid by the retirement system pursuant to this section.

d. Notwithstanding any other provision of law, the widow or widower of a deceased retired teacher, who had elected one of the options under section five hundred thirteen of this article which provides that benefits are to be continued for life to the widow or widower after the death of the teacher, shall be entitled to receive a monthly supplemental retirement allowance pursuant to this subdivision. Such monthly supplemental retirement allowance shall commence (1) with the payment for the month of September, nineteen hundred seventy-eight, or (2) the month following commencement of widowhood or widowerhood, whichever is later. The amount of the supplemental retirement allowance provided by this subdivision shall be one-half of the amount which would

have been payable to the retiree as a supplemental retirement allowance, had he or she survived.

e. 1. Each pensioner of the retirement system who retired before July first, nineteen hundred eighty shall be paid, commencing with a payment for the month of July two thousand twenty-one a basic supplemental pension, the total of which when added to his or her yearly retirement allowance computed without optional modification, but excluding any annuity derived from contributions made by members pursuant to paragraphs a and b of subdivision three of section five hundred sixteen, section five hundred twenty-eight, section five hundred twenty-nine, section five hundred thirty, section five hundred thirty-three and section five hundred thirty-five of this article, shall equal the lesser of nineteen thousand two hundred fifty dollars or the sum of five hundred fifty dollars multiplied by the number of years of full-time New York state service not to exceed thirty-five years with which he or she was credited at the time of his or her retirement.

2. The benefits provided for pursuant to this subdivision shall be in lieu of the benefits provided by articles four and six of the retirement and social security law, subdivisions a, b and c of this section, and subdivision f of section five hundred thirty-two-a of this article, unless such a retired member would be eligible to receive a greater benefit pursuant to any of such provisions, in which latter case this subdivision shall not apply.

f. Contributions shall be made to the supplemental retirement allowance fund by, or on account of, each employer at a rate computed by the actuary and approved by the retirement board, which shall be computed to be sufficient to provide the benefits established by this section which are payable during the period of time that this section shall be in effect. The retirement board may from time to time transfer sufficient monies from the pension accumulation fund to the supplemental retirement allowance fund to meet the obligations imposed by this section. Such advances shall be restored to the pension accumulation fund pursuant to paragraph a of subdivision two of section five hundred twenty-one of this article.

g. 1. Commencing July first, nineteen hundred eighty-three, an additional supplemental pension shall be paid to those pensioners who on June thirtieth, nineteen hundred eighty-three were receiving supplemental benefits computed pursuant to article four of the retirement and social security law or computed pursuant to paragraph one of subdivision e of this section as it read prior to amendment by chapter four hundred seven of the laws of nineteen hundred seventy-seven. Such additional supplemental pension shall equal ten percent of the total of the supplemental pension paid to such pensioner pursuant to article four of the retirement and social security law or paragraph one of subdivision e of this section as it read prior to amendment by chapter four hundred seven of the laws of nineteen hundred seventy-seven, and the yearly retirement allowance computed without optional modification, but excluding any annuity derived from voluntary contributions made by members, pursuant to paragraphs a and b of subdivision three of section five hundred sixteen, section five hundred twenty-eight, section five hundred twenty-nine, section five hundred thirty, section five hundred thirty-three and section five hundred thirty-five of this article.

2. The benefits provided pursuant to paragraph one of this subdivision shall be in lieu of the benefits provided by any other provision of law, unless such a pensioner would be eligible to receive a greater benefit pursuant to any such other provision, in which latter case this subdivision shall not apply.

§ 532-a. Cost-of-living adjustment. a. A cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age sixty-two and have been retired for five years; (ii) all pensioners who have attained age fifty-five and have been retired for ten years; (iii) all disability pensioners regardless of age who have been retired for five years; and (iv) all recipients of an accidental death benefit regardless of age who have been receiving such benefit for five years.

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, excluding any annuity derived from voluntary contributions made by members, except those made pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article, but including any benefit derived from subdivision f of this section and any prior year's cost-of-living adjustment derived from this section. Said percentage is set forth in subdivision d of this section.

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section.

d. The percentage referred to in this section shall be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent.

e. Said cost-of-living adjustment shall be payable in monthly installments and shall take effect September first of each year commencing with a payment for the month of September, two thousand one, or, if later, as soon as practicable after the retired member first becomes eligible to receive the benefits provided pursuant to paragraph a of this section.

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be

equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification excluding any annuity derived from voluntary contributions made by members, except those made pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article. Any benefits received pursuant to this subdivision shall be in lieu of any benefits received pursuant to section five hundred thirty-two of this article, unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

g. Notwithstanding any other provision of law, the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be fifty percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand, or (ii) the month following the death of the deceased retired member, whichever is later.

h. The benefits provided pursuant to this section shall be in lieu of the benefits presently provided by section five hundred ten or article four or six of the retirement and social security law unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

i. The liability created by this section shall be funded through the normal rate of contribution in accordance with subparagraph two of paragraph f of subdivision two of section five hundred seventeen of this article.

§ 533. Non-contributory retirement plan. a. Any other provision of law to the contrary notwithstanding, no further contributions to the retirement system, as provided in sections five hundred eleven-a or five hundred sixteen of this article, shall be required of any member.

b. Contributions shall be made to the pension accumulation fund, as provided in section five hundred seventeen of this article, at a rate computed by the actuary and approved by the retirement board, which shall be computed to be sufficient to provide the benefits established by this section.

c. Nothing contained in this section shall impair the right of any member to make contributions pursuant to sections five hundred eleven-a and five hundred sixteen of this article. Any member may elect to contribute pursuant to sections five hundred eleven-a and five hundred sixteen of this article, by written notice duly acknowledged and filed with the retirement board on or before June thirtieth, nineteen hundred sixty-nine or within one year after he last became a member, whichever is later. Where a member makes an election to contribute, as provided herein, he shall contribute to the retirement system as otherwise provided in this article. One year or more after the filing of the notice of the election to contribute, the member may withdraw such election and elect not to contribute.

d. 1. On and after July first, nineteen hundred sixty-eight a member shall be eligible for service retirement when he meets the conditions set forth in sections five hundred ten or five hundred eleven-a of this article, by the filing of a statement with the retirement board as required by subdivision one of section five hundred ten of this article. For the purposes of this section, all members shall be deemed to have made the election for special service retirement under section five hundred eleven-a of this article.

2. A member who retires on or after July first, nineteen hundred sixty-eight, under the provisions of this section, shall receive a service retirement pension which shall be in lieu of the service retirement pension and the pension-for-increased-take-home-pay otherwise authorized under this article, subject to any adjustments made pursuant to subdivision g of this section. Such pension, for the period of credited state service rendered prior to July first, nineteen hundred fifty-nine, and for all credited out-of-state service, shall be computed as provided in section five hundred ten of this article. Such pension, for the period of credited state service rendered on and after July first, nineteen hundred fifty-nine, shall be one-fiftieth of final average salary for each year of such service rendered during the first twenty-five years of the member's total service, plus one-sixtieth of final average salary for each year of such service rendered during that portion of the member's total service which is in excess of twenty-five years but not in excess of thirty-five years, plus one-seventieth of final average salary for each year of such service rendered during that portion of the member's total state service which is in excess of thirty-five years.

3. In addition to the retirement allowance provided in paragraph two of this subdivision, a member who has at least twenty years of credited state service and retires during the month of July, nineteen hundred sixty-eight, shall receive an added pension allowance equal to sixteen per cent of the pension otherwise provided in this article. For persons retiring subsequent to July, nineteen hundred sixty-eight, the added pension authorized hereunder shall be reduced at the rate of one-sixth of one per cent for each month thereafter.

4. The additional pension provided under this section shall not be included in computing any pension reserve payable pursuant to the provisions of paragraph three of subdivision b of section five hundred twelve of this article.

e. In addition to the pension hereinabove provided, a member shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, in accordance with section five hundred sixteen of this article.

f. The benefits hereinabove provided shall be payable unless the member would otherwise under the provisions of this article be entitled to a greater benefit, in which event the greater benefit shall be payable.

g. If at the time of retirement any portion of the employer's contribution has been committed by election of the member toward purchase of a variable annuity, the retirement board shall deduct from the member's pension allowance as otherwise computed under this section, an amount equal to the actuarial equivalent of the amounts so committed, plus regular and additional interest thereon to the date of retirement.

§ 535. Career retirement plan. 1. Any other provision of law to the contrary notwithstanding, on or after July first, nineteen hundred seventy a member may retire pursuant to the provisions of this section when,

a. he has credit for thirty-five or more years of total service, or

b. he has attained age fifty-five or older and has received credit for five or more years of full time New York state service, at least two of which have been rendered since the date upon which he last joined the retirement system and since June thirtieth, nineteen hundred sixty-seven, or

c. he has attained age fifty-five or older and has credit for two or more years of full time service in the period subsequent to June thirtieth, nineteen hundred sixty-seven and has rendered two years of full time New York state service in the period subsequent to his attainment of age fifty-three and subsequent to the date upon which he last joined the retirement system by filing with the system a statement duly attested, setting forth at what time not less than thirty days nor more than ninety days subsequent to the execution and filing thereof he desires such retirement.

In the case of persons who last became members on or after July first, nineteen hundred seventy-three, the provisions of this section shall apply only to those who retire prior to July first, nineteen hundred seventy-four.

2. A member who retires pursuant to the provisions of this section and who is credited with at least twenty years of full time New York state service at the time of his retirement, shall receive a pension consisting of:

a. one and two-tenths per cent of his final average salary multiplied by the number of years of his credited New York state service rendered prior to July first, nineteen hundred fifty-nine, and

b. two per cent of his final average salary multiplied by the number of years of his credited New York state service rendered subsequent to June thirtieth, nineteen hundred fifty-nine, and

c. one per cent of his final average salary multiplied by the number of years of out-of-state service to his credit, excluding, however, any such service credits which would bring his total years of credited service above thirty-five years.

3. In addition to the pension allowance provided in subdivision two of this section, a member who is credited with at least twenty years of full time New York state service and retires during the month of July, nineteen hundred seventy, shall receive an added pension allowance equal

to twelve per cent of the pension allowance provided in paragraphs a and b of subdivision two of this section. For persons retiring subsequent to July, nineteen hundred seventy, the added pension authorized hereunder shall be reduced at the rate of one-sixth of one per cent for each month thereafter.

4. A member who retires pursuant to the provisions of this section and who is credited with less than twenty years of full time New York state service at the time of his retirement shall receive a pension which is computed by multiplying the pension calculated in accordance with subdivision two of this section by five per cent for each year of credited full time state service, but in no event shall the pension payable pursuant to this subdivision be less than fifty per cent of the pension computed in accordance with subdivision two of this section.

5. a. In lieu of the pension provided by subdivisions two and three of this section, a member who retires pursuant to the provisions of this section on or after July first, nineteen hundred seventy-six and who is credited with at least twenty years of full-time New York state service at the time of his retirement, shall receive a pension consisting of:

1. one and eighty one-hundredths per cent of his final average salary times the number of years of his credited New York state service rendered prior to July first, nineteen hundred fifty-nine, and

2. two per cent of his final average salary times the number of years of his credited New York state service rendered subsequent to June thirtieth, nineteen hundred fifty-nine, and

3. one per cent of his final average salary times the number of years of out-of-state service to his credit, excluding, however, any such service credits which would bring his total years of credited service above thirty-five years.

b. In lieu of the pension provided by subdivision four of this section, a member, who retires pursuant to the provisions of this section on or after July first, nineteen hundred seventy-six and who is

credited with less than twenty years of full-time New York state service at the time of his retirement, shall receive a pension which is computed by multiplying the pension calculated in accordance with paragraph a of this subdivision by five per cent for each year of credited full-time New York state service, but in no event shall the pension payable pursuant to this subdivision be less than fifty per cent of the pension computed in accordance with paragraph a of this subdivision.

6. In no event shall the pension provided pursuant to the provisions of this section exceed seventy-five per cent of the member's final average salary.

7. A member who retires pursuant to the provisions of this section shall receive the service retirement pension provided by this section and such pension shall be in lieu of any other service retirement pension and the pension for increased-take-home-pay otherwise authorized under this article.

8. In addition to the service retirement pension provided by this section, the member shall receive an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement.

9. Nothing herein shall alter in any manner either the amount of the death benefit specified in paragraph three of subdivision b of section five hundred twelve of this article or the date upon which a member is first eligible for the benefit described therein.

10. The benefits provided by this section shall be payable unless the member would otherwise under the provisions of this article be entitled to a greater benefit, in which event the greater benefit shall be payable.

11. Anything in this article to the contrary notwithstanding, a person who becomes a member on or after July first, nineteen hundred seventy, so long as this section is in effect, shall be permitted to establish his eligibility for retirement under sections five hundred ten, five

hundred eleven-a and five hundred thirty-three of this article, solely for the purpose of entitling his estate or beneficiary to the death benefit payable under paragraph three of subdivision b of section five hundred twelve of this article.

12. Anything in this article to the contrary notwithstanding, a person who becomes a member on or after July first, nineteen hundred seventy, so long as this section is in effect, shall not be permitted to make contributions pursuant to this article, except for purchase of prior service credits or military service credits.

13. On and after July first, nineteen hundred seventy all members shall be deemed to have made the elections permitted under subdivision one of section five hundred eleven-a and paragraph c of subdivision three of section five hundred sixteen of this article, whether or not a formal application for such benefit was submitted to the retirement board, and on and after July first, nineteen hundred seventy no contribution shall be required of any member under subdivision one of section five hundred eleven-a, as well as subdivision one and paragraph c of subdivision three of section five hundred sixteen of this article.

§ 536. Deductions from benefits of certain retired members. 1. Notwithstanding any other provision of law, a pensioner who is retired from the retirement system shall have the right, at any time after such pensioner's retirement, to execute and file a deduction authorization card with the retirement board authorizing the deduction from such pensioner's retirement allowance of membership dues and such pensioner's share of the cost for employee organization-sponsored benefit plans and the payment thereof to a retiree organization of which the pensioner is then a member and which is then affiliated with either an employee organization certified or recognized as the collective bargaining representative of all employees in the negotiating unit of which the pensioner was a part prior to his or her retirement or with an employee organization with which such employee organization is then affiliated. The retirement board shall thereafter deduct from the retirement allowance of such pensioner the amount of membership dues and such

amounts required to be paid by such pensioner for such authorized employee organization-sponsored benefit plans, and shall transmit the sum so deducted to said retiree organization. Such authorization shall continue in effect until revoked in writing by such pensioner. For purposes of this section, the term "employee organization-sponsored benefit plans" shall include any and all insurance plans and/or other benefit plans sponsored by such retiree organization whether provided by (a) a not-for-profit corporation licensed under article forty-three of the insurance law; (b) any insurance company authorized to do business in this state; (c) a health maintenance organization issued a certificate of authority pursuant to article forty-four of the public health law; or (d) a self-insurance arrangement, welfare fund or benefit fund.

2. Notwithstanding any other provision of law, a retired member shall have the right, at any time after his or her retirement, to execute and file a deduction authorization card with the retirement board authorizing the payment of voluntary contributions to the political committee, as defined in subdivision one of section 14-100 of the election law, of such member's employee organization, provided such organization is certified or recognized pursuant to article fourteen of the civil service law as the representative of all employees in the negotiating unit in which such retired member was then employed. Such authorization shall continue in effect until revoked in writing by such member. The board shall determine the cost of administering deductions for voluntary contributions to the political committee and the cost incurred by the retirement system in administering such contributions shall be paid from the funds of the political committee.

§ 537. Lump sum payment of de minimis service retirement benefit. Notwithstanding any other law to the contrary, a member of the retirement system who is entitled to receive a retirement allowance, other than for disability, pursuant to this article or pursuant to article eleven or fifteen of the retirement and social security law, which retirement allowance prior to optional modification is twenty-four hundred dollars per annum or less, may elect at retirement to receive,

in lieu of such retirement allowance, a lump sum payment which has been certified by the actuary to be of actuarial equivalent value to such retirement allowance and approved by the retirement board. Such lump sum shall be calculated using the interest rate on thirty year United States treasury bonds as of January first of the calendar year in which the retirement becomes effective. Upon payment of such lump sum, any and all obligations of the retirement system to such member shall be totally discharged. Commencing January first, two thousand four, the interest rate on ten year United States treasury obligations as of January first of the calendar year in which the retirement becomes effective shall be used. Commencing January first, two thousand sixteen, the average annual interest rate on ten year United States treasury obligations for the days during the calendar year that precedes the calendar year in which the retirement becomes effective shall be used.

§ 538. Excess benefit plan. Notwithstanding any other law to the contrary, the retirement board is authorized in its sole discretion to establish a qualified governmental excess benefit arrangement within the meaning of, in conformity with and then only to the extent and so long as permitted by subsection m of section four hundred fifteen of the Internal Revenue Code of 1986, as amended, for the purpose of providing such retirement benefits as would otherwise have been payable to retirees of the system, but for the application of the limitations on benefits of subsection b of section four hundred fifteen of the Internal Revenue Code of 1986, as amended. The retirement board is also authorized to promulgate such rules and regulations as may be necessary to implement a qualified governmental excess benefit plan as provided in this section.

§ 539. Certain actions by retiring members. 1. Notwithstanding any law to the contrary, this section shall apply to any member of the system who is otherwise eligible to retire pursuant to the provisions of this article or pursuant to article fourteen or fifteen of the retirement and social security law.

2. Subject to the limitations in subdivisions three and four of this section, a member shall be retired for service or with a deferred retirement allowance, as requested by the member, upon or on a date after the filing of a retirement application with the retirement system.

3. A member shall not file for service retirement or for a deferred retirement allowance any earlier than ninety days prior to the date on which the member desires to be retired.

4. A member shall not be retired under any provision of law until the member has ceased to be paid on the payroll of an employer participating in the retirement system. In the case of a member who has the right to retire for disability under article fourteen of the retirement and social security law, disability retirement shall not commence any earlier than the date on which primary social security disability benefits commence.

5. A member may retroactively withdraw his or her retirement for service or with a deferred retirement allowance by filing a revocation of retirement no later than fourteen days following the date upon which the member was retired. The retirement system shall have no obligation to make any payment on account of any service retirement or deferred retirement allowance during said period.

6. An option selection duly filed by the member with the retirement system shall become effective upon retirement. Notwithstanding the foregoing, a member who has been retired for service or with a deferred retirement allowance may file an option selection or change or withdrawal of an option selection previously filed no later than thirty days following the date on which the member has retired; a member who has been retired for disability may file an option selection or a change or withdrawal of an option selection previously filed no later than (i) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (ii) thirty days following the date on which the member was retired for disability, whichever is later.

7. A member subject to the provisions of this article who has accumulated contributions credited to the member's individual account in the annuity savings fund may elect to withdraw such contributions pursuant to subdivision six of section five hundred sixteen of this article within the period provided in subdivision six of this section for the selection, change or withdrawal of an option selection.

ARTICLE 12

HEALTH AND SAFETY GRANTS FOR NONPUBLIC SCHOOL CHILDREN

Section 549. Legislative findings.
550. Definitions.
551. Apportionment.
552. Applications, reports, regulations.
553. Installments.

§ 549. Legislative findings. The legislature hereby finds and declares that:

1. The state has a primary responsibility to ensure the health, welfare and safety of children attending both public and nonpublic schools.

2. The state discharges this responsibility to public school children through substantial amounts of per pupil financial assistance to local school districts. The fiscal crisis in nonpublic education, however, has caused a diminution of proper maintenance and repair programs, threatening the health, welfare and safety of nonpublic school children, particularly in urban areas. Such areas are generally identified by a high incidence of families receiving assistance to dependent children and deteriorating physical structures, including nonpublic school buildings. Financial resources necessary to properly maintain and repair such buildings are beyond the capabilities of low-income people whose children attend nonpublic schools.

3. In recognition of the financial plight of urban areas in attracting

qualified teachers, the federal government has enacted Title IV of the Higher Education Act of nineteen hundred sixty-five, which provides incentives to teachers to instruct in those schools which serve a high concentration of students from low-income families.

4. It is incumbent upon the state to ensure that the physical environment in such Title IV areas is both healthy and safe. Incidental to such goals, but none the less significant, is the contribution that a healthy and safe school environment makes to the stability of urban neighborhoods.

5. To insure a healthy and safe school environment for children attending nonpublic schools, the state has the right to make grants for maintenance and repair expenditures which are clearly secular, neutral and non-ideological in nature.

§ 550. Definitions. In this article:

1. "Commissioner" shall mean the state commissioner of education.

2. "Qualifying school" shall mean a nonprofit elementary or secondary school in the state of New York, other than a public school, which (a) is providing instruction in accordance with article seventeen and section thirty-two hundred four of this chapter, (b) has not been found to be in violation of Title VI of the Civil Rights Act of nineteen hundred sixty-four, 78 Stat. 252, 42 U.S.C. § 2000 (d), (c) which is entitled to a tax exemption under section five hundred one (a) and five hundred one (c)(3) of the Federal Internal Revenue Code of nineteen hundred fifty-four, as amended, and (d) has been designated during the base year as serving a high concentration of pupils from low-income families for purposes of Title IV of the Federal Higher Education Act of nineteen hundred sixty-five (20 U.S.C.A. § 425).

3. "Base year" shall mean the school year immediately preceding the current year.

4. "Current year" shall mean the school year during which an apportionment is to be paid pursuant to this article.

5. "Health, welfare and safety grants" shall mean the apportionment made pursuant to this article which shall be used for the maintenance and repair of nonpublic school facilities and equipment to ensure the health, welfare and safety of enrolled pupils.

6. "Maintenance and repair" shall mean the provision of heat, light, water, ventilation and sanitary facilities; cleaning, janitorial and custodial services; snow removal; necessary upkeep and renovation of buildings, grounds and equipment; fire and accident protection; and such other items as the commissioner may deem necessary to ensure the health, welfare and safety of enrolled pupils.

7. "Average daily attendance" shall mean the total number of attendance days of enrolled pupils in grades one through twelve during the base year, divided by the number of days the school was in session during such year.

§ 551. Apportionment. 1. In order to meet proper health, welfare and safety standards in qualifying schools for the benefit of the pupils enrolled therein, there shall be apportioned health, welfare and safety grants by the commissioner to each qualifying school for the school years beginning on and after July first, nineteen hundred seventy-one, an amount equal to the product of thirty dollars multiplied by the average daily attendance of pupils receiving instruction in such school, to be applied for costs of maintenance and repair. Such apportionment shall be increased by ten dollars multiplied by the average daily attendance of pupils receiving instruction in a school building constructed prior to nineteen hundred forty-seven. In no event shall the per pupil annual allowance computed under this section exceed fifty per centum of the average per pupil cost of equivalent maintenance and repair in the public schools of the state on a state-wide basis, as determined by the commissioner, and in no event shall the apportionment to a qualifying school exceed the amount of expenditures for maintenance

and repair of such school as reported pursuant to section five hundred fifty-two of this article.

2. The apportionment pursuant to this section shall be reduced by one one hundred eightieth for each day less than one hundred eighty days that such school was actually in total session in the base year, except that the commissioner may disregard such reduction up to five days if he finds that the school was not in session for one hundred eighty days because of extraordinary adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel or the destruction of a school building, and if the commissioner further finds that such school cannot make up such days of instruction during the school year. No such reduction shall be made, however, for any day on which such school was in session for the purpose of administering the regents examinations or the regents scholarship examinations, or any day, not to exceed three days, when such school was not in session because of a conference of teachers called by the principal of the school.

§ 552. Applications, reports, regulations. Each qualifying school which seeks an apportionment pursuant to this article shall submit to the commissioner an application therefor, at such times, in such form and containing such information as the commissioner may by regulation prescribe in order to carry out the purposes of this article. Such applications shall include an audited statement of the expenditures of maintenance and repair of such qualifying school for the base year.

§ 553. Installments. The amount to be apportioned to a qualifying school in any current year shall be paid in two equal installments, the first to be made on or before January fifteenth and the other not later than June fifteenth of such year, except that for the school year commencing July first, nineteen hundred seventy-one such apportionment shall be made in one payment on or before June fifteenth, nineteen hundred seventy-two. The commissioner may provide for later payments for the purpose of adjusting and correcting apportionments. The amount

to be apportioned to a qualifying school shall be payable on order and warrant of the comptroller on vouchers certified or approved by the commissioner in the manner provided by law.

ARTICLE 12-A

ARTHUR O. EVE ELEMENTARY AND SECONDARY EDUCATION OPPORTUNITY PROGRAM

Section 559. Legislative findings.
560. Short title.
561. Definitions.
562. Tuition reimbursement payments to parents.
563. Commissioner; powers.

§ 559. Legislative findings. The legislature hereby finds and declares that:

1. The vitality of our pluralistic society is, in part, dependent upon the capacity of individual parents to select a school, other than public, for the education of their children. A healthy competitive and diverse alternative to public education is not only desirable but indeed vital to a state and nation that have continually reaffirmed the value of individual differences.

2. The Supreme Court of the United States has recognized and reaffirmed this right of selection. This right, however, is diminished or even denied to children of lower-income families, whose parents, of all groups, have the least options in determining where their children are to be educated.

3. Quality education is made possible for all children in our state only because the burden of providing it has been carried by taxpayers who support both public and nonpublic education. Any precipitous decline in the number of nonpublic school pupils would cause a massive increase in public school enrollment and costs. Such an increase would seriously jeopardize quality education for all children and aggravate an already serious fiscal crisis in public education.

4. In recognition of the initiative of parents who support both public and nonpublic education, it is a legitimate purpose for the state to partially relieve the financial burden of parents who provide a nonpublic education for their children which satisfies the compulsory education laws of the state. Such assistance is clearly secular, neutral and nonideological in nature and is consistent with the historical and continuing role of the state in providing a quality education for all children and in nurturing a pluralistic society.

5. The Arthur O. Eve Elementary and Secondary Education Opportunity Program is hereby established, which consists of tuition reimbursement for parents of low income, in order to provide partial assistance in meeting the financial burden of supporting the compulsory education of their children who are full-time students in New York nonpublic elementary and secondary schools.

§ 560. Short title. This article shall be known as the "Arthur O. Eve Elementary and Secondary Education Opportunity Program".

§ 561. Definitions. The following terms, whenever used in this article, shall have the following meanings:

a. "Parent" means a legal resident of the state of New York with a New York taxable income of under five thousand dollars who is a parent, stepparent, adoptive parent and the spouse of an adoptive parent of a pupil enrolled in a nonpublic school, or a resident with such taxable income standing in loco parentis to such pupil.

b. "Taxable income" means the amount of combined net taxable income, if any, of both parents computed in accordance with the provisions of section six hundred eleven of the tax law computed without the benefit of the modification of federal adjusted gross income for nonpublic school tuition pursuant to paragraph (14) of subsection (c) of section six hundred twelve of the tax law, for the year for which a tuition

reimbursement payment is sought. If the parents of a pupil are living apart, the taxable income of the parent who claims reimbursement under this article shall be based upon the taxable income of that parent with whom the pupil is living, or who exercises custody if the pupil is a minor, or would exercise custody if the applicant were a minor and any appropriate payments for the support of the pupil from the other parent.

c. "Nonpublic school" means any nonprofit elementary or secondary school in the State of New York, other than a public school, which (i) is providing instruction in accordance with article seventeen and section thirty-two hundred four of this chapter, (ii) has not been found to be in violation of Title VI Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. § 2000 (d), and (iii) which is entitled to a tax exemption under section five hundred one (a) and five hundred one (c) (3) of the Federal Internal Revenue Code of nineteen hundred fifty-four, as amended.

d. "Tuition" means the amount actually paid by a parent for the enrollment of a pupil at a nonpublic school for the calendar year for which a tuition reimbursement payment is sought.

e. "Pupil" means a resident of the state of New York who has been enrolled full-time in a nonpublic school and whose parents' combined taxable income is less than five thousand dollars.

f. "Commissioner" means the commissioner of education of the State of New York.

g. "Regular school year" means all of the months of the calendar year exclusive of July and August.

§ 562. Tuition reimbursement payments to parents. 1. Upon the filing by a parent of the verified statement as required by subdivision two, the commissioner shall make a tuition reimbursement payment to such parent for tuition expenses made in the preceding calendar year. Only one such payment shall be made on behalf of any pupil in a calendar

year. Such payment shall be the lesser of either (a) fifty percent of the tuition paid by the parent during the preceding calendar year for the elementary or secondary education of each pupil, or (b) five dollars per month for the period of enrollment in a nonpublic school during the regular school year for each pupil in grades one through eight, and ten dollars per month for the period of enrollment in a nonpublic school during the preceding regular school year for each pupil in grades nine through twelve. Whenever payments as herein computed total less than ten dollars, no such payment shall be made.

2. In order to be eligible for tuition reimbursement hereunder, the parent of a pupil shall, by May first of the year following the calendar year for which reimbursement is sought, file with the commissioner a verified statement, in such form as he shall provide, stating that the pupil was enrolled during such year in a nonpublic school or schools and, in addition, the following information: (a) the name, address and taxable income of the parent; (b) the name, address and birth date of the pupil; (c) the grade in which the pupil was enrolled during each month in a nonpublic school in such year; (d) the name and address of the nonpublic school or schools attended by such pupil; (e) a receipted tuition bill. For reimbursement for the calendar year nineteen hundred seventy-one, such verified statement shall be filed not later than July first, nineteen hundred seventy-two.

3. No parent shall be eligible to receive a tuition reimbursement payment who has claimed a modification of federal adjusted gross income for nonpublic school tuition pursuant to paragraph fourteen of subsection (c) of section six hundred twelve of the tax law based upon the same tuition expenditures.

4. The state tax commission shall, when requested by the commissioner, compare any verified statement filed with the commissioner pursuant to this article with the state income tax returns if any, filed by the parent making such verified statement and shall report any discrepancies to the commissioner. All verified statements filed with the commissioner and all reports made to him by the state tax commission, pursuant to this article shall be deemed confidential and,

except in accordance with proper judicial order or as otherwise prescribed by law, it shall be unlawful for the commissioner or any officer or employee of the department to divulge or make known in any manner the amount of income or any other particulars set forth in any verified statement filed with him hereunder or report made to him pursuant to this subdivision; but nothing contained herein shall be considered to prohibit the commissioner's publication of statistics so classified as to prevent the identification of particular affidavits or reports.

§ 563. Commissioner; powers. The commissioner shall have responsibility for the administration of the program created by this article and may promulgate such regulations as are necessary to carry out the provisions of this article. The amount required to be paid under the provisions of this article shall be payable on order and warrant of the comptroller on vouchers certified or approved by the commissioner in the manner provided by law.

ARTICLE 13

HIGHER EDUCATION STUDENT FINANCIAL AID PROGRAMS

Section 601. Definitions.
602. Duties of the commissioner.
603. Evaluation by the board of regents.
604. General awards.
605. Academic performance awards.
605-a. Scholarships for academic excellence.
606. County awards for professional education in nursing, medicine, dentistry, optometry or veterinary medicine.
607. Required disclosure to matriculated students.
608. World trade center memorial scholarships.
608-a. Military enhanced recognition, incentive and tribute ("MERIT") scholarships.
609. Tuition, aid and placement report.

§ 601. Definitions. As used in this article, the following terms shall have the following meanings unless otherwise specified:

1. "President" shall mean the president of the New York state higher education services corporation.

2. "College" shall mean any institution of higher education, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree or diploma.

3. "Vocational institution" shall mean a business, trade, technical or other occupational school approved as such by the regents of the university of the state of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the regents of the state of New York.

4. "Approved program", for the purpose of determining a student's eligibility for awards provided in articles thirteen and fourteen of this chapter and subject to specific modification by sections of such articles, shall mean the following programs of study approved by the commissioner pursuant to this article in accordance with rules of the board of regents and registered by the state education department in accordance with regulations of the commissioner or, where applicable, registered by the state department of health and forwarded to the state education department: (1) collegiate level programs leading to a degree, or programs leading to a diploma or certificate that are fully creditable towards a degree program in that institution; (2) study and training programs offered by a hospital school, a community college, a unit of the state university of New York, a unit of the city university of New York, or an institution chartered by the regents or by the legislature for the purpose of granting degrees, leading to licensure as a professional registered or practical nurse or to certification in an area of medical or health technology; and (3) two-year programs offered in a registered private business school.

5. "Children" as referenced in subdivision four of section six hundred

four and sections six hundred eight, six hundred eight-a, six hundred sixty-eight-a, six hundred sixty-eight-b, six hundred sixty-eight-d and six hundred sixty-eight-e of this title shall mean: (a) birth children, adopted children, stepchildren who survive an individual, or children for whom an individual was a legal guardian, and (b) other children related by blood, adoption or marriage to an individual for whom such individual had assumed and was exercising custody and care as of the date of such individual's death.

6. "Impact area" as referenced in sections six hundred eight and six hundred sixty-eight-d of this title shall mean the secure zone established by the city of New York surrounding the world trade center and the crash sites during the period that disasters were declared or rescue and recovery efforts were underway.

7. "Financial dependent" as referenced in sections six hundred four, six hundred eight, six hundred eight-a, six hundred sixty-eight-b, six hundred sixty-eight-d and six hundred sixty-eight-e of this title shall mean a person who is dependent for his or her support upon an individual, other than one who was involved in, supported, or was responsible for the act or acts of terrorism or other intentional act or acts that caused such death, injury or illness, who has died or become severely and permanently disabled as described in such sections, provided that a person shall be considered a financial dependent and shall be eligible for awards pursuant to these sections upon a showing of unilateral dependence or mutual interdependence upon such individual, which may be evidenced by a nexus of factors, including but not limited to common ownership of property, common householding, shared budgeting and the length of the relationship between the financial dependent and such individual.

§ 602. Duties of the commissioner. 1. Selection and certification of academic performance award recipients. (a) The commissioner shall select the qualified recipients of academic performance awards, from among candidates who meet and exceed the minimum eligibility requirements, in order of merit on the basis of such combination of test scores, academic

records, and personal qualifications as the commissioner deems appropriate. If awards are allocated on the basis of geographic or political units in the state, and if for any reason there is an insufficient number of qualified applicants in any unit, the remaining number of awards in such unit shall be allocated to the best qualified applicants in the entire state. No person shall be eligible to receive an academic performance award under this article who fails to achieve the minimum standard of test scores, academic record, or, in the judgment of the commissioner, personal qualifications necessary to demonstrate promise of successful completion of the program for which the award is made; (b) The commissioner shall certify to the president those students eligible to receive academic performance awards.

2. The commissioner shall promulgate regulations defining the following terms by which the president can determine a student's eligibility for student aid and loan programs: (a) full-time study or attendance; (b) part-time study or attendance; (c) full-time and part-time accelerated study beyond the regular program of study for the academic year; (d) permissible use of general and academic performance awards; (e) matriculation; and (f) loss of good academic standing.

3. The commissioner shall promulgate regulations by which the president shall determine whether a student has entered an approved program during the academic year prior to the normal effective date of the student's award.

4. If any person because of administrative error or inadvertency should fail to receive an academic performance award which he would otherwise be entitled to receive, the commissioner may certify such person to the president as eligible to receive such award without regard to the total number of such awards authorized under this article, and payments shall be made thereon out of moneys available in the same manner as other academic performance awards are paid.

§ 603. Evaluation by the board of regents. On or before January first, nineteen hundred seventy-six, and annually thereafter on or

before December first, the board of regents shall make a report to the governor and the temporary president of the senate, the speaker of the assembly, the senate finance committee, the assembly ways and means committee and the standing committees of the legislature having jurisdiction of higher education evaluating all financial assistance and loan programs established by this article, which report shall contain such recommendations as the regents may deem appropriate.

§ 604. General awards. 1. Tuition assistance program awards are available for all students who are enrolled in approved programs and who demonstrate the ability to complete such courses, in accordance with standards established by the commissioner.

2. Regents awards for children of deceased and disabled veterans are available for eligible students in an approved program.

3. Regents awards for children of deceased state correction officers and state civilian employees of a correctional facility are available for eligible students in an approved program pursuant to section six hundred sixty-nine of this chapter.

4. Regents awards for children of deceased police officers, firefighters, volunteer firefighters and correction officers are available for eligible students in an approved program pursuant to section six hundred sixty-four of this chapter.

5. Veterans tuition awards are available for eligible students enrolled in approved undergraduate or graduate programs at degree granting institutions and approved vocational training programs pursuant to section six hundred sixty-nine-a of this title.

6. Tuition awards for part-time undergraduate students enrolled in approved programs in degree-granting institutions.

* 7. Tuition benefit for active members of the New York army national guard, New York air national guard and naval militia members enrolled in approved post-secondary degree programs in degree-granting institutions.

* NB Repealed September 1, 2031

9. Memorial scholarships for children, spouses and financial dependents of deceased firefighters, volunteer firefighters, police officers, peace officers, and emergency medical service workers.

10. World trade center memorial scholarships.

11. American Airlines flight 587 memorial scholarships pursuant to section six hundred sixty-eight-f of this title.

12. Continental Airlines flight 3407 memorial scholarships pursuant to section six hundred sixty-eight-g of this title.

§ 605. Academic performance awards. 1. Regents college scholarships. Regents college scholarships shall be awarded to students completing their high school programs for attendance in approved programs, on the basis of nationally established competitive examinations.

a. County allocation. Twenty-five thousand such scholarships shall be awarded each year and shall be allocated to each county in the state in the same ratio that the number of students residing in such county who were graduated from approved high schools in the state during the school year preceding the date of the examination for the award of such scholarships bears to the total number of students residing in the state who were graduated from approved high schools in the state during such school year; provided, that no county shall be allocated fewer than forty scholarships, except that Hamilton county shall be allocated no fewer than sixteen scholarships. In the event that a scholarship awarded pursuant to this paragraph is declined by a student or for any reason revoked by the commissioner or the president, its benefits shall lapse and there shall be no further payment or reawarding of such scholarship.

b. School allocation. If in any year the candidates who are graduates of a given approved high school in the state and who are awarded scholarships under paragraph a of this subdivision do not constitute at

least one person for every forty persons who were graduated from such school during the school year preceding the date of the examination for the award of such scholarships, then additional scholarships shall be awarded in such year in the number required to provide such allocation of scholarship awards for each such school, and such additional scholarships shall be awarded directly to candidates from each such school in accordance with the provisions of section six hundred two of this chapter. In the event that a scholarship awarded pursuant to this paragraph is declined by a student or for any reason revoked by the commissioner or the president, its benefits shall lapse and there shall be no further payment or reawarding of such scholarship.

2. Regents professional education in nursing scholarships. Regents professional education in nursing scholarships shall be awarded on the same basis as regents college scholarships to students completing their high school programs for attendance in programs for the training of registered professional nurses at colleges or schools approved by the regents. Eight hundred such scholarships shall be awarded each year. Such scholarships shall be allocated to each county in the state in the same ratio that the number of students residing in such county who were graduated from approved high schools in the state during the school year preceding the date of the examination for the award of such scholarships bears to the total number of students residing in the state who were graduated from approved high schools in the state during such school year, provided, that no county shall be allocated fewer than four scholarships, except that Fulton and Hamilton counties shall each be allocated no fewer than two scholarships; provided, however, that no county shall be allocated fewer scholarships than such county received during the year nineteen hundred seventy-two--nineteen hundred seventy-three.

3. Regents professional education in medicine or dentistry scholarships. Regents professional education in medicine or dentistry scholarships shall be awarded annually, on a competitive basis, to students beginning professional study in medicine or dentistry. One hundred such scholarships shall be awarded annually, and shall be classified and allocated in accordance with regents rules. The

provisions of this subdivision shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

3-a. Regents professional education in optometry scholarships. Regents professional education in optometry scholarships shall be awarded annually, on a competitive basis, to students beginning professional study in optometry. Five such scholarships shall be awarded annually in optometry, and shall be classified and allocated in accordance with regents rules. The provisions of this subdivision shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

3-b. Regents professional education in veterinary medicine scholarships. Regents professional education in veterinary medicine scholarships shall be awarded annually, on a competitive basis, to students beginning professional study in veterinary medicine. Ten such scholarships shall be awarded annually in veterinary medicine, and shall be classified and allocated in accordance with regents rules. The provisions of this subdivision shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

4. Regents physician shortage scholarships. At least thirty percent of the regents professional education in medicine or dentistry scholarships awarded each year shall be awarded to students beginning or engaged in the professional study in medicine who agree to practice medicine upon completion of their professional training in an area in New York state designated as having a shortage of physicians, provided, however, that to the extent that regents physician shortage scholarships are not awarded, such scholarships shall be awarded as regents professional education in medicine and dentistry scholarships. The provisions of this subdivision shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

a. In selecting and certifying scholarship recipients under this

section, priority shall be accorded to applicants in the following order:

(1) first, to any applicant who (1) has a family income of six thousand dollars or less and (2) resides in an area designated as having a shortage of physicians pursuant to paragraph c of this subdivision;

(2) second, to any applicant who has a family income of six thousand dollars or less;

(3) third, to any applicant who (1) has a family income of ten thousand dollars or less and (2) resides in an area designated as having a shortage of physicians pursuant to paragraph c of this subdivision;

(4) fourth, to any applicant who has a family income of ten thousand dollars or less;

(5) fifth, to any other applicant.

b. With respect to recipients who have received award payments prior to the nineteen hundred eighty-two--nineteen hundred eighty-three academic year, with such time as the commissioner shall by regulation provide, a recipient of an award shall have practiced medicine in an area designated as having a shortage of physicians pursuant to paragraph d of this subdivision for that number of months calculated by multiplying by nine the number of annual awards he received. If a recipient fails to comply fully with such condition, the president shall be entitled to recover from such recipient an amount which bears the same ratio to (a) the aggregate of the amount of the awards received as (b) the number of months the recipient failed to comply with this condition bears to the number of months he was obligated to comply with this condition, together with interest at seven percent per annum computed from the date on which he completed his professional training and/or active military service. A recipient shall not be required to comply with the provisions of this paragraph unless he shall have received a medical degree and any obligation to comply with such provisions shall be cancelled upon his death. The regents shall make regulations to provide for the waiver or suspension of any financial obligation where compliance would involve extreme hardship.

c. The requirements of this paragraph shall apply to any recipient who receives his or her first award payment commencing with the nineteen

hundred eighty-two--nineteen hundred eighty-three academic year or subsequently, and the requirements of paragraph (b) of this subdivision shall not apply to such recipients. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have practiced medicine in an area designated as having a shortage of physicians pursuant to paragraph (d) of this subdivision for that number of months calculated by multiplying by nine the number of annual awards received by the recipient. If a recipient fails to comply fully with such condition, the president shall be entitled to recover from such recipient an amount determined by the formula:

$$A = 2B \frac{(t-s)}{t}$$

in which "A" is the amount the president is entitled to recover; "B" is the sum of all awards paid to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of service actually rendered by the recipient. Any amount which the president is entitled to recover under this paragraph shall be paid within the one year period beginning on the date that the recipient failed to comply with this condition. A recipient shall not be required to comply with the provisions of this paragraph unless he or she shall have received a medical degree and until he or she shall have completed his or her professional training, or active military service, or both. Any obligation to comply with such provisions shall be cancelled upon the death of the recipient. The commissioner shall make regulations to provide for the waiver or suspension of any financial obligation where compliance would involve extreme hardship.

d. The regents, after consultation with the commissioner of health, shall designate those areas of New York state which have a shortage of physicians for the purposes of this subdivision and, should it be necessary in selecting among the applicants, may establish relative rankings of those areas.

e. A recipient of an award shall report annually to the New York state

higher education services corporation, on forms prescribed by it, as to the performance of the required services or the recipient's current status, commencing the calendar year following graduation from medical school and continuing until the recipient shall have completed, or it is determined he or she shall not be obligated to complete, the required services. The corporation may also require recipient to file a report on his or her current status prior to graduation during any calendar year in which an application for an additional award is not filed. If the recipient shall fail to file any report required hereunder within thirty days of written notice to the recipient, mailed to the address shown on the last application for an award or last report filed, whichever is later, the president of the corporation may impose a fine of up to one thousand dollars. The president shall have the discretion to waive the filing of a report, excuse a delay in filing, or a failure to file a report, or waive or reduce any fine imposed for good cause shown.

5. Regents scholarships for war veterans. Regents scholarships for war veterans shall be awarded on a competitive basis, for study beginning with the college year nineteen hundred seventy-five--nineteen hundred seventy-six. Six hundred such scholarships shall be awarded in such year to veterans of the armed forces of the United States who have served on active duty (other than for training) between October one, nineteen hundred sixty-one and March twenty-nine, nineteen hundred seventy-three, and who on the date by which applications are required to be submitted (a) have been released from such active duty on conditions not other than honorable, or (b) have a qualifying condition, as defined in section one of the veterans' services law, and have received a discharge other than bad conduct or dishonorable from such service, or (c) are discharged LGBT veterans, as defined in section one of the veterans' services law, and have received a discharge other than bad conduct or dishonorable from such service. Such scholarships shall be allocated to each county in the state in the same ratio that the number of legal residents in such county, as determined by the most recent federal census, bears to the total number of residents in the state; provided, however, that no county shall be allocated fewer scholarships than such county received during the year nineteen hundred sixty-eight--sixty-nine.

6. Regents scholarships in Cornell University. a. Number. Cornell University shall grant, on a competitive basis, tuition reducing scholarships, to be known as regents scholarships in Cornell University, in the total amount of at least thirty thousand dollars each year for new freshman awards. At least one such scholarship shall be awarded annually for each senate district of the state.

b. Amount. Each such scholarship shall entitle the recipient to a credit against tuition in any of the tuition paying divisions of Cornell University for four years or five years, depending on the number of years required for the baccalaureate. The tuition credit for each such scholarship shall be determined by Cornell University on the basis of the financial status of the scholarship holder as related to the cost of education at such university. No such scholarship shall reduce the tuition by less than one hundred dollars nor by more than one thousand dollars.

c. Eligible list. Such scholarships shall be awarded annually by Cornell University in the order of merit to candidates who meet the requirements for admission to Cornell University and whose names appear on lists established as the result of competitive examinations prepared under the direction of the commissioner of education. In the award of such scholarships, preference shall be given, where other qualifications are equal, to the children of those who have died in the military service of the United States.

d. Statewide list. If a scholarship belonging to a senate district shall not be claimed by a resident thereof or if there be no resident of such senate district entitled to such a scholarship, any sum available for a scholarship or scholarships for residents of such senate district, together with any unexpended balance of the total amount of thirty thousand dollars, shall be used to make awards to additional candidates in order of merit from a statewide list.

e. Report. A complete list of the names and addresses of the scholarship recipients, and the amount of tuition credit granted to

them, shall be filed by Cornell University with the commissioner and the president not later than October first of each year.

7. Empire state challenger scholarships for teachers. Empire state challenger scholarships for prospective elementary and secondary school teachers of mathematics or science or other fields of teacher shortage as identified by the commissioner on or after January first, nineteen hundred eighty-six, shall be awarded on a competitive basis as determined by the commissioner, for study beginning with the college year nineteen hundred eighty-four--eighty-five or thereafter. a. Twenty-six such scholarships shall be awarded annually to residents of each judicial district as defined in section one hundred forty of the judiciary law, who enroll in a registered program for the preparation of teachers in such teacher shortage fields at any New York institution of higher education. The commissioner shall to the extent practicable ensure that recipients of such scholarships include individuals who are unrepresented or underrepresented in the respective disciplines.

b. Within such time as the commissioner by regulations provide, the recipient of an award shall have taught in the field or fields for which the scholarship was awarded in an elementary or secondary school in New York state for that number of months calculated by multiplying by five the number of annual awards granted to the recipient except that a recipient who as of July first, nineteen hundred ninety-three has received fewer than three annual awards shall be exempt from such conditions. If a recipient fails to comply fully with such condition, the president shall be entitled to recover from such recipient an amount which bears the same ratio to (i) the aggregate of the amount of the awards received as (ii) the number of months the recipient failed to comply with this condition bears to the number of months the recipient was obligated to comply with this condition, together with interest at ten percent per annum computed from the date on which the recipient completed professional training. Such recovery may be made over such period of time as is prescribed by the president. Any obligation to comply with such provisions shall be cancelled upon the recipient's death. The commissioner shall adopt regulations to provide for the waiver or suspension of any financial obligation in whole or in part

where compliance would involve severe hardship. In determining whether to grant such waiver or suspension, the commissioner may consider whether the recipient failed to complete the registered program for the preparation of teachers or completed such program under financial hardship by reason of the discontinuance of funding for the award of scholarships pursuant to this subdivision.

7-a. New York state math and science teaching incentive program awards pursuant to section six hundred sixty-nine-d of this title.

8. Empire state challenger fellowships for teachers. a. Six hundred fifty Empire state challenger fellowships shall be awarded annually in accordance with paragraphs b, c and d of this subdivision on a competitive basis as determined by the commissioner to individuals enrolled in a registered graduate program in any New York institution of higher education which leads to permanent certification as a teacher of mathematics or science or other fields of teacher shortage as identified by the commissioner on or after January first, nineteen hundred eighty-six. The commissioner shall to the extent practicable ensure that recipients of such fellowships include individuals who are unrepresented or underrepresented in the respective disciplines.

b. A maximum of twenty-five fellowships for full-time study shall be reserved for teachers whose positions have been abolished within two years preceding the date of application for a fellowship because of a decline in student enrollment and who are qualified to pursue graduate study to obtain certification to teach mathematics or science or other fields of teacher shortage as identified by the commissioner on or after January first, nineteen hundred eighty-six.

c. A maximum of four hundred twenty-five fellowships for full-time study shall be reserved for individuals who have earned baccalaureate degrees in mathematics, the physical sciences, the biological sciences, engineering or other disciplines related to fields of teacher shortage as identified by the commissioner on or after January first, nineteen hundred eighty-six but are not eligible for provisional or permanent certification, and who are qualified to pursue graduate study in a

program leading to the degree of master of arts in teaching, or the equivalent as determined by the commissioner.

d. Not less than two hundred fellowships for part-time study shall be made available to persons not receiving a fellowship reserved in paragraphs b and c of this subdivision. In the event that there are full-time fellowships reserved under such paragraphs b and c that have not been awarded after awards have been made for all qualified applicants, such excess number of fellowships shall be available for award as part-time fellowships pursuant to this paragraph.

e. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have taught in the field or fields for which the fellowship was awarded in an elementary or secondary school in New York state for ten months for a full-time award or for that number of months calculated by multiplying by five the number of part-time awards granted to the recipient. If a recipient fails to comply fully with such condition, the president shall be entitled to recover from such recipient an amount which bears the same ratio to (i) the aggregate of the amount of the awards received as (ii) the number of months the recipient failed to comply with this condition bears to the number of months the recipient was obligated to comply with this condition, together with interest at ten percent per annum computed from the date on which the recipient completed professional training. Such recovery may be made over such period of time as is prescribed by the president. Any obligation to comply with such provisions shall be cancelled upon the recipient's death. The commissioner shall have regulations to provide for the waiver or suspension of any financial obligation in whole or part under this subdivision where compliance would involve extreme hardship. In determining whether to grant such waiver or suspension, the commissioner may consider whether the recipient failed to complete the registered graduate program leading to permanent certification as a teacher or completed such program under financial hardship by reason of the discontinuance of funding for the award of fellowships pursuant to this subdivision.

9. Regents physician loan forgiveness program. Regents physician loan

forgiveness awards shall be awarded annually to physicians who agree to practice medicine in an area of New York state designated by the regents as having a shortage of physicians. Such awards shall be classified and allocated in accordance with regents rules.

a. Eligibility. (1) The applicant must be a resident of New York state and licensed to practice medicine.

(2) The applicant must have completed a professional residency program within the five years immediately preceding the period for which the first award would be granted, or be within two years of completion of an accredited residency program in a primary care specialty designated in short supply by the board of regents.

(3) The applicant must agree to practice medicine in an area in New York state designated as having a shortage of physicians. The regents, after consultation with the commissioners of health, corrections and community supervision, mental health and developmental disabilities, shall designate those regions and facilities of New York state which have a shortage of physicians for the purposes of this section and establish relative rankings thereof.

b. Selection. The commissioner, in consultation with the commissioner of health, shall establish criteria for the selection of participants in the program. An applicant must satisfy at least one of the criteria established. A priority shall be accorded to any applicant who is completing the second year of the service requirement and is reapplying for a new award. The criteria shall include but not be limited to the following:

(i) reapplication for a new award by a person who is completing the second year of a service requirement;

(ii) receipt of specific training in a primary care specialty or obstetrics, determined by the regents to be in short supply;

(iii) receipt of specific training or experience in serving a shortage area;

(iv) receipt of specific training or experience matching a specific medical need existing in a shortage area; and

(v) agreement pursuant to subdivision (d) of this section to practice in an area determined by the regents to have a severe shortage of

primary care physician services.

c. Notification. (1) The commissioner shall then forward approved applications to the president and shall notify unsuccessful applicants;

(2) The president shall verify the approved applicants':

(i) eligibility; and

(ii) total undergraduate and medical school student expense;

(3) The president shall notify applicants of their award entitlement.

d. Service requirement. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have agreed to practice medicine in a specific area designated as having a shortage of physicians for a period of twelve months for each annual payment to be received by the recipient. Physicians in training who receive an award shall not receive credit toward their required service for time spent in a training program. In no case shall the total number of months of service required be less than twenty-four. The president shall, in consultation with the commissioner, develop and secure from each award recipient, a written agreement to:

(i) practice medicine in the designated shortage area;

(ii) to accept Medicare and Medicaid payments; and

(iii) to provide thirty-five hours per week of direct patient care in the designated shortage area being served, or to the designated population being served.

If a recipient fails to comply fully with such conditions, the president shall be entitled to receive from such recipient an amount to be determined by the formula:

$$A = 2B\,\frac{(t-s)}{t}$$

in which "A" is the amount the president is entitled to recover; "B" is the sum of all payments made to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of service actually rendered by the recipient. Any amount which the president is entitled to recover under

this paragraph shall be paid within the five-year period beginning on the date that the recipient failed to comply with this service condition. Nothing in the written agreement shall affect the terms of employment of the individual who shall negotiate, separate and apart from the program, his or her salary and other forms of employment with an agency, institution or a program in which he or she shall be employed.

Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. The commissioner shall make regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

e. Reporting. A recipient of an award shall report annually to the New York state higher education services corporation, and the department of health on forms prescribed by the president, as to the performance of the required services, commencing with the calendar year in which the recipient begins to practice medicine in a shortage area and continuing until the recipient shall have completed, or it is determined that he or she shall not be obligated to complete, the required services. If the recipient shall fail to file any report required hereunder within thirty days of written notice to the recipient, mailed to the address shown on the last application for an award or last report filed, whichever is later, the president of the corporation may impose a fine of up to one thousand dollars. The president shall have the discretion to waive the filing of a report, excuse a delay in filing or a failure to file a report, or waive or reduce any fine imposed for good cause shown.

f. Other awards. Award recipients shall be eligible to apply for one additional award.

* 10. Regents health care professional opportunity scholarships. Regents health care professional opportunity scholarships shall be awarded annually to students who are beginning or engaged in an approved program in medicine or dentistry and who are economically disadvantaged and/or members of an underrepresented minority group, provided, however, that to the extent that regents health care professional opportunity

scholarships are not awarded, such scholarships shall be awarded as regents professional opportunity scholarships. These scholarships shall be classified and allocated in accordance with regents rules.

a. In selecting and certifying scholarship recipients under this subdivision, priority shall be accorded to applicants in the following order:

(1) First, to any applicant who is economically disadvantaged as defined by the regents and a minority historically underrepresented in the profession as determined by the regents after consultation with the council on professional career opportunity created by section nine hundred forty-one of the executive law;

(2) Second, to any applicant who is a minority underrepresented in the profession as determined by the regents after consultation with the council on professional career opportunity created by section nine hundred forty-one of the executive law;

(3) Third, to any applicant who is a graduate of the state-sponsored opportunity program pursuant to section sixty-four hundred fifty-one or sixty-four hundred fifty-two of this chapter.

In the event that there are more applicants who have the same priority than there are remaining scholarships, the commissioner shall distribute the remaining number of such scholarships by means of a lottery or other form of random selection.

b. The commissioner shall then forward approved applications to the president and shall notify unsuccessful applicants.

c. The president shall notify applicants of their award entitlement.

d. The president shall, in consultation with the commissioner, develop and secure from each successful applicant a written agreement to practice medicine or dentistry, as appropriate, in a designated shortage area. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have practiced medicine or dentistry in an area designated as having a shortage of physicians or dentists, as appropriate, for that number of months calculated by multiplying by

twelve the number of annual payments received by the recipient. In no case shall the total number of months of service required be less than twenty-four. If a recipient fails to comply fully with such conditions, the president shall be entitled to receive from such recipient an amount to be determined by the formula:

$$A = \frac{2B\,(t-s)}{t}$$

in which "A" is the amount the president is entitled to recover; "B" is the sum of all payments made to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of service actually rendered by the recipient. Any amount which the president is entitled to recover under this paragraph shall be paid within the five-year period beginning on the date that the recipient failed to comply with this service condition. Nothing in the written agreement shall affect the terms of employment of the individual who shall negotiate, separate and apart from the program, his or her salary and other forms of employment with an agency, institution or a program in which he or she shall be employed.

Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. The commissioner shall make regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

e. A recipient of an award shall report annually to the New York state higher education services corporation, on forms prescribed by it, as to the performance of the required services, commencing with the calendar year in which the recipient begins to practice medicine or dentistry in a shortage area and continuing until the recipient shall have completed, or it is determined that he or she shall not be obligated to complete, the required services. If the recipient shall fail to file any report required hereunder within thirty days of written notice to the

recipient, mailed to the address shown on the last application for an award or last report filed, whichever is later, the president of the corporation may impose a fine of up to one thousand dollars. The president shall have the discretion to waive the filing of a report, excuse a delay in filing or a failure to file a report, or waive or reduce any fine imposed for good cause shown.

* NB Scholarship terminated per ch. 31/85, as amended

* 11. Regents professional opportunity scholarships. a. Regents professional opportunity scholarships shall be awarded annually to students who are beginning or engaged in an approved program leading to a degree in a profession licensed by the regents or other field designated by the regents and who are economically disadvantaged and/or members of an underrepresented minority group. Such scholarships shall be classified and allocated in accordance with regents rules. In selecting and certifying scholarship recipients under this subdivision, priority shall be accorded to applicants in the following order:

(1) First, to any applicant who is economically disadvantaged as defined by the regents and a minority historically underrepresented in the profession or field as determined by the regents after consultation with the council on professional career opportunity created by section nine hundred forty-one of the executive law;

(2) Second, to any applicant who is a minority underrepresented in the profession or field determined by the regents after consultation with the council on professional career opportunity created by section nine hundred forty-one of the executive law;

(3) Third, to any applicant who is enrolled in or is a graduate of the state-sponsored opportunity program pursuant to section sixty-four hundred fifty-one or sixty-four hundred fifty-two of this chapter.

In the event that there are more applicants who have the same priority than there are remaining scholarships, the commissioner shall distribute the remaining number of such scholarships by means of a lottery or other form of random selection.

b. The commissioner shall then forward approved applications to the president and shall notify unsuccessful applicants.

c. The president shall notify applicants of their award entitlement.

d. Within such time as the commissioner shall by regulation provide, a recipient of an award shall have resided and been employed in a profession or field designated by the regents in New York state for that number of months calculated by multiplying by twelve the number of annual awards received by the recipient. If a recipient fails to comply fully with such condition, the state shall be entitled to recover from such recipient an amount determined by the formula:

$$A = \frac{2B\,(t-s)}{t}$$

in which "A" is the amount the president is entitled to recover; "B" is the sum of all awards paid to the recipient and the interest on such amount which would be payable if at the times such awards were paid they were loans bearing interest at the maximum prevailing rate; "t" is the total number of months in the recipient's period of obligated services; and "s" is the number of months of service actually rendered by the recipient. Any amount which the president is entitled to recover under this paragraph shall be paid within the five-year period beginning on the date that the recipient failed to comply with this service condition. Nothing in the written agreement shall affect the terms of employment of the individual who shall negotiate, separate and apart from the program, his or her salary and other forms of employment.

Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. The commissioner shall make regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

e. A recipient of an award shall report annually to the New York state higher education services corporation, on forms prescribed by it, as to the performance of the required services, until the recipient shall have completed, or it is determined that he or she shall not be obligated to complete, the required services. If the recipient shall fail to file any report required hereunder within thirty days of written notice to the

recipient, mailed to the address shown on the last application for an award or last report filed, whichever is later, the president of the corporation may impose a fine of up to one thousand dollars. The president shall have the discretion to waive the filing of a report, excuse a delay in filing or a failure to file a report, or waive or reduce any fine imposed for good cause shown.

* NB Scholarship terminated per ch. 31/85, as amended

12. Empire state scholarships of excellence. One thousand empire state scholarships of excellence shall be awarded each year, beginning with the nineteen hundred eighty-six--nineteen hundred eighty-seven academic year to students completing their high school programs who in each county receive the highest scores on the nationally established competitive examinations upon which the regents college scholarships are based. The awarded scholarships shall be allocated to each county in the state in the same ratio that the number of students residing in such county who were graduated from approved high schools in the state during the school year preceding the date of the examination for the award of such scholarships bears to the total number of students residing in the state who were graduates from approved high schools in the state during such school year provided that no county shall be allocated less than two scholarships, except Hamilton county which shall be allocated no less than one scholarship. In the event that a scholarship awarded pursuant to this subdivision is declined by a student, or, for any reason, is revoked by the commissioner or the president, its benefits shall lapse and there shall be no further payment or reawarding of such scholarship.

§ 605-a. Scholarships for academic excellence. 1. (a) Beginning with the nineteen hundred ninety-seven--ninety-eight academic year and thereafter, scholarships for academic excellence shall be awarded to students completing their high school programs for attendance in approved programs. The academic merit criteria for awarding these scholarships will be determined by taking the weighted average of a student's score on Regents examinations taken by students prior to their senior year in all of the following five subject areas: comprehensive

English; global studies; U.S. history/government; level 3 math; and science, which shall consist of the weighted average of the combination of exams taken in chemistry, biology, earth science and physics. For those schools not offering regents examinations in all such five subject areas, awards shall be based on criteria developed by the commissioner and subject to the approval of the director of the budget.

(b) School allocation. (i) Each high school in the state, as defined in regulations of the commissioner adopted for such purpose and subject to the approval of the director of the budget, shall be allocated: for the nineteen hundred ninety-seven--ninety-eight academic year, a single scholarship of one thousand dollars; and for the nineteen hundred ninety-eight--ninety-nine academic year and thereafter, a single scholarship of one thousand five hundred dollars which shall be awarded to the top scholar of such school as determined by the academic merit criteria set forth in paragraph (a) of this subdivision.

(ii) The remaining scholarships for the nineteen hundred ninety-seven--ninety-eight academic year of one thousand dollars, and for the nineteen hundred ninety-eight--ninety-nine academic year and thereafter, of one thousand five hundred dollars shall be allocated to high schools in the state as defined in regulations of the commissioner for such purpose and subject to the approval of the director of the budget, in the same ratio that the number of students enrolled in the twelfth grade at such high school in the prior school year bears to the total number of students who were enrolled in the twelfth grade in the state during the prior school year. The ratio shall be multiplied by the number of scholarships available and the results, rounded to the nearest whole number, shall be the number of scholarships allocated to the school. Such awards shall be distributed on the basis of the academic merit criteria as set forth in paragraph (a) of this subdivision.

(iii) All scholarships of five hundred dollars shall be allocated in the same manner as described in subparagraph (ii) of this paragraph.

2. In the event that a scholarship awarded is declined by a student, or for any reason revoked by the commissioner or the president, its benefits shall lapse and there shall be no further payments or awarding of such scholarship; provided however, if an award is declined by a student prior to the end of their high school program, the scholarship

shall be awarded, to the extent practicable, to the next most qualified student pursuant to paragraph (a) of subdivision one of this section.

§ 606. County awards for professional education in nursing, medicine, dentistry, optometry or veterinary medicine. Each county of the state outside New York city is hereby authorized to establish awards in such manner as the local legislative body of such county may determine, for attendance by legal residents of this state, who meet the citizenship requirements established by article fourteen of this chapter for the professional study of nursing, medicine, dentistry, optometry or veterinary medicine, at approved nursing, medical, dental, optometry or veterinary medicine schools within the United States, conditioned upon the promise of the scholarship holder to practice nursing, medicine, dentistry, optometry or veterinary medicine in such county for such period as such body may fix, following his licensing as a nurse, physician, dentist, optometrist or veterinarian. Each such award shall entitle the recipient to such sum of money as may be fixed by such body while in attendance at approved nursing, medical, dental, optometry or veterinary medicine schools in the United States during a period of not to exceed four years of professional study and for physicians for a further period of not to exceed two years while engaged in an internship or as a resident physician in an accredited hospital in the United States. Such awards may, as an alternative to awards hereinbefore authorized, be granted by any such county to those already so licensed to practice nursing, medicine, dentistry, optometry or veterinary medicine upon the promise of such grantees to practice within the county for a period of time and upon such terms and conditions as the county may fix, provided such recipient did not receive a similar award while a student. The county shall appropriate annually such sums of money as may be necessary to defray the costs of such awards and moneys so appropriated shall be deemed appropriated for a lawful county purpose and shall be raised by the same method as moneys required for other lawful county purposes.

§ 607. Required disclosure to matriculated students. The commissioner

of education shall promulgate rules and regulations to reflect and administer the intent of section 493A of the Higher Education Act of 1965 as last amended by P.L. 94-482 concerning institutional and financial aid for students.

The information, to be disseminated through but not limited to, college catalogues or bulletins, shall include in addition to that information cited by congress, job placement and graduate school placement statistics where available.

All material required by this section and all material contained in the bulletin shall be truthfully representative of the institution.

§ 608. World trade center memorial scholarships. 1. Notwithstanding subdivisions three and five of section six hundred sixty-one of this title, children, spouses and financial dependents of innocent victims who have died or have been severely and permanently disabled, or those innocent victims who have become severely and permanently disabled as a direct result of an injury sustained in the impact area of the September eleventh, two thousand one attack on the United States of America, shall be eligible to receive a scholarship in an annual amount determined pursuant to subdivision two of section six hundred sixty-eight-d of this title. The attack on the United States of America shall consist of the attack on the world trade center, the attack on the Pentagon and the hijackings and crashes of United Airlines flights 93 and 175 and American Airlines flights 11 and 77.

2. Awards under this section shall be payable for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to this article.

§ 608-a. Military enhanced recognition, incentive and tribute ("MERIT") scholarships. 1. Eligible persons. a. Children, spouses and financial dependents of members of the armed forces or state organized

militia who at any time on or after the second day of August, nineteen hundred ninety, while in service in the armed forces of the United States, as defined by subdivision eight of section one of the military law, or in a force of the state organized militia, as defined by subdivision nine of section one of the military law: (i) while a legal resident of New York state, died, became severely and permanently disabled or was classified as missing in action in a combat theater or combat zone of operations as part of military operations related to such military service or died as a result of injury or illness suffered or incurred during such military service; or (ii) while a legal resident of New York state, died or became severely and permanently disabled as a result of injury or illness suffered or incurred during military training operations in preparation for duty in a combat theater or combat zone of operations.

b. A member of the armed forces of the United States who: (i) became severely and permanently disabled as a result of service in the armed forces of the United States, as defined by subdivision eight of section one of the military law, in a combat theater or combat zone of operations as part of military operations at any time on or after the second day of August, nineteen hundred ninety; and (ii) was a legal resident of New York state at the time of military service.

c. A member of the armed forces of the United States who: (i) became severely and permanently disabled as a result of injury or illness suffered or incurred during military training operations in preparation for duty in a combat theater or combat zone of operations; and (ii) was a legal resident of New York state at the time of military service.

d. A member of the state organized militia who: (i) became severely and permanently disabled as a result of injury or illness suffered or incurred during active military service, as defined in subdivision six of section one of the military law; and (ii) was a legal resident of New York state at the time of military service.

2. Awards under this section shall be payable for each of not more than four academic years of undergraduate study or five years if a

program normally requires five years, as defined by the commissioner pursuant to this article.

§ 609. Tuition, aid and placement report. In academic year two thousand sixteen--two thousand seventeen, all non-public institutions of higher education, recognized and approved by the regents of the university of the state of New York, which provide a course of study leading to the granting of a four year post-secondary degree or diploma, except for a non-public degree-granting institution that does not offer a program of study that leads to a baccalaureate degree, or at a registered not-for-profit business school qualified for tax exemption under section 501(c)(3) of the internal revenue code for federal income tax purposes that does not offer a program of study that leads to a baccalaureate degree, shall report to the senate and assembly chairs of the higher education committees on or before August fifteenth, two thousand sixteen, on the following: factors that drive cost increases; tuition trends for the past six years and percentage of year to year increases; total cost of fees; if the institution has an endowment and the amount of such endowment; the average institutional financial aid package by income bracket as defined by the National Center for Education Statistics' Integrated Post-Secondary Education Data System; graduation rates for four, five and six years; enrollment trends over the past six years; the amount spent to educate students per FTE; the percentage of students who are TAP and Pell eligible; administrative and operating costs and the percentage of those costs funded by tuition; and cost saving measures implemented over the past six years, if any.

ARTICLE 13-A

LIBERTY SCHOLARSHIPS

Section 610. Liberty scholarships.
611. Liberty scholarship advisory committee.
612. Liberty partnerships.

§ 610. Liberty scholarships. 1. Establishment of liberty scholarships.

The president of the higher education services corporation shall award liberty scholarships for payment annually beginning with the nineteen hundred ninety-one--nineteen hundred ninety-two academic year, and in each academic year thereafter, to students eligible pursuant to subdivision two of this section. In administering this program, the president is hereby authorized to exercise all powers and duties authorized under article fourteen of this chapter.

2. Eligibility for scholarship. Liberty scholarships shall be awarded to persons:

a. who have applied for such scholarship;

b. who have graduated from a secondary school located within New York state or have received a high school equivalency diploma from New York state;

c. who have not attained the age of twenty-two as of June thirtieth prior to the academic year for which the initial award is received and who are undergraduate students receiving aid under this chapter for the first time during academic year nineteen hundred ninety-one--nineteen hundred ninety-two or thereafter;

d. who have enrolled in an approved program in a degree-granting institution located in New York state within twenty-four months of the date that the recipient graduated from secondary school or received a high school equivalency diploma, provided that those students who are temporarily unable to avail themselves of the award due to illness, military service or other causes in accordance with rules of the board of regents prior to receipt of the first payment of an award may be granted a leave of absence pursuant to regulations of the trustees of the higher education services corporation;

e. who satisfy the requirements of section six hundred sixty-one of this chapter;

f. who retain good academic standing as defined by the commissioner;

and

g. who qualify for a scholarship pursuant to subdivision six of this section.

3. Application. Application for payment of a liberty scholarship shall be made in conjunction with an application for tuition assistance in accordance with rules of the board.

4. Application for other student financial assistance. a. A student enrolled in a program of full-time study shall not be entitled to receive a scholarship unless the recipient (1) receives a tuition assistance award or supplemental tuition assistance award pursuant to section six hundred sixty-seven or six hundred sixty-seven-a of this chapter and (2) receives a Pell grant award pursuant to section one thousand seventy-a of title twenty of the United States code.

b. A recipient enrolled in a program of part-time study shall not be entitled to receive a scholarship unless the recipient receives a Pell grant award pursuant to section one thousand seventy-a of title twenty of the United States code.

5. Duration. a. Subject to the requirements of subdivision two of this section, a recipient shall be entitled to an annual scholarship for not more than (1) four academic years of full-time undergraduate study or the equivalent thereof of part-time study, or (2) five academic years, or the equivalent thereof of part-time study, if the program of study normally requires five years, as defined by the commissioner pursuant to article thirteen of this chapter.

b. For purposes of this subdivision and subdivision fourteen of section six hundred five of this chapter, the term "part-time study" means enrollment for at least six but less than twelve semester hours, or the equivalent, per semester or at least four but less than eight semester hours per quarter in an approved undergraduate program.

c. Any semester, quarter or term of attendance during which a student

receives an award for part-time study pursuant to this section shall be counted as one-half of a semester, quarter or term, as the case may be, toward the maximum term of eligibility for tuition assistance awards pursuant to section six hundred sixty-seven of this chapter.

6. Amount. a. The president shall grant annual scholarships in the following amounts:

(1) If the recipient attends an institution of the city university of New York or an institution of the state university of New York other than the statutory colleges at Cornell, the college of environmental science and forestry at Syracuse and the college of ceramics at Alfred, the annual scholarship award shall be an amount equal to the non-tuition cost of attendance at such institution or college reduced by (i) the amount of a Pell grant and (ii) the amount of such other state and federal scholarships and grants, other than tuition assistance or supplemental tuition assistance received under this chapter, which do not require repayment, awarded to the recipient for the cost of attendance at the institution being attended, as reported to the president; provided, however, that such scholarship shall be reduced one dollar for every three dollars of income in excess of eighteen thousand dollars of income; or

(2) If the recipient attends any other degree-granting institution within New York state and enrolls in a program approved by the commissioner, the annual scholarship award shall be based upon an amount equal to the average non-tuition cost of attendance, as determined by the commissioner in consultation with the president and as approved by the director of the budget, for a student at the state university of New York or actual non-tuition cost of attendance at such institution, whichever is less, reduced by (i) the amount of a Pell grant the recipient would have been entitled to had the recipient attended the state university of New York and (ii) the amount of such other state and federal scholarships and grants, other than tuition assistance or supplemental tuition assistance received under this chapter, which do not require repayment, awarded to the recipient for the cost of attendance at the institution being attended, as reported to the president; provided, however, that such scholarships shall be reduced one dollar for every three dollars of income in excess of eighteen

thousand dollars of income.

(3) Scholarships and grants that reduce the cost of attendance for purposes of determining the amount of a scholarship award shall not include supplemental financial assistance provided on a last dollar basis pursuant to the provisions of section sixty-four hundred fifty-one or sixty-four hundred fifty-two of this chapter.

(4) "Non-tuition cost of attendance", as used in this paragraph, shall mean: (i) the actual amount charged by the institution for room and board and (ii) an allowance for transportation, books and supplies as determined by the commissioner in consultation with the president and as approved by the director of the budget, provided that such determination shall be made no later than December first of each year for use in the succeeding academic year. In the event a student does not incur room or board charges at the institution, "non-tuition cost of attendance" shall mean an allowance for room and board as determined by the commissioner in consultation with the president and approved by the director of the budget. In determining allowances pursuant to this subparagraph, the commissioner may take into consideration the allowances provided for in the Pell grant program.

b. For the purposes of determining annual scholarships, the term "income" shall be determined in accordance with the provisions of section six hundred sixty-three of this chapter, except that in making such determination, adjusted gross income, as defined in regulations of the trustees of the corporation, shall be used instead of New York state net taxable income.

c. In no event shall the combination of all student financial aid received by a student exceed the recipient's total cost of attendance at the institution being attended.

7. Ineligibility for a tuition assistance, supplemental tuition assistance or Pell grant award in a particular academic year shall not prevent a recipient from receiving a liberty scholarship award in any subsequent year in which such recipient shall become eligible for a tuition assistance, supplemental tuition assistance or Pell grant award, provided, however, the seven-year period referred to in subdivision

seven of section six hundred sixty-five of this chapter, or an eight-year period for part-time study, shall not have elapsed.

8. Relationship to educational opportunity programs. Liberty scholarship recipients who qualify for admission to the educational opportunity programs established in section sixty-four hundred fifty-one or sixty-four hundred fifty-two of this chapter shall in no way be precluded from participation in such programs as a result of their status as liberty scholarship recipients. Recipients who qualify and are selected for participation in the opportunity programs shall be eligible to receive the same tutoring and counseling services provided to other educational opportunity program students, and shall be eligible to receive supplemental financial assistance through the educational opportunity programs for any approved costs not otherwise funded under such scholarship.

9. Notification. The superintendent of schools or other chief school officer of each public school district and the chief school officer of nonpublic secondary schools shall take steps to inform students and parents about the liberty scholarship program and various types of student financial aid that are available for their college educations. The corporation, in cooperation with the commissioner, shall assist such efforts by making available to school districts, nonpublic secondary schools and students information relating to such programs and aid. In addition, the commissioner, in cooperation with the president and school officials shall also provide such other information as is appropriate to encourage students to complete high school and to assist students in preparing to attend college.

10. Regulations. All regulations of the commissioner or regulations of the trustees of the corporation to implement the provisions of this article shall be subject to the approval of the director of the budget.

§ 611. Liberty scholarship advisory committee. There is hereby created a liberty scholarship advisory committee, which shall consist of eleven persons appointed by the governor, two of whom shall be upon the

recommendation of the president pro tem of the senate and two of whom shall be upon the recommendation of the speaker of the assembly. Such members shall serve at the pleasure of the governor, except that those recommended by other authorities shall serve at the pleasure of such recommending authorities, and shall include, but not be limited to, representatives of secondary schools, business and industry, labor and nonprofit or voluntary organizations. In addition to such eleven members, the president of the higher education services corporation, the commissioner of education, the chancellor of the state university of New York, the chancellor of the city university of New York and the president of the commission of independent colleges and universities shall serve on the committee as ex-officio members. The governor shall designate one member to serve as chairperson of the committee. No later than April first, nineteen hundred eighty-nine, such committee shall prepare a plan that (i) identifies counseling and support services for students available from institutions of higher education, secondary schools, government agencies, business and industry, labor, nonprofit organizations and volunteers and (ii) proposes ways in which such counseling and support services can be coordinated to promote continuity of counseling and support. In addition, the advisory committee shall make recommendations as to the implementation of such plan and shall periodically report on the degree to which such plan has been successfully implemented. The president, commissioner and the chancellors of the public universities shall make available personnel to act as staff for the committee. The members of the committee shall receive no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties.

§ 612. Liberty partnerships. 1. The commissioner shall award grants for the purpose of providing support services to students enrolled in public and non-public schools who are identified as having a high risk of dropping out of school. Such awards shall be made on a competitive basis to degree-granting institutions of higher education or consortia of degree-granting higher education institutions in cooperation with school districts and not-for-profit community-based organizations. In

addition, in areas of the state where no degree-granting institution or consortium of degree-granting institutions of higher education can provide appropriate services to students, the commissioner may award grants to not-for-profit community-based organizations in cooperation with school districts.

a. All grant applications shall contain the following program elements:

(1) a program for identifying students who are at-risk of dropping out as measured by academic performance, attendance, discipline problems, and other factors affecting school performance including but not limited to teenage pregnancy or parenting, residence in a homeless shelter or temporary living arrangement, substance abuse, child abuse or neglect, or limited English proficiency;

(2) a program for encouraging the use of volunteers and facilitating parent involvement where possible and involvement of current or former liberty scholarship recipients as peer or mentor counselors in programs; and

(3) a program to provide for continuity of services throughout a student's progression through secondary school.

b. In awarding such grants, the commissioner shall give priority to applications that:

(1) provide services to school districts receiving an apportionment under subdivision twenty-five of section thirty-six hundred two of this chapter;

(2) provide services to schools identified by the commissioner as in need of assistance pursuant to the comprehensive assessment report;

(3) provide services to rural schools with students at risk;

(4) replicate model programs of demonstrated effectiveness, including models that provide for small group partnerships with low student-staff ratios. The commissioner shall identify model programs with proven effectiveness and shall make such models available to grant applicants;

(5) demonstrate a high level of institutional commitment to programs in fields relevant to counseling and mentoring, including but not limited to education, social work, psychology and sociology and the extent to which such institution shall involve faculty members and

graduate/professional students from such degree programs;

(6) the need for such services in the area the institution proposes to serve; and

(7) the degree to which the institution proposes to cooperate with school districts and not-for-profit community based organizations to provide services and insure continuity of such services until such students graduate from high school or receive a high school equivalency diploma.

c. Services for non-public school students shall be provided at sites other than sectarian non-public schools.

2. Services. Funds available under this section shall be used for compensatory and support services to students who are identified as being at risk of dropping out of school. Services to be provided under this section may include skills assessment, tutoring, academic and personal counseling, family counseling and home visits, staff development activities for personnel with direct responsibility for such students and mentoring programs.

3. Allowable costs. Allowable costs under this program shall include, but not be limited to: salaries of program personnel, including graduate student stipends; transportation costs for students and program personnel; instructional materials; reimbursement to school districts for release time granted to employees while participating in the planning and development of activities funded pursuant to this section; training of program personnel; costs related directly to program provisions, including summer and weekend activities; and administrative costs directly attributable to the program.

4. a. For school years commencing in nineteen hundred eighty-nine--ninety and thereafter, the amount that shall be made available for funding liberty partnership grants shall be equal to four percent of the base year enrollment of children in public and non-public schools in New York state in grades seven through twelve, as computed in accordance with regulations of the commissioner, multiplied by seven hundred fifty dollars, provided, however, that notwithstanding the foregoing, the

amount that shall be made available for funding liberty partnership grants for the nineteen hundred eighty-nine--ninety, nineteen hundred ninety--ninety-one and nineteen hundred ninety-one--ninety-two school years shall be twenty-five percent, fifty percent, and seventy-five percent, respectively, of the amount to be provided pursuant to this subdivision.

b. The grant recipients shall provide students at public and nonpublic schools the opportunity to receive compensatory and support services in an equitable manner consistent with the number and need of the children in such schools.

5. Regulations. The commissioner shall adopt regulations for the implementation of this section.

6. Annual report. The commissioner shall prepare an annual report evaluating the programs funded under this section and under sections sixty-four hundred fifty-four and sixty-four hundred fifty-five of this chapter and making appropriate recommendations. The report shall be submitted on or before December first, to the governor, the temporary president of the senate and the speaker of the assembly.

ARTICLE 13-B

STUDENT LENDING ACCOUNTABILITY, TRANSPARENCY AND ENFORCEMENT ACT

Section 620. Definitions.
621. Prohibition of gifts made by lending institutions to covered institutions and their employees.
622. Prohibition of receipt of gifts by covered institutions.
623. Prohibition of receipt of gifts by covered institution employees.
624. Covered institution employee prohibitions and reporting requirements.
625. Misleading identification of lending institutions' employees.
626. Loan disclosure and prohibition of quid pro quo high risk loans.

627. Standards for preferred lender lists.
628. Proper execution of master promissory notes.
629. Disclosures at request of covered institutions.
630. Penalties.
631. Rules and regulations.
632. Non-exclusivity of rights or remedies.

§ 620. Definitions. As used in this article, the following terms shall have the following meanings unless otherwise specified:

1. "Borrower" shall mean a student attending a covered institution in this state, or a parent or person in parental relation to such student, who also obtains an educational loan from a lending institution to pay for or finance higher education expenses.

2. "Covered institution" shall mean any college, vocational institution, or approved program as defined in section six hundred one of this title.

3. "Covered institution employee" shall mean any employee, agent, contractor, director, officer or trustee of a covered institution.

4. "Educational loan" shall mean any loan that is made, insured, or guaranteed under Part B of Title IV of the Federal Higher Education Act of nineteen hundred sixty-five, as amended, any high risk loan or any private loan issued by a lending institution for the purposes of paying for or financing higher education expenses.

5. "Gift" shall mean any discount, favor, gratuity, inducement, loan, stock, thing of value, or other item having more than nominal value.

a. The term "gift" shall include, but is not limited to:
(1) Any money, service, loan, entertainment, honoraria, hospitality, lodging costs, meals, registration fees, travel expenses, discount, forbearance or promise;
(2) Gifts provided in kind, by purchase of a ticket, payment in

advance, or reimbursement after expenses have been incurred;

(3) Any computer hardware for which the recipient pays below-market prices;

(4) Any printing costs or services.

b. The term "gift" shall not include any of the following:

(1) A lending institution's own brochure or promotional literature;

(2) Food, refreshments, training, or informational material furnished to a covered institution employee as an integral part of a training session, if such training contributes to the professional development of the covered institution employee.

c. Nothing in this article shall be construed to affect the private philanthropic activities of banks or other lending institutions that are unrelated to educational loans.

6. "High risk loans" shall mean any agreement between a lending institution and a covered institution that provides for the lending institution to provide loans to students with a poor or no credit history, who would otherwise not be eligible for educational loans.

7. "Higher education expenses" shall include the following:

a. tuition and fees;

b. costs incurred for books, supplies, transportation, and miscellaneous personal expenses; and

c. room and board costs.

8. "Lending institution" shall mean:

a. any entity that itself or through an affiliate makes educational loans to pay for or finance higher education expenses or that securitizes such loans;

b. any entity, or association of entities, that guarantees educational

loans; or

c. any industry, trade or professional association or other entity that receives money, related to educational loan activities, from any entity described above in paragraphs a and b of this subdivision.

9. "Preferred lender list" shall mean a list of one or more recommended or suggested lending institutions that a covered institution makes available for use, in print or any other medium or form, by borrowers, potential borrowers or others.

10. "Revenue sharing" shall mean any arrangement whereby a lending institution pays a covered institution or an affiliated entity or organization of such covered institution a percentage of the principal of each loan directed towards the lending institution from a borrower at the covered institution.

§ 621. Prohibition of gifts made by lending institutions to covered institutions and their employees. 1. A lending institution may not, directly or indirectly, offer or provide any gift to a covered institution or a covered institution employee, in exchange for any advantage or consideration provided to such lending institution related to its educational loan activities.

2. A lending institution may not engage in revenue sharing with a covered institution.

§ 622. Prohibition of receipt of gifts by covered institutions. 1. A covered institution may not, directly or indirectly, solicit, accept or receive any gift from or on behalf of a lending institution, in exchange for any advantage or consideration provided to such lending institution related to its educational loan activities.

2. A covered institution may not engage in revenue sharing with a lending institution.

§ 623. Prohibition of receipt of gifts by covered institution employees. 1. A covered institution shall require that no covered institution employee on his or her own behalf or on behalf of another, directly or indirectly, solicits, accepts or receives any gift from or on behalf of a lending institution. Nothing in this section shall be construed as prohibiting a covered institution employee from conducting business with a lending institution, provided that such business is unrelated in any manner whatsoever to a covered institution.

2. A covered institution employee, on his or her own behalf or on behalf of another, shall not directly or indirectly solicit, accept or receive any gift from or on behalf of a lending institution. Nothing in this section shall be construed as prohibiting a covered institution employee from conducting business with any lending institution, provided that such business is unrelated in any manner whatsoever with the covered institution.

3. Covered institution employees shall report to the department any instance of a lending institution attempting to give a gift to such covered institution employees.

§ 624. Covered institution employee prohibitions and reporting requirements. 1. A lending institution shall require that no covered institution employee receives any remuneration for serving as a member or participant of an advisory board of a lending institution or receives any reimbursement of expenses for so serving.

2. A covered institution shall require that no covered institution employee of such covered institution receives any remuneration for serving as a member or participant of an advisory board of a lending institution or receives any reimbursement of expenses for so serving.

3. Nothing in this section shall be construed as prohibiting:

a. a covered institution employee's participation on an advisory board of a lending institution that is unrelated in any manner whatsoever to educational loans; or

b. a covered institution employee, who does not have a direct interest in or does not benefit from the functions of the covered institution's financial aid office, from serving on a board of directors of a publicly traded or privately held company.

4. Covered institution employees who are directly involved with or benefit from the functions of the covered institution's financial aid office shall be required to report to the department, in a form and manner prescribed by the department, all participation or financial interests related to any lending institution.

§ 625. Misleading identification of lending institutions' employees. 1. A lending institution shall require that no employee or agent of such lending institution is identified to borrowers or potential borrowers of a covered institution as an employee, representative or agent of such covered institution.

2. A covered institution shall require that no employee or agent of a lending institution is identified to borrowers or potential borrowers of such covered institution as an employee, representative or agent of such covered institution.

3. No employee, representative or agent of a lending institution may staff a covered institution's financial aid offices.

§ 626. Loan disclosure and prohibition of quid pro quo high risk loans. 1. Should a borrower or potential borrower consult a covered institution's financial aid office in connection with obtaining an educational loan to pay for or finance higher education expenses, the covered institution shall inform the borrower or potential borrower of all available financing options under Title IV of the Federal Higher

Education Act of nineteen hundred sixty-five, as amended, including information on any terms and conditions of available loans under such title that are more favorable to the borrower, before a lending institution may provide a private educational loan to a borrower attending a covered institution.

2. A lending institution shall not enter into an agreement or otherwise provide any high risk loans, in exchange for the covered institution providing concessions or promises to the lending institution that may prejudice other borrowers or potential borrowers.

3. A covered institution shall not enter into an agreement or otherwise provide any high risk loans, in exchange for the covered institution providing concessions or promises to the lending institution that may prejudice other borrowers or potential borrowers.

§ 627. Standards for preferred lender lists. A covered institution that provides or makes available a preferred lender list must comply with the following standards:

1. A preferred lender list must disclose the process by which the covered institution selected lending institutions for such preferred lender list, including, but not limited to, the method and criteria used to choose the lending institutions and the relative importance of those criteria;

2. A preferred lender list must state in the same font size and same manner as the predominant text on the document that borrowers have the right and ability to select the education loan provider of their choice, are not required to use any of the lenders on such preferred lender list, and will suffer no penalty for choosing a lender that is not on such preferred lender list;

3. The covered institution's decision to include a lending institution on any preferred lender list and the covered institution's decision as to where on the preferred lender list the lending institution's name

appears shall be determined solely by consideration of the best interests of the borrowers who may use such preferred lender list without regard to the pecuniary interests of the covered institution;

4. The contents of any preferred lender list shall be reviewed and updated no less than annually;

5. No lending institution shall be placed on a preferred lender list unless such lending institution provides assurance to the covered institution and to borrowers who take out loans from such lending institution that the advertised benefits upon repayment will continue to inure to the benefit of borrowers regardless of whether the lending institution's loans are sold;

6. No lending institution that, to the covered institution's knowledge after reasonable inquiry, has an agreement to sell its loans to another unaffiliated lending institution shall be included on a preferred lender list unless such agreement is disclosed therein in the same font size and same manner as the predominant text on the document in which the preferred lender list appears;

7. No lending institution shall be placed on a covered institution's preferred lender lists or in favored placement on a covered institution's preferred lender lists for a particular type of loan, in exchange for benefits provided to the covered institution or to the covered institution's students in connection with a different type of loan.

§ 628. Proper execution of master promissory notes. A covered institution shall not direct in any manner whatsoever potential borrowers to any electronic master promissory notes or other loan agreements that do not provide a reasonable and convenient alternative for the borrower to complete a master promissory note with any federally approved lending institution offering the relevant loan in this state.

§ 629. Disclosures at request of covered institutions. Except for educational loans made, insured, or guaranteed by the federal government, upon the request of any covered institution, a lending institution shall disclose to such covered institution, in reasonable detail and form, the historic default rates of the borrowers from such covered institution, and the rates of interest charged to borrowers from such covered institution in the year preceding the disclosures and the number of borrowers obtaining each rate of interest.

§ 630. Penalties. 1. If after providing notice and an opportunity for a hearing the department determines that a covered institution or lending institution has violated any terms or provisions of this article, then the covered institution or lending institution may be liable for a civil penalty. Regardless of the department's determination that a covered institution or lending institution is liable for a single violation or a series of violations under this article, the maximum penalty shall not exceed fifty thousand dollars. In taking action against a covered institution or lending institution, consideration shall be given to the nature and severity of violations of this article.

2. If after providing notice and an opportunity for a hearing the department determines that a covered institution employee has violated any terms or provisions of this article, then the covered institution employee may be liable for a civil penalty. Regardless of the department's determination that a covered institution employee is liable for a single violation or a series of violations under this article, the maximum penalty shall not exceed seven thousand five hundred dollars. In taking action against a covered institution employee, consideration shall be given to the nature and severity of violations of this article.

3. If after providing notice and an opportunity for a hearing the department determines that a lending institution has violated a term or provision of this article, such lending institution shall not be placed or remain on any covered institution's preferred lender list unless notice of such violation is provided to all potential borrowers of the covered institution.

4. Nothing in this section shall prohibit the department from reaching a settlement agreement with a covered institution, covered institution employee or lending institution in order to effectuate the purposes of this section. Provided, however, if such settlement agreement is reached with a covered institution or lending institution, the department shall provide notice of such action to all potential borrowers in a form and manner prescribed by the department.

5. The department shall deposit the funds generated from this section into the student lending education account, created by section ninety-seven-hhhh of the state finance law. Such funds shall be given to covered institutions upon application to the department for the purposes of:

a. Educating borrowers and potential borrowers on the educational loan process, including, but not limited to, available educational loan options, understanding rates and terms of student loans, managing costs and credit responsibilities, student loan repayment and loan consolidation; and

b. Reimbursing borrowers from inflated educational loan prices caused by revenue sharing agreements between such covered institution and a lending institution.

§ 631. Rules and regulations. The commissioner and the department shall promulgate rules and regulations necessary for the implementation of this article.

§ 632. Non-exclusivity of rights or remedies. Nothing in this article shall be construed to limit, in any manner, any rights or remedies otherwise available under law to any person or entity, including, but not limited to, the attorney general of the state of New York.

ARTICLE 13-C

STUDENT DEBT; PROHIBITED PRACTICES

Section 640. Student debt; prohibited practices.

§ 640. Student debt; prohibited practices. 1. No degree-granting institution or licensed private career school, as defined by section five thousand one of this chapter, shall:

(a) withhold a transcript because a student owes a debt to such institution or school;

(b) condition the provision of a transcript on a student's payment of a debt to such institution or school; or

(c) charge a higher fee or provide less favorable treatment of a transcript request because a student owes a debt to such institution or school, provided however, that an institution or school may charge a fee for the issuance of a transcript.

2. In addition to such penalties as may otherwise be applicable by law, the superintendent of financial services may, after notice and hearing, enjoin such transcript withholding practices and require any institution or school found to be in violation of the provisions of this article to pay to the people of this state a penalty of five hundred dollars for each violation.

3. In addition to the right of action granted to the superintendent of financial services pursuant to this section, any person who has been injured by reason of any violation of this section may bring an action in their own name to enjoin such unlawful act or practice. The court may, in its discretion, award reasonable attorneys' fees to the prevailing plaintiff.

ARTICLE 14

NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION

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655. Powers and duties of the president.
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PART I

CORPORATE STRUCTURE

Section 651. Definitions.
652. New York state higher education services corporation; purposes; board of trustees.
652-a. Employees of the New York state higher education services corporation; background checks.
653. Powers and duties of the board.
654. President of the corporation.
655. Powers and duties of the president.
656. Contributions to corporation; tax deduction thereof.
657. Tax exemption of corporation.
658. Supervision by the superintendent of financial services.
659. Audits.
660. Expenditure of funds.

§ 651. Definitions. As used in this article, the following terms shall

have the following meanings unless otherwise specified:

1. "Corporation" shall mean the New York state higher education services corporation.

2. "Board" shall mean the board of trustees of the New York state higher education services corporation.

3. "President" shall mean the president of the corporation.

4. "College", "vocational institution" and "approved program" shall have the same meanings as defined in article thirteen.

5. "Academic year" shall mean the regular school year beginning July first and ending June thirtieth.

6. "Federal student aid programs" shall mean the programs of the United States government making financial aid available to pay for the cost of attending post-secondary institutions and established under Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, or any successor statute.

7. "Lend" shall include one or more of the following services: the origination, disbursement, servicing, and/or collection of any student or parent education loan made by or on behalf of a lending institution a government entity, or an institution of higher education for the purpose of paying for higher education expenses as well as serving as a secondary market for these loans.

§ 652. New York state higher education services corporation; purposes; board of trustees. 1. There is hereby created in the State Education Department and within the University of the State of New York as established under the Board of Regents, an educational corporation to be known as the New York State Higher Education Services Corporation.

2. The purposes of such corporation shall be:

a. To improve the post-secondary educational opportunities of eligible students through the centralized administration of New York state financial aid and loan programs;

b. To coordinate the state's administrative effort in student financial aid and loan programs with those of other levels of government;

c. To support the administration by the federal government, other states, and institutions of post-secondary education of the federal student aid programs established under Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, or any successor statute.

3. The corporation shall be governed and all of its corporate powers exercised by a board of trustees which shall consist of fifteen members, nine of whom shall be appointed by the governor with the advice and consent of the senate. The members not requiring the advice and consent of the senate shall be the commissioner of education, the chancellor of the state university, the chancellor of the city university of the city of New York, and three students. One such student shall be the president of the student assembly of the state university of New York, one such student shall be the chair of the united student senate of city university of New York, and one such student shall be a student registered in a full time course of study at a state university community college. In the event a student who shall be a member by reason of his or her office in a student organization shall fail to qualify, the student who holds the next highest office in the organization shall be the member of the board.

4. All members shall be at least eighteen years of age, citizens of the United States and residents of the state. The appointed members shall consist of two representatives of banking institutions within the state, two such members shall be the presidents of independent institutions of higher education within the state, one such member shall be a president or chief executive officer of a school licensed or

registered pursuant to section five thousand one of this chapter, one such member shall be a financial aid officer at a higher education institution in New York, one such member shall be a president or chief executive officer of a degree granting proprietary college located within the state, one such member shall be a student currently registered and in full time attendance at a degree granting independent institution of higher education in New York, and one shall be representative of the public.

5. The appointed members shall serve for terms of six years each and shall be eligible for reappointment to successive terms; provided, however, that the student representative of the state university community colleges shall serve for a term of one year.

6. The board of trustees shall elect, from among its appointed members, a chairman and vice-chairman who shall serve in such offices for terms of one year and who shall be eligible for reelection for successive terms. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Trustees, including the chairman and vice-chairman, shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article.

7. a. The board of trustees shall provide for the holding of regular meetings and such special meetings at the call of the chairman, as may be necessary. A majority of the trustees shall constitute a quorum for the transaction of any business and the act of the majority of the trustees present at any meeting shall be deemed the act of the board.

b. The agenda for any such meeting of the board of trustees shall be available electronically on the higher education services corporation website three days prior to the meetings and shall be considered a public record. The attendance, minutes, voting record, and either transcripts or video record, for any such meeting of the board of trustees shall be electronically available on the higher education services corporation website no later than seven days after the meeting

and shall be considered public records. Information posted on the higher education services corporation website regarding board of trustee meetings shall remain on the site as archived data for a minimum of ten years.

c. Any such meeting of the board of trustees shall be conducted in accordance with article seven of the public officers law.

8. The commissioner of education, the chancellor of the state university and the chancellor of the city university each may, by official authority filed in his or her respective department or university, and with the secretary of the board, designate an officer of his or her respective department or university to represent and exercise all the powers of such commissioner or chancellor as the case may be at all meetings of the board from which such commissioner or chancellor may be absent.

§ 652-a. Employees of the New York state higher education services corporation; background checks. 1. Current and prospective employees of the corporation shall be subject to background and security clearance investigations required in the ordinary course of the corporation's business if background and security clearance are necessary for employee participation or proposed participation in the administration of federal student loans or other federal programs under the federal direct loan program.

2. Such background or security clearance investigation shall be performed by the corporation or on behalf of the corporation by a state or federal government agency authorized to perform such investigations. The corporation shall be authorized to request and receive from the division of criminal justice services or federal government agency having facilities for performing such services: security clearance information, including criminal background and credit information for corporation employees, New York state employees seeking transfer to the corporation under section seventy of the civil service law, New York state employees seeking hire at the corporation who are on a preferred

list subject to section eighty-one of the civil service law, or New York state employees seeking hire at the corporation through their place on an eligible list as defined in section fifty-six of the civil service law and who have successfully completed a promotional exam subject to section fifty-two of the civil service law if such security information is necessary for the employees to be in compliance with the administration of federal student loans or other federal programs under the federal direct loan program. The corporation shall inform subjects of background and security clearance investigations of the factors to be considered in the evaluation of the criminal background information and credit information obtained.

3. If an employee or prospective employee needs background and security clearance in order to be compliant with the administration of federal student loans or other federal programs under the federal direct loan program, the corporation shall be authorized to require such an employee or prospective employee to submit to the corporation or other state or federal government agency authorized to perform such investigations identifying information, which shall include fingerprints, personal information, or other authorizations, required by the corporation or the division of criminal justice services or federal government agency authorized to perform such investigations. The fingerprints so obtained shall be forthwith forwarded to the division of criminal justice services for a state criminal history record check, and the federal bureau of investigation or other federal government agency having facilities for conducting a national criminal history record check, for the purposes of determining whether or not criminal charges are pending against the employee or prospective employee or whether or not the employee or prospective employee had previously been convicted of a crime, and such agency shall report a finding of such pending charges and previous convictions, if any, to the corporation in writing or by electronic means or any other method agreed upon by the corporation and the agency. All such criminal history records or other background information received by the corporation shall be confidential pursuant to applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed except to those employees of the corporation responsible for evaluating the information

obtained or upon the request of federal officials responsible for administration of a federal student loan program. All determinations made pursuant to this section shall be in accordance with the provisions of subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law unless such provisions are in direct conflict with federal law or federal loan program requirements. The corporation shall provide the subject of the criminal history check or checks with a copy of any criminal history record together with a copy of article twenty-three-A of the correction law and inform such applicant of his or her right to seek correction of any incorrect information contained in such record. The subject shall have the right to seek correction of any incorrect information contained in such records pursuant to applicable state and federal laws and regulations. The corporation shall be responsible for any fees associated with background and security checks required by this section for current employees.

§ 653. Powers and duties of the board. In furtherance of the purposes set forth in this article, the board of trustees shall have the following powers and duties:

1. To take, hold and preserve, on behalf of the corporation all moneys appropriated to the corporation or otherwise available to it.

2. a. To submit to the governor, the temporary president of the senate, the speaker of the assembly, the senate finance committee, the assembly ways and means committee and the standing committees of the legislature having jurisdiction of higher education, at such times as the director of the budget may prescribe a student aid and loan budget request for the following state fiscal year. The budget request shall include, but not be limited to estimates of the number and characteristics of students eligible for aid and loans, other than education loans made under the New York higher education loan program pursuant to part V of this article which budget request shall be developed by the president after consultation with the board of regents in order to implement the student financial aid and loan programs, other

than education loans made under the New York higher education loan program pursuant to part V of this article provided for in this article. Notwithstanding, the budget request shall also include an estimate of the amounts needed for state operations within the New York higher education loan program account for purposes of the New York higher education loan program established pursuant to part V of this article. A copy of the budget request shall be transmitted to the commissioner for his information. The budget request submitted by the board shall be subject to approval annually as part of the executive budget.

b. At the time and in the format prescribed by the Director of the Budget, the Board shall submit to the Division of the Budget an administrative and operating budget request. This budget request shall be subject to approval annually as part of the executive budget.

c. In order further to assure the payment by the corporation to lending institutions for defaulted loans, other than education loans made under the New York higher education loan program pursuant to part V of this article in the respective amounts as guaranteed by the corporation pursuant to contract, there shall be annually apportioned and paid to the corporation such estimated amount, if any, as shall be certified by the board to the governor and director of the budget as necessary to provide for the payment of all such defaults for the next ensuing state fiscal year. The board shall, as part of its annual budget request, make and deliver to the governor and director of the budget, its certificate stating the estimated amount, if any, required to pay such defaults for the ensuing state fiscal year, if any, and said sums shall be apportioned and paid to the corporation during such fiscal year.

3. To submit on or before November first of each calendar year an annual report to the board of regents, the governor, the temporary president of the senate, the speaker of the assembly, the senate finance committee, the assembly ways and means committee and the standing committees of the legislature having jurisdiction of higher education.

4. To sue and be sued in the name of the corporation provided,

however, a claim for money damages against the corporation, except where such claim is based on an alleged guarantee made by the corporation under the federal guaranteed student loan programs or is for interest or other subsidies payable by the federal government under such programs, shall be made solely under and pursuant to the provisions of the court of claims act including but not limited to service thereunder upon the attorney general. Except in the case where the provisions of the court of claims act apply, process in any action or proceeding may be served upon the secretary of state as agent for the corporation, in the manner provided by section three hundred six of the business corporation law. Provided, however, notwithstanding any inconsistent provision of law, the venue of an action brought by or on behalf of the corporation on any loan made or guaranteed by it which is in default, may be laid in Albany county or any other county otherwise permitted by law and in any action brought against the corporation the venue shall be laid in the county of Albany. Provided further however, that in an action brought by or on behalf of the corporation on any loan made or guaranteed by it which is in default, a defendant shall be entitled, upon motion made in the county in which venue has been laid and upon a showing of facts sufficient to require a trial of any issue of fact, to a change of venue to any other county permitted by law.

5. To procure a policy or policies of group life insurance to insure the repayment of loans made or guaranteed by the corporation in the event of the death of an individual to whom a loan is made or guaranteed hereunder.

6. To appoint an advisory council to consist of three student financial aid officers from public institutions of higher education, three student financial aid officers from private institutions of higher education, three representatives of banking institutions within the state, and four students, one of whom shall be a student registered in a full time course of study at an institution of the state university, one of whom shall be a student registered in a full time course of study at an institution of the city university of the city of New York, one of whom shall be a student registered in a full time course of study at an independent institution of higher education within the state, and one of

whom shall be a student registered in a full time course of study at a community college located outside of the city of New York, to assist the corporation on a regular basis in carrying out its purposes. The four student members shall be appointed after consultation with and recommendations from appropriate student organizations. Appointments shall be for a period of three years, except that of the student members which shall be for one year, and except that of the members first appointed from public institutions of higher education and of the members first appointed from private institutions of higher learning and of the members first appointed from banking institutions, respectively, one shall be appointed for a term of one year beginning July first, nineteen hundred seventy-five and ending June thirtieth, nineteen hundred seventy-six, one shall be appointed for a term of two years beginning July first, nineteen hundred seventy-five and ending June thirtieth, nineteen hundred seventy-seven and one shall be appointed for a term of three years beginning July first, nineteen hundred seventy-five and ending June thirtieth, nineteen hundred seventy-eight. Any members whose employment or student status ceases to conform to the above requirements shall be required to resign. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

7. To prescribe, with the approval of the comptroller, a system of accounts.

8. To take, hold and administer, on behalf of the corporation and for any of its purposes, real property, personal property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the corporation. The board may acquire property or moneys for such purpose by purchase or lease in accordance with the requirements of article eleven of the state finance law and by the acceptance of gifts, grants, bequests, devises or loans; provided, however, that no obligation of the corporation shall be a debt of the state.

9. To perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation as specified in

this article including promulgation of rules and regulations, which shall be filed in accordance with section one hundred one-a of the executive law.

§ 654. President of the corporation. 1. The governor shall appoint, with the advice and consent of the senate, the president of the corporation. The president shall be the chief executive officer of the corporation and shall serve at the pleasure of the governor.

2. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment.

3. The salary of the president shall be fixed by the governor from appropriations made to the corporation.

§ 655. Powers and duties of the president. In administering the provisions of this article, the president shall have the following powers and duties:

1. To administer the student financial aid programs specified in this article.

2. To receive from the commissioner the list of academic performance award recipients in order of merit and to notify such recipients of their status as part of their application for other general awards or loans.

3. To lend money and guarantee loans upon such terms and conditions as the board may prescribe in accordance with the provisions of this article.

4. To propose rules and regulations, subject to approval by the board of trustees, governing the following:

a. Application for and the granting and administration of student aid

and loan programs, the repayment of loans or the guarantee of loans made by the corporation; and administrative functions in support of state and federal student aid programs.

b. Other matters relating to the activities of the corporation, including but not limited to the limitation, suspension or termination of approval of aid, loan, or loan guarantee applications for students attending or planning to attend colleges or vocational institutions whenever the board of regents has determined that such a college or vocational institution no longer meets minimum certification requirements or the board of trustees has determined, after notice and affording an opportunity for hearing, that such college or vocational institution has violated or failed to carry out any regulation prescribed under this article or adopted by the board of trustees pursuant to the powers granted in this article.

c. Procedures to be followed for submission of information by colleges or vocational institutions as may be necessary to provide for any administrative function by such institutions participating in any federal or state student aid programs, including applications therefor and repayment thereof, except that obligations of colleges shall be limited to the following requirements:

(i) those required by the federal student aid programs;

(ii) periodic reports on the status of student borrowers at the particular college;

(iii) interviews or other appropriate communications with student borrowers at the time an application for a loan is certified or as soon thereafter as feasible emphasizing the importance of the loan obligation;

(iv) interviews or other appropriate communications with student borrowers who are graduating or are known to be terminating their enrollment emphasizing the importance of the loan obligation;

(v) providing the corporation, upon request, with the last known addresses of borrowers who have graduated or otherwise left the college and who are in default, including any change of address known to the college after such request;

(vi) certification of student loans as frequently as is advisable and

feasible, and as lenders will process them (on an annual, semester, quarterly or other academic period basis), with such certification limited to those educational expenses approved under the federal student aid programs;

(vii) cooperation in whatever way is feasible and appropriate under institutional regulations in advising defaulting borrowers of their loan obligations.

5. To establish, revise from time to time, charge and collect fees as the corporation shall determine, consistent with the applicable provisions of the New York state and federal student aid programs.

6. To prepare and make available explanatory pamphlets concerning state aid and loan programs.

7. To establish a comprehensive collection of information and materials relative to public and private sources of higher education financial assistance available to students and to the characteristics of the students who are the recipients of such assistance.

8. To conduct financial aid program reviews of a post-secondary institution's procedures and records with respect to: certification to the corporation of eligible students for purposes of tuition assistance program and New York state sponsored student aid programs; compliance of financial aid programs with the provisions of this article and the relevant portion of the regulations of the commissioner; disbursement of tuition assistance program and other awards; and the capacity of institutions to administer New York state and federal financial aid programs.

9. To request and receive from any department, division, board, bureau, commission or agency of the state or any subdivision thereof such assistance and data as it deems necessary to properly carry out its powers, duties and functions.

10. To develop for the board of trustees a proposed budget for the following state fiscal year in such form as the board may require and in

accordance with the provisions of section six hundred fifty-three.

11. To appoint such officers, employees and agents, as he may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within amounts available therefor by appropriation; subject, however, to the provisions of the civil service law, which shall apply to the corporation in the same manner as such law applies to a municipal corporation other than a city.

12. To perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of the corporation, as specified in this article.

§ 656. Contributions to corporation; tax deduction thereof. Notwithstanding the provisions of any general or special law all domestic corporations or associations organized for the purpose of carrying on business in this state, and any person, are hereby authorized to make contributions to the New York state higher education services corporation or to the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency higher education loan program default reserve fund, as applicable and such contributions shall be allowed as deductions in computing the net taxable income of any such person, corporation or association for purposes of any income or franchise tax imposed by the state or any political subdivision thereof.

§ 657. Tax exemption of corporation. 1. The property, income, obligations and activities of the corporation shall be exempt from all taxes and assessments.

2. The state of New York does hereby pledge to and agree with the holders of the bonds, notes, or other obligations of the corporation pursuant to this article, or of the state of New York mortgage agency authorized in section two thousand four hundred six of the public

authorities law for the corporate purposes authorized in section two thousand four hundred five-a of the public authorities law, or of any other state entity authorized to issue bonds or notes under the New York education loan program codified in part V of this article that are issued for such purpose, and with the holders of such education loans, that the provisions of law applicable to the New York education loan program variable rate default reserve fund, the New York education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York education loan program default reserve fund, as applicable, and to the powers of the corporation to receive and deposit in each such fund the applicable amounts described therein shall not be amended in a manner adversely affecting the interests of such holders without adequate provision being made to protect such interests and that the corporation shall not be required to pay any taxes or assessments upon any of its property or upon its activities pursuant to the provisions of this article, or upon any moneys, funds, revenues or other income held or received by the corporation, and that the obligations and notes of the corporation and the income therefrom shall at all times be exempt from taxation, except for estate and gift taxes and taxes on transfers. Each of the corporation, the state of New York mortgage agency and any such other public benefit corporation, is authorized to include this pledge and agreement of the state in any agreements with the holders of such bonds and with the holders of such education loans.

§ 658. Supervision by the superintendent of financial services. The corporation in its administration of student loan programs shall be subject to the supervision and examination of the superintendent of financial services, but shall not be deemed to be a banking organization nor required to pay a fee for any such supervision or examination.

§ 659. Audits. Notwithstanding any other provision of this chapter, the state comptroller shall, from time to time but not less than once in every three years, examine the books and accounts of the New York state higher education services corporation created by this article, including its receipts, disbursements, contracts, leases, investments and any

other matters relating to its financial standing. In lieu of such an examination, the state comptroller is hereby authorized to accept from the corporation an external examination of its books and accounts made at the request of the corporation.

§ 660. Expenditure of funds. All moneys appropriated for the Corporation, or derived from other sources in the course of the administration thereof, shall be expended upon vouchers approved by the president as the chief administrative officer of the corporation, or by such employees of the corporation as shall be designated by the president by a rule or written direction filed with the Comptroller, when and in the manner authorized by the board.

PART II
STUDENT FINANCIAL AID

SUBPART I
GENERAL PROVISIONS

Section 661. Eligibility requirements and conditions governing awards and loans.
662. Revocations.
663. Income; a determinant of amount of awards.
664. Concurrent awards.
665. Payment.
665-a. Institutional participation in award programs.

§ 661. Eligibility requirements and conditions governing awards and loans. 1. Applicability. The eligibility requirements and conditions established in this section shall apply to all general awards, academic performance awards and student loans other than education loans made pursuant to part V of this article.

2. Application and recipient qualifications. At least annually and at

such times as the board shall establish, a student and, where applicable, the parents and spouse of such student seeking aid or loans under the provisions of this article, shall submit to the corporation on forms it shall establish such information as the board may require.

4. Attendance in approved courses of study in approved institutions. To be eligible to receive payments from the president a student:

a. Must be matriculated in an approved program, as defined by the commissioner pursuant to article thirteen of this chapter, or pursuant to paragraph b of this subdivision, in an institution situated in the state, which has been approved and operating in this state for at least one year, and has been approved for participation in federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended. Nothing in this subdivision shall preclude payment of an award to a recipient who receives instruction outside the state, which instruction is conducted by an institution situated in the state, and is part of the student's program of study at such institution; provided, however, that nothing in this subdivision shall preclude the receipt of a loan pursuant to section six hundred eighty of this article; provided, further, that students not attending institutions eligible for participating in federal Title IV financial aid programs on or before July first, two thousand seven: (i) who received their first award under this article before the two thousand six--two thousand seven academic year shall be eligible for payments until the end of the two thousand nine--two thousand ten academic year; or (ii) who received their first award under this article for the two thousand six--two thousand seven academic year through and including the two thousand nine--two thousand ten academic year shall be eligible for payments until the end of the two thousand fourteen--two thousand fifteen academic year.

b. Notwithstanding any other provision of law to the contrary and the rules and regulations promulgated pursuant thereto, the president shall make tuition assistance program awards available to full-time resident undergraduate students not currently eligible for awards under subdivision three of section six hundred sixty-seven of this part and

who are attending an educational institution in this state that:

(i) is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code; and

(ii) has its headquarters and main campus located within the state and is eligible for funds under Title IV of the Higher Education Act of 1965, as amended; and

(iii) is accredited by an agency recognized by the United States secretary of education, or by a successor federal agency; and

(iv) enrollment in which institution would render the student eligible to receive a federal Pell grant in accordance with section one thousand seventy of title twenty of the United States code, et. seq. and the regulations promulgated thereunder; and

(v) provides a program of instruction lasting at least three years, for which the student is enrolled.

b-1. Tuition assistance program awards that are made available to students pursuant to paragraph b of this subdivision shall not be awarded if an applicant:

(i) does not meet the citizenship requirements pursuant to subdivision three of this section;

(ii) does not meet the income requirements pursuant to section six hundred sixty-three of this subpart;

(iii) does not maintain good academic standing pursuant to paragraph c of subdivision six of section six hundred sixty-five of this subpart, and if there is no applicable existing academic standards schedule pursuant to such subdivision, then such recipient shall be placed on the academic standards schedule applicable to students enrolled in a four-year or five-year undergraduate program; or

(iv) is in default in the repayment of any state or federal student loan, has failed to comply with the terms of any service condition imposed by an academic performance award made pursuant to this article, or has failed to make a refund of any award.

c. Must be in full-time attendance, as defined by the commissioner, except as otherwise specifically provided in this article, and, for a student having completed his or her second academic year, must have a cumulative C average or its equivalent. The president may waive the

requirement that the student have a cumulative C average or its equivalent for undue hardship based on: (i) the death of a relative of the student; (ii) the personal injury or illness of the student; or (iii) other extenuating circumstances; and

d. For students who first receive aid pursuant to this chapter in academic year nineteen hundred ninety-six--nineteen hundred ninety-seven to academic year two thousand six--two thousand seven, must have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate; or have achieved a passing score, as determined by the United States secretary of education, on a federally approved examination which demonstrates that the student can benefit from the education being offered;

e. For students who first receive aid pursuant to this chapter in academic year two thousand six--two thousand seven, must have a certificate of graduation from a recognized school providing secondary education within the United States, or the recognized equivalent of such certificate, or have been admitted to such institution after receiving a passing score on a federally approved ability to benefit test that has been independently administered and evaluated, as provided by the commissioner;

f. For students who first receive aid pursuant to this chapter in academic year two thousand seven--two thousand eight or thereafter, must have (i) a certificate of graduation from a school providing secondary education from a state within the United States; or (ii) the recognized equivalent of such certificate; or (iii) received a passing score on a federally approved ability to benefit test that has been identified by the board of regents as satisfying the eligibility requirements of this section and has been independently administered and evaluated as defined by the commissioner; or (iv) received a high school diploma, or the equivalent thereof, from an online high school program located within the United States that is accredited in accordance with paragraph four of appendix three hundred two of the Job Corps Policy and Requirements Handbook (Guidelines for the Ongoing Quality Monitoring of Job Corps High School Diploma (HSD) Programs), as amended from time to time;

g. For students who are disabled as defined by the Americans With Disability Act of 1990, 42 USC 12101, the full-time attendance requirement is eliminated. Such disabled students may be in part-time attendance, as defined by the commissioner in order to be eligible to receive payments from the president.

5. Residence. a. (i) Except as provided in subdivision two of section six hundred seventy-four of this part and subparagraph (ii) of this paragraph, an applicant for an award at the undergraduate level of study must either (a) have been a legal resident of the state for at least one year immediately preceding the beginning of the semester, quarter or term of attendance for which application for assistance is made, or (b) be a legal resident of the state and have been a legal resident during his last two semesters of high school either prior to graduation, or prior to admission to college. Provided further that persons shall be eligible to receive awards under section six hundred sixty-eight or section six hundred sixty-nine of this part who are currently legal residents of the state and are otherwise qualified.

(ii) An applicant who is not a legal resident of the state eligible pursuant to subparagraph (i) of this paragraph, but is a United States citizen, a permanent lawful resident, an individual who is granted U or T non-immigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000, a person granted temporary protected status pursuant to the Federal Immigration Act of 1990, an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States, or an applicant without lawful immigration status shall be eligible for an award at the undergraduate level of study provided that the student:

(a) attended a registered New York state high school for two or more years, graduated from a registered New York state high school and applied for attendance at the institution of higher education for the undergraduate study for which an award is sought within five years of receiving a New York state high school diploma; or

(b) attended an approved New York state program for a state high school equivalency diploma, received a state high school equivalency

diploma and applied for attendance at the institution of higher education for the undergraduate study for which an award is sought within five years of receiving a state high school equivalency diploma; or

(c) is otherwise eligible for the payment of tuition and fees at a rate no greater than that imposed for resident students of the state university of New York, the city university of New York or community colleges as prescribed in subparagraph eight of paragraph h of subdivision two of section three hundred fifty-five or paragraph (a) of subdivision seven of section sixty-two hundred six of this chapter.

Provided, further, that a student without lawful immigration status shall also be required to file an affidavit with such institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

b. (i) Except as otherwise provided in subparagraph (ii) of this paragraph, an applicant for an award at the graduate level of study must either (a) have been a legal resident of the state for at least one year immediately preceding the beginning of the semester, quarter or term of attendance for which application for assistance is made, or (b) be a legal resident of the state and have been a legal resident during his last academic year of undergraduate study and have continued to be a legal resident until matriculation in the graduate program.

(ii) An applicant who is not a legal resident of the state eligible pursuant to subparagraph (i) of this paragraph, but is a United States citizen, a permanent lawful resident, an individual who is granted U or T non-immigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000, a person granted temporary protected status pursuant to the Federal Immigration Act of 1990, an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States, or an applicant without lawful immigration status shall be eligible for an award at the graduate level of study provided that the student:

(a) attended a registered approved New York state high school for two

or more years, graduated from a registered New York state high school and applied for attendance at the institution of higher education for the graduate study for which an award is sought within ten years of receiving a New York state high school diploma; or

(b) attended an approved New York state program for a state high school equivalency diploma, received a state high school equivalency diploma and applied for attendance at the institution of higher education for the graduate study for which an award is sought within ten years of receiving a state high school equivalency diploma; or

(c) is otherwise eligible for the payment of tuition and fees at a rate no greater than that imposed for resident students of the state university of New York, the city university of New York or community colleges as prescribed in subparagraph eight of paragraph h of subdivision two of section three hundred fifty-five or paragraph (a) of subdivision seven of section sixty-two hundred six of this chapter.

Provided, further, that a student without lawful immigration status shall also be required to file an affidavit with such institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

c. A student, during any period for which he receives financial support or assistance from a parent or stepparent, or is claimed by a parent or stepparent as a dependent for income tax purposes shall, for the purposes of this article, be considered to reside at the residence of such parent or stepparent, unless the student submits evidence satisfactory to the president that the student's residence is elsewhere.

d. If an applicant for an award allocated on a geographic basis has more than one residence in this state, his or her residence for the purpose of this article shall be his or her place of actual residence during the major part of the year while attending school, as determined by the commissioner; and further provided that an applicant who does not have a residence in this state and is eligible for an award pursuant to subparagraph (ii) of paragraph a or subparagraph (ii) of paragraph b of this subdivision shall be deemed to reside in the geographic area of the

institution of higher education in which he or she attends for purposes of an award allocated on a geographic basis.

e. Notwithstanding any other provision of this article to the contrary, the New York state eligibility requirements for receipt of awards set forth in paragraphs a and b of this subdivision are waived for a member, or the spouse or dependent of a member, of the armed forces of the United States on full-time active duty and stationed in this state.

6. Restrictions. a. All general and academic performance awards shall only be used in the manner prescribed by the commissioner pursuant to article thirteen of this chapter, for the specific purpose for which the awards are made, and no such awards shall be used to obtain professional instruction in theology.

b. A student who is in default on a student loan made under any statutory New York state or federal education loan program shall be ineligible to receive any award or loan pursuant to this article until the student cures the default status pursuant to applicable law and regulation.

c. A student who has failed to comply with the terms of any service condition imposed by an award made pursuant to this article or has failed to repay an award made pursuant to this article, as required by paragraph a of subdivision four of section six hundred sixty-five of this subpart, shall be ineligible to receive any award or loan pursuant to this article so long as such failure to comply or repay continues.

7. Awards of student financial aid. Whenever the corporation gives written notification to a student of the amount of student financial aid such student will receive under the provisions of this article, such written notification shall be accepted by the institution as a deferment against tuition charges pending the issuance of such moneys by the corporation, unless: (a) the institution has more current or accurate information on file indicating the student will receive a different amount from that calculated by the corporation, in which event the

institution's calculated amount shall be accepted as a deferment against tuition charges pending the issuance of such moneys by the corporation, or

(b) the institution is waiting for corrections of financial aid forms or income verification which the student has not yet completed, or supplied, in which case deferment will not take place until such time as the student has completed his or her responsibilities.

§ 662. Revocations. 1. If at any time the president determines that the recipient of an academic performance award has failed to comply with the regulations of the commissioner in respect to the use of such award, or to observe the rules, regulations or conditions prescribed or imposed by the institution attended, or that an award was made through error, or contrary to law, he may suspend or revoke such award. In the event of a violation of law he shall take such action as shall be required by such law.

2. Disposition of relinquished or revoked awards. An academic performance award relinquished by the holder or revoked by the president shall be issued to the next alternate in the year in which such academic performance award was issued. However, an academic performance award relinquished by the holder or revoked after the holder was matriculated shall not be reawarded, nor shall any academic performance award be awarded or reawarded after the first semester, quarter or term of attendance following the effective date of the academic performance award series.

§ 663. Income, a determinant of amount of awards. 1. Income defined. Except as otherwise provided in this section, "income" shall be the total of the combined net taxable income and income from pensions of New York state, local governments, the federal government and any private employer of the applicant, the applicant's spouse, and the applicant's parents, including any pension and annuity income excluded for purposes of taxation pursuant to paragraph three-a of subsection (c) of section six hundred twelve of the tax law, as reported in New York state income

tax returns for the calendar year coinciding with the tax year established by the U.S. department of education to qualify applicants for federal student financial aid programs authorized by title IV of the Higher Education Act of 1965, as amended, for the school year in which application for assistance is made, except that any amount received by an applicant as a scholarship at an educational institution or as a fellowship grant, including the value of contributed services and accommodations, shall not be included within the definition of "income" for the purposes of this article. The term "parent" shall include birth parents, stepparents, adoptive parents and the spouse of an adoptive parent. Income, if not a whole dollar amount, shall be assumed to be equal to the next lowest whole dollar amount. Any change in the status of an applicant with regard to the persons responsible for the applicant's support occurring after the beginning of any semester shall not be considered to change the applicant's award for that semester.

2. Separation of parents. If the parents of an applicant are living apart, the income of the applicant shall be based upon the income of that parent with whom the applicant is living; or who exercises custody if the applicant is a minor, or would exercise custody if the applicant were a minor, and any appropriate payments for the support of the applicant from the other parent.

3. Exclusion of parental income in the determination of the amount of an award. a. In determining the amount of an award for students, the income of the parents shall be excluded if the student has been emancipated from his parents.

b. A student shall be considered emancipated if:

(1) The applicant is a student who was married on or before December thirty-first of the calendar year prior to the beginning of the academic year for which application is made or is an undergraduate student who has reached the age of twenty-two on or before June thirtieth prior to the academic year for which application is made and who, during the calendar year next preceding the semester, quarter or term of attendance for which application is made and at all times subsequent thereto up to and including the entire period for which application is made:

(i) has not resided and will not reside with his or her parents for more than six weeks; and

(ii) has not and will not receive financial assistance or support valued in excess of seven hundred fifty dollars from his or her parents; and

(iii) has not and will not be claimed as a dependent by either parent for purposes of either federal or state income tax; or

(2) The applicant has reached the age of thirty-five on or before June thirtieth prior to the academic year for which application is made; or

(3) The applicant was enlisted in full time active military service in the armed forces of the United States and (i) has been honorably discharged from such service, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, and, provided, however, that the applicant has not and will not be claimed as a dependent by either parent for purposes of either federal or state income tax.

c. In making a determination of where a student resides for the purposes of item (i) of subparagraph one hereof, the president may consider such criteria as he deems appropriate. Residence by the student in an apartment, building, or other premises owned by a parent shall be considered residence with that parent, for the purposes of this section, even if the student makes payment therefor in the form of rent or other considerations.

d. Any undergraduate student who was allowed to exclude parental income pursuant to the provisions of subdivision three of section six hundred three of this chapter as they existed prior to July first, nineteen hundred seventy-four may continue to exclude such income for so long as he continues to comply with such provisions.

e. In making a determination of whether a student has been claimed by a parent as a dependent for purpose of either federal or state income tax, the president may require the student to submit a copy of that

portion of the parents' federal income tax return which includes the parents' signature and the list of claimed dependents.

4. Relinquishing of parental control. In determining the amount of an award, the president may, in cases of unusual and exceptional family circumstances warranting such action, recognize an existing condition wherein parental control has in effect been relinquished by the parents or others responsible for the applicant, and notwithstanding the provisions of subdivision three of this section, the applicant has in effect been emancipated. Provided, however, that students who have qualified as an orphan, foster child, or ward of the court for the purposes of federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended, shall not be considered emancipated for the purposes of determining an award pursuant to section six hundred sixty-seven of this article. The criteria used in determining these cases of unusual and exceptional family circumstances shall be established by the president with the approval of the board of trustees and the director of the division of the budget.

5. Adjustments of income. In the determination of income for purposes of paragraphs a and b of subdivision three of section six hundred sixty-seven of this part if, during the academic year in which the applicant will receive an award, one of either the parents of the applicant or other dependent child of such parents, the spouse of the applicant, or one or more dependent children of the applicant, in addition to the applicant, will be in full-time attendance in an approved program, the combined net taxable income determined under subdivision one of this section shall be reduced by three thousand dollars and an additional two thousand dollars for each other such person additional to the aforesaid persons (including the applicant) who will be in such attendance, and the resulting amount shall be deemed the applicable income in determining the applicant's award for the academic year.

6. Income tax return not filed or not including income outside New York state. If a person required to report income to the corporation did not file an appropriate New York state income tax return, or if the

return did not include income outside New York state, such person shall report to the corporation what his income would have been had his total income been subject to New York state income tax and had such income tax return been filed.

7. Statement of income. An applicant, the applicant's spouse, and the applicant's parents, if their income is included in "income" for purposes of this article, shall file annually with the corporation, in a manner prescribed by the president, a statement of their income, signed and affirmed as true under penalties of perjury.

8. Verification of financial report. The state tax commission shall, upon request by the president, compare any statement filed with the corporation pursuant to this article or any information derived therefrom with the state income tax returns filed by the persons making such statement and shall report any discrepancies to the president.

9. Confidentiality of financial reports. All statements filed with the corporation and all reports made by the state tax commission pursuant to this section shall be deemed confidential.

§ 664. Concurrent awards. 1. a. No person shall receive benefits concurrently from more than one academic performance award under this chapter, except for the regents scholarship in Cornell university. Nor shall any person receive benefits from an academic performance award under this chapter concurrently with any scholarship, grant, or educational assistance under federal law that, in the judgment of the commissioner would duplicate the purpose of such academic performance award, except United States war orphan educational benefits or benefits under the veterans' readjustment benefits act of nineteen hundred sixty-six.

b. A person may receive concurrently a tuition assistance program award, a regents award for children of deceased and disabled veterans and a regents award for children of deceased police officers, firefighters and volunteer firefighters, and correction officers of the

state or any political subdivision thereof, and may also receive benefits under one or all of these awards concurrently with an academic performance award or federal or other awards. However, in the case of the regents awards for children of deceased state correction officers and state civilian employees of a correctional facility received pursuant to the provisions of section six hundred sixty-nine of this article, no person shall receive benefits under this award concurrently with any other general or academic performance award under this chapter, or with any scholarship, grant, or educational assistance under federal law that, in the judgment of the commissioner would duplicate the purposes of such award.

c. A person may receive concurrently a tuition assistance award and a scholarship for academic achievement pursuant to subdivision eighteen of section three hundred fifty-five of this chapter.

2. Where concurrent use of two or more awards is not permitted under this section, a student qualifying for two or more awards must choose which award he wishes to accept.

3. The board shall promulgate, subject to the approval of the regents, rules and regulations which shall govern the use of state awards and loans concurrently with awards and loans granted to a student by any other political entity or subdivision, institute, corporation, agency, or foundation.

§ 665. Payment. 1. Semester payment. The annual award to each recipient shall be paid in separate installments on a prorated basis, for each semester, quarter, or other term of attendance during the academic year. For an approved two-year program of study conducted on a clock hour basis at a registered private business school, the award shall be paid in installments by payment term as such period is defined by the rules of the board. The board shall take into consideration in promulgating such rules an appropriate proration of the regular program of study provided during an academic year and the periods at which student progress and academic standing are evaluated. In no event shall

there be less than two, nor more than four, payment terms in an academic year, including when such year contains a semester, quarter or other term of accelerated study, provided however, that up to thirty percent of payments may be paid in the following academic year but no later than August first.

2. Payment for accelerated study. a. If the student enrolls for a term of study which shall be beyond the regular program of study for the academic year, an additional award shall be made for each such term of study on the basis of an equivalent full semester, quarter, or term of attendance during the regular academic year.

b. If the student enrolls in a term of accelerated study as described in paragraph a of this subdivision constituting less than the equivalent of a full semester, quarter, or term of attendance, but at least half of the minimum of such a full-time program, as defined by the commissioner pursuant to article thirteen, the award for such term of study shall be one-half of the award that would otherwise have been received for full-time study. The total period of study for which payment may be made shall not exceed the equivalent of the maximum period authorized for that award. In the case of awards under subdivision four of section six hundred sixty-seven, the base award shall be the lesser of (i) one-half of the amount of the award provided for or (ii) the amount of tuition, and the deduction shall be at one-half the rate that would otherwise apply to full-time study.

c. A student shall qualify for accelerated study upon the completion of twenty-four credit hours, or its equivalent, from such institution in the preceding two semesters, or the equivalent, prior to the term of the application provided however, that the equivalent of three credits per semester may be remedial courses and therefore such student shall be eligible for an accelerated award after having earned a total of eighteen degree credits in the preceding two semesters.

3. Institutional certification, audit and payment procedure.

a. Each institution of post-secondary education shall certify to the

corporation that each student in attendance at that institution who has applied for a general award or academic performance award under this article is eligible for such award in accordance with all criteria established for such award by statute and regulation. Such certification shall be made on forms provided by the president within such time as required by the president and shall state that, as of the date established by the institution in accordance with its refund policy and the regulations of the commissioner, the student (i) has incurred a full tuition liability for that term of attendance, (ii) was no longer eligible for a refund upon withdrawal from study, (iii) was in full-time attendance and (iv) satisfied all other eligibility requirements for such award. If any student does not satisfy the necessary eligibility requirements on that date, it shall be the responsibility of the institution to so state, to specify whether such student was eligible prior to that date and the amount of tuition liability incurred.

b. The comptroller shall audit institutional adherence to the statutes, rules and regulations governing general and academic performance awards and shall be responsible for determining the amount, if any, owed to the state by an institution which amount represents overpayment to the institution on a student's behalf. The comptroller shall report cases of suspected willful and knowing institutional violation of such statutes, rules or regulations to the district attorney in the county in which such institution is located.

c. (i) Payments under this article shall be made by the comptroller upon the certificate of the president to or for the benefit of the recipient of each award. Such certificate shall be given upon vouchers or other evidence provided by the student and by the institution of attendance showing that the person named therein is entitled to receive the sum specified, either directly or for his benefit. Payments may be made directly to the school attended by the person named in such certificate, on behalf of and for the benefit of such person. The president may establish such methods of payment, including prepayment, of awards to students or to schools on behalf of students as may effect the orderly administration of the program as he may deem appropriate. Selection of the method of payment shall be at the option of the

institution, provided, however, that the president may limit participation in such alternative methods of payment to schools fulfilling criteria established by the president to assure the appropriate receipt and handling of funds.

(ii) Notwithstanding any other provision of law, and in accordance with rules adopted by the board for these purposes, the president may suspend, limit or terminate an institution's participation in the general, academic and other award programs administered by the corporation in the event it shall be determined after a hearing conducted in accordance with the state administrative procedure act that the institution has violated any statute, rule or regulation applicable to such award programs. If the president shall determine that immediate action is necessary in order to prevent an unreasonable risk of substantial loss of funds administered by the corporation, the president may, in accordance with rules and regulations adopted by the board for this purpose, withhold payments and prepayments of awards upon the initiation of the suspension, limitation and termination proceeding as an emergency measure. Upon receipt of a report or other information indicating a violation by an institution of any law or rule applicable to the award programs affecting the eligibility of a substantial number of students attending the institution and receiving awards, or indicating the institution may terminate its program prior to the completion of the term or semester or may fail to repay refunds due, the president, in accordance with rules adopted by the board for this purpose, may make payments and prepayments to the institution in installments, in trust, or under such other terms and conditions as the president may deem necessary to assure such payments shall be expended consistent with statutory and regulatory requirements or shall be available for application to the payment of refunds due.

(iii) During the initial year a school shall offer approved programs, the president may make payments and prepayments to the school in installments, in trust, or under such other terms and conditions as the president may deem necessary to assure such payments shall be expended consistent with statutory and regulatory requirements or shall be available for application to the payment of refunds due.

d. A registered business school shall submit to the president at such

time as the rules of the board may provide a statement of such school's financial operations and condition as of the end of the school's most recent fiscal period prepared by an independent public auditor in conformity with generally accepted auditing standards. Submission of such a statement may be made a condition of further participation in the awards program.

4. a. Student refunds. If a student receives payment as a result of administrative error by the institution or the corporation or a false or erroneous statement on his application or financial form, or any other act of omission or commission on the part of the student, his spouse, or his parents, such that the recipient would otherwise have been considered by the president ineligible to receive such payment, the recipient shall be required to refund the improper payment to the state.

b. Institutional refunds. The president shall require institutions to refund payment to the state, and the student shall not be required to refund such payments, when (i) the president has determined that inadequate administrative procedures or practices of the institution resulted in the incorrect certification of the eligibility of a program or student, or (ii) the commissioner has determined that the institution failed to conduct an approved program in accordance with the regulations of the commissioner in effect when such program was conducted.

c. The president shall be empowered to: (i) require such payment immediately, (ii) accept a repayment schedule or installment payments over a reasonable period of time, (iii) reduce any future award received by such student by the amount of the refund due, or (iv) reduce any future payments receivable by the institution on behalf of currently eligible students by the amount of refund due with a direction to the institution to consider each eligible student's account to have been credited with the amount of his award eligibility for that term of attendance. The board of trustees shall promulgate regulations governing procedures for the assertion, appeal and recovery of a refund claimed by the corporation against a student or an institution.

d. If the recipient or the institution, as the case may be, without

reasonable cause, fails to promptly comply with the president's demand for such refund, the attorney general of the state shall, upon request of the president, bring suit to obtain such refund.

5. Payment for prior study. If the recipient of an award under section six hundred five of this chapter, except subdivision four thereof, has enrolled in an approved program during the academic year prior to the normal effective date of such aid, his scholarship shall become effective at the time he began his regular college course and he shall be entitled to receive payment of awards under such scholarship for such prior study.

6. Loss of good academic standing. a. If the recipient of an award fails to maintain good academic standing as defined by the commissioner pursuant to article thirteen of this chapter, which definition shall include direction to institutions to establish standards of reasonable progress toward completion of the program in which a student is enrolled, the president shall suspend further payments under the award until and unless the student shall establish, to the satisfaction of the commissioner, promise of successful completion of the program for which the award is made, and the president may revoke the award if the recipient is not reinstated in good academic standing within a reasonable time to be set by the commissioner.

b. Students who receive their first state award during the nineteen hundred eighty-one--nineteen hundred eighty-two academic year through and including the two thousand five--two thousand six academic year, shall maintain good academic standing as defined by the commissioner, except that such standard shall not apply to students receiving aid under section six hundred sixty-seven-a of this part.

c. Students who receive their first state award during the two thousand six--two thousand seven academic year and thereafter shall make satisfactory progress toward the completion of the program's academic requirements as provided in this paragraph. For purposes of this subdivision, "reasonable progress toward completion of the program" shall mean a student must complete, at a minimum, the following

requirements at the time of certification; provided that nothing shall prevent a college from developing stricter standards to measure reasonable progress:

(i) For students first receiving aid in two thousand seven--two thousand eight, through and including two thousand nine--two thousand ten, and for students enrolled in a program of remedial study as defined in paragraph d of this subdivision who first received aid in two thousand seven--two thousand eight, and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized in semesters:

Before Being Certified for This Payment	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th
A Student Must Have Accrued at Least This Many Credits	0	3	9	21	33	45	60	75	90	105
With At Least This Grade Point Average	0	1.1	1.2	1.3	2.0	2.0	2.0	2.0	2.0	2.0

(ii) For students first receiving aid in two thousand seven--two thousand eight, through and including two thousand nine--two thousand ten, and for students enrolled in a program of remedial study as defined in paragraph d of this subdivision who first received aid in two thousand seven--two thousand eight, and thereafter, and enrolled in

two-year undergraduate programs whose terms are organized in semesters:

Before Being Certified for This Payment	1	2	3	4	5	6
A Student Must Have Accrued at Least This Many Credits	0	3	9	18	30	45
With at Least This Grade Point Average	0	.5	.75	1.3	2.0	2.0

(iii) For students first receiving aid in two thousand seven--two thousand eight, through and including two thousand nine--two thousand ten, and for students enrolled in a program of remedial study as defined in paragraph d of this subdivision who first received aid in two thousand seven--two thousand eight, and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized on a trimester basis:

Before Being Certified	1	2	3	4	5	6	7	8

for This

Payment

A Student 0 2 4 9 17 25 33 40

Must Have

Accrued at

Least This

Many Credits

With At Least 0 1.1 1.1 1.2 1.2 1.3 2.0 2.0

This Grade

Point Average
and,

Before Being 9 10 11 12 13 14 15

Certified

for This

Payment

A Student 50 60 70 80 90 100 110

Must Have

Accrued at

Least This

Many Credits

With At Least 2.0 2.0 2.0 2.0 2.0 2.0 2.0

This Grade

Point Average

(iv) For students first receiving aid in two thousand seven--two thousand eight, through and including two thousand nine--two thousand ten, and for students enrolled in a program of remedial study as defined in paragraph d of this subdivision who first received aid in two thousand seven--two thousand eight, and thereafter, and enrolled in two-year undergraduate programs whose terms are organized on a trimester basis:

Before Being 1 2 3 4 5 6 7 8 9

Certified

for This

Payment

A Student 0 2 4 9 15 21 30 37 45

Must Have

Accrued at

Least This

Many Credits

With At Least 0 .5 .5 .75 .75 1.3 2.0 2.0 2.0

This Grade

Point Average

(v) For students first receiving aid in two thousand ten--two thousand eleven and thereafter, who do not meet the definition of a student enrolled in a program of remedial study as defined in paragraph d of this subdivision, and are enrolled in a four-year or five-year undergraduate program whose terms are organized in semesters:

Before Being Certified for This Payment	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th
A Student Must Have Accrued at Least This Many Credits	0	6	15	27	39	51	66	81	96	111
With At Least This Grade Point Average	0	1.5	1.8	1.8	2.0	2.0	2.0	2.0	2.0	2.0

(vi) For students first receiving aid in two thousand ten--two thousand eleven and thereafter, who do not meet the definition of a student enrolled in a program of remedial study as defined in paragraph d of this subdivision, and are enrolled in a two-year undergraduate program whose terms are organized in semesters:

Before Being	1st	2nd	3rd	4th	5th	6th

Certified

for This

Payment

A Student 0 6 15 27 39 51

Must Have

Accrued at

Least This

Many Credits

With At Least 0 1.3 1.5 1.8 2.0 2.0

This Grade

Point Average

(vii) For students first receiving aid in two thousand ten--two thousand eleven and thereafter, who do not meet the definition of a student enrolled in a program of remedial study as defined in paragraph d of this subdivision, and are enrolled in a four-year or five-year undergraduate program whose terms are organized on a trimester basis:

Before Being 1st 2nd 3rd 4th 5th 6th 7th 8th

Certified

for This

Payment

A Student 0 4 8 14 22 30 38 46

Must Have

Accrued at

Least This

Many Credits

With At Least 0 1.1 1.5 1.5 1.8 2.0 2.0 2.0

This Grade

Point Average

and,

Before Being 9th 10th 11th 12th 13th 14th 15th

Certified

for This

Payment

A Student 56 66 76 86 96 106 116

Must Have

Accrued at

Least This

Many Credits

With At Least 2.0 2.0 2.0 2.0 2.0 2.0 2.0

This Grade

Point Average

(viii) For students first receiving aid in two thousand ten--two thousand eleven and thereafter, who do not meet the definition of a student enrolled in a program of remedial study as defined in paragraph d of this subdivision, and are enrolled in a two-year undergraduate program whose terms are organized on a trimester basis:

Before Being Certified for This Payment	1st	2nd	3rd	4th	5th	6th	7th	8th	9th
A Student Must Have Accrued at Least This Many Credits	0	2	6	14	22	30	38	46	54
With At Least This Grade Point Average	0	1.0	1.3	1.5	1.5	1.8	2.0	2.0	2.0

d. For purposes of paragraph c of this subdivision, a student enrolled in a program of remedial study shall mean a student: (a) whose scores on a recognized college placement exam or nationally recognized standardized exam indicated the need for remediation for at least two

semesters, as certified by the appropriate college official and approved by the commissioner; or (b) who was enrolled in at least six semester hours of non-credit remedial courses, as approved by the commissioner, in the first term they received a tuition assistance program award in an approved program; or (c) who is or was enrolled in the higher education opportunity program (HEOP), the educational opportunity program (EOP), the search for education, elevation and knowledge (SEEK) program, or the college discovery (CD) program.

e. Notwithstanding the provisions of paragraph c of this subdivision, for students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, and who receive their first state award during the two thousand ten--two thousand eleven academic year and thereafter shall make satisfactory progress toward completion of the program's academic requirements as provided in this paragraph. For purposes of this subdivision, "reasonable progress toward the completion of the program" shall mean a student must complete, at a minimum, the following requirements at the time of certification; provided that nothing shall prevent a college from developing stricter standards to measure reasonable progress:

(i) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, first receiving aid in two thousand ten--two thousand eleven and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized in semesters:

Before Being Certified for This Payment	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th
A Student Must Have Accrued	0	3	9	21	33	45	60	75	90	105

at Least This

Many Credits

With At Least 0 1.5 1.8 1.8 2.0 2.0 2.0 2.0 2.0 2.0

This Grade

Point Average

(ii) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, first receiving aid in two thousand ten--two thousand eleven and thereafter, and enrolled in two-year undergraduate programs whose terms are organized in semesters:

Before Being 1st 2nd 3rd 4th 5th 6th 7th 8th

Certified

for This

Payment

A Student 0 3 9 18 30 42 51 60

Must Have

Accrued at

Least This

Many Credits

With At Least 0 1.3 1.5 1.8 2.0 2.0 2.0 2.0

This Grade

Point Average

(iii) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, first receiving aid in two thousand ten--two thousand eleven and thereafter, and enrolled in four-year or five-year undergraduate programs whose terms are organized on a trimester basis:

Before Being Certified for This Payment	1st	2nd	3rd	4th	5th	6th	7th	8th
A Student Must Have Accrued at Least This Many Credits	0	2	4	9	17	25	33	40
With At Least This Grade Point Average	0	1.1	1.5	1.5	1.8	2.0	2.0	2.0

and,

Before Being Certified for This	9th	10th	11th	12th	13th	14th	15th

Payment							
A Student Must Have Accrued at Least This Many Credits With At Least This Grade Point Average	50	60	70	80	90	100	110
	2.0	2.0	2.0	2.0	2.0	2.0	2.0

(iv) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, first receiving aid in two thousand ten--two thousand eleven and thereafter, and enrolled in two-year undergraduate programs whose terms are organized on a trimester basis:

Before Being Certified for This Payment	1st	2nd	3rd	4th	5th	6th	7th	8th
A Student Must Have Accrued at	0	2	4	9	15	21	30	37

Least This

Many Credits

With At Least 0 1.0 1.3 1.5 1.5 1.8 2.0 2.0

This Grade

Point Average

and,

Before Being 9th 10th 11th 12th

Certified

for This

Payment

A Student 45 50 55 60

Must Have

Accrued at

Least This

Many Credits

With At Least 2.0 2.0 2.0 2.0

This Grade

Point Average

(v) Notwithstanding any other provision of law or regulation to the contrary, upon each certification, payment eligibility shall be

determined and measured proportionally in equivalence with full time study for students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101.

7. Availability of academic performance awards. Except as provided herein, payment of academic awards may be made for a period of seven years beginning with the academic year in which payment is first available. In the event that a person entitled to such an award is engaged in active service in the armed forces of the United States or active service in the national welfare in a program such as the peace corps, an extension of the seven year period equivalent to the period of such active service but not in excess of three years may be granted upon application to the corporation. A recipient who is ineligible for payment of an award in the first academic year of eligibility due to attendance in an ineligible out of state school shall not be thereafter eligible for any other payments of such award. Recipients of an award which may be reawarded who are temporarily unable to avail themselves of the benefits of the award due to illness or other cause established by the board of regents prior to receipt and utilization of the first payment of such award, may apply for a temporary leave of absence pursuant to the regulations of the corporation. The provisions of this subdivision shall not be considered to increase or in any way alter the number, amount or methods of payments made under an academic performance award.

§ 665-a. Institutional participation in award programs. 1. Participation agreement. No institution may participate in the general, academic or other award programs described in this article unless it shall have entered into a written agreement with the corporation under which it shall be bound to comply with all laws and rules applicable to such programs. The participation agreement may contain such other terms and conditions, consistent with such applicable laws, rules and procedures, as the president may require in accordance with rules adopted for this purpose by the board and shall be developed in consultation with the commissioner of education.

In accordance with rules adopted by the board for this purpose, the president, may suspend, limit or terminate an institution's participation in these programs in the event it shall be determined after a hearing conducted in accordance with the state administrative procedure act that the institution has violated any applicable laws, rules or procedures provided for under the agreement in accordance with law and the rules of the board.

2. Reports. In accordance with rules adopted by the board for this purpose, the president may require an institution participating in the general, academic and other award programs to certify on such forms as the president may prescribe at the commencement of its semester, term or other period of attendance, or at such other times as the president may direct, the manner in which the records are being maintained to demonstrate the eligibility of the students the institution certifies as eligible for the receipt of awards under the provisions of subdivision three of section six hundred sixty-five of this article during such semester, term or period of attendance. The president may suspend, limit or terminate an institution's participation in the general, academic and other award programs administered by the corporation in the event it shall be determined after a hearing conducted in accordance with the state administrative procedure act that the institution has failed or refused to submit such certified report after written demand therefor, or shall have willfully submitted a materially false report.

3. Contingencies on the receipt of state funding. (a) An institution shall not, as a condition of any award or loan pursuant to this article, require any student to:

(i) submit to mandatory arbitration to resolve any matter relating to such award or loan prior to the commencement of any legal action to enforce an entitlement thereto;

(ii) resolve a complaint relating to any award or loan through an internal dispute process;

(iii) waive any right, forum, or procedure for a violation of any provision of this chapter, including the right to file and pursue a civil action, class action or a complaint with, or otherwise notify, any state agency, other public prosecutor, law enforcement agency, or any

court or other governmental entity of any alleged violation; or

(iv) be prohibited from disclosing, discussing, describing or commenting upon the terms of the agreement or any violation thereof.

(b) An institution shall not threaten, retaliate or discriminate against any student eligible for such award or loan because of the refusal by such student to consent to mandatory arbitration, to resolve a complaint through an internal dispute process, to waive any right, forum, or procedure for a violation of this chapter, including the right to file and pursue a civil action, class action or a complaint with, or otherwise notify, any state agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation, or not to disclose, discuss, describe or comment upon the terms of the agreement or any violation thereof.

(c) For purposes of this subdivision, an agreement that requires a student to opt out of a waiver or take any affirmative action in order to preserve their rights is deemed a condition that violates paragraph (a) of this subdivision.

(d) In addition to injunctive relief and any other remedies available, a court may award a prevailing plaintiff enforcing their rights under this subdivision reasonable attorneys' fees.

(e) Nothing in this subdivision is intended to invalidate a written arbitration agreement that is otherwise enforceable under the Federal Arbitration Act.

SUBPART II

GENERAL AWARDS

Section 667. Tuition assistance program awards.

667-a. Supplemental tuition assistance program.

667-c. Part-time tuition assistance program awards.

667-d. Enhanced tuition awards.

668. Regents awards for children of deceased and disabled veterans.

668-a. Regents awards for children of deceased police officers, peace officers, firefighters and volunteer firefighters.

668-b. Memorial scholarships for children, spouses and

financial dependents of deceased firefighters, volunteer firefighters, police officers, peace officers, and emergency medical service workers.

668-c. Awards for Vietnam veterans' children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions.

668-d. World trade center memorial scholarships.

668-e. Military enhanced recognition, incentive and tribute ("MERIT") scholarships.

668-f. American Airlines flight 587 memorial scholarships.

668-g. Continental Airlines flight 3407 memorial scholarships.

669. Regents awards for children of deceased state correction officers and state civilian employees of a correction facility.

669-a. Veterans tuition awards program.

669-b. Recruitment incentive and retention program for members of the New York state organized militia.

669-d. New York state math and science teaching incentive program.

669-e. New York state science, technology, engineering and mathematics incentive program.

669-f. New York state masters-in-education teacher incentive scholarship program.

669-g. The New York state achievement and investment in merit scholarship (NY-AIMS).

669-h. Excelsior scholarship.

§ 667. Tuition assistance program awards. 1. Recipient qualifications. Tuition assistance program awards are available for all students who are enrolled in approved programs and who demonstrate the ability to complete such courses, in accordance with standards established by the commissioner provided, however, that no award shall be made unless tuition (exclusive of educational fees) and, if applicable, the college fee levied by the state university of New York pursuant to the April first, nineteen hundred sixty-four financing agreements with the New York state dormitory authority charged for the

program in which the student is enrolled total at least two hundred dollars a year, and provided further that, no award can exceed one hundred percent of the amount of tuition charged.

2. Duration. No undergraduate shall be eligible for more than four academic years of study, or five academic years if the program of study normally requires five years. Students enrolled in a program of remedial study, approved by the commissioner in an institution of higher education and intended to culminate in a degree in undergraduate study shall, for purposes of this section, be considered as enrolled in a program of study normally requiring five years. An undergraduate student enrolled in an eligible two year program of study approved by the commissioner shall be eligible for no more than three academic years of study. An undergraduate student enrolled in an approved two or four-year program of study approved by the commissioner who must transfer to another institution as a result of permanent college closure shall be eligible for up to two additional semesters, or their equivalent, to the extent credits necessary to complete the student's program of study were deemed non-transferable from the closed institution or were deemed not applicable to such student's program of study by the new institution. Any semester, quarter, or term of attendance during which a student receives any award under this article, after the effective date of the former scholar incentive program and prior to academic year nineteen hundred eighty-nine--nineteen hundred ninety, shall be counted toward the maximum term of eligibility for tuition assistance under this section, except that any semester, quarter or term of attendance during which a student received an award pursuant to section six hundred sixty-six of this subpart shall be counted as one-half of a semester, quarter or term, as the case may be, toward the maximum term of eligibility under this section. Any semester, quarter or term of attendance during which a student received an award pursuant to section six hundred sixty-seven-a of this subpart shall not be counted toward the maximum term of eligibility under this section.

3. Tuition assistance program awards.

a. Amount. The president shall make awards to students enrolled in

degree-granting institutions or registered not-for-profit business schools qualified for tax exemption under § 501(c)(3) of the internal revenue code for federal income tax purposes in the following amounts:

(i) For each year of undergraduate study, assistance shall be provided as computed on the basis of the amount which is the lesser of the following:

(A) (1) In the case of students who have not been granted an exclusion of parental income, who have qualified as an orphan, foster child, or ward of the court for the purposes of federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended, or had a dependent for income tax purposes during the tax year next preceding the academic year for which application is made, except for those students who have been granted exclusion of parental income who have a spouse but no other dependent:

(a) Five thousand dollars, except starting in two thousand fourteen-two thousand fifteen such students shall receive five thousand one hundred sixty-five dollars, and except starting in two thousand twenty-one--two thousand twenty-two and thereafter such students shall receive five thousand six hundred sixty-five dollars, provided however that nothing herein shall be construed as increasing any award made pursuant to this section for an academic year prior to two thousand twenty-one--two thousand twenty-two; or

(b) For undergraduate students enrolled in a program of study at a non-public degree-granting institution that does not offer a program of study that leads to a baccalaureate degree, or at a registered not-for-profit business school qualified for tax exemption under section 501(c)(3) of the internal revenue code for federal income tax purposes that does not offer a program of study that leads to a baccalaureate degree, four thousand dollars, except starting in two thousand twenty-one--two thousand twenty-two and thereafter such students shall receive four thousand five hundred dollars. Provided, however, that this subitem shall not apply to students enrolled in a program of study leading to a certificate or degree in nursing.

(2) In the case of students receiving awards pursuant to subparagraph (iii) of this paragraph and those students who have been granted exclusion of parental income who have a spouse but no other dependent beginning in the two thousand twenty-one--two thousand twenty-two

academic year and thereafter, three thousand five hundred twenty-five dollars, provided that nothing herein shall be construed as increasing any award made for any prior academic year; or

(B) (1) Ninety-five percent of the amount of tuition (exclusive of educational fees) charged and, if applicable, the college fee levied by the state university of New York pursuant to the April first, nineteen hundred sixty-four financing agreement with the New York state dormitory authority.

(2) For the two thousand one--two thousand two academic year and thereafter one hundred percent of the amount of tuition (exclusive of educational fees) charged and, if applicable, the college fee levied by the state university of New York pursuant to the April first, nineteen hundred sixty-four financing agreement with the New York state dormitory authority.

(ii) Except for students as noted in subparagraph (iii) of this paragraph, the base amount as determined from subparagraph (i) of this paragraph, shall be reduced in relation to income as follows:

Amount of income	Schedule of reduction of base amount
(A) Less than seven thousand dollars	None
(B) Seven thousand dollars or more, but less than eleven thousand dollars	Seven per centum of excess over seven thousand dollars
(C) Eleven thousand dollars or more, but less than eighteen thousand dollars	Two hundred eighty dollars plus ten per centum of excess over eleven thousand dollars
(D) Eighteen thousand dollars or more, but not more than one hundred twenty-five thousand dollars	Nine hundred eighty dollars plus twelve per centum of excess over eighteen thousand dollars

(iii) (A) For students who have been granted exclusion of parental income and were single with no dependent for income tax purposes during the tax year next preceding the academic year for which application is made, the base amount, as determined in subparagraph (i) of this paragraph, shall be reduced in relation to income as follows:

Amount of income	Schedule of reduction

	of base amount
(1) Less than three thousand dollars	None
(2) Three thousand dollars or more, but not more than thirty thousand dollars	Thirty-one per centum of amount in excess of three thousand dollars

(B) For those students who have been granted exclusion of parental income who have a spouse but no other dependent, for income tax purposes during the tax year next preceding the academic year for which application is made, the base amount, as determined in subparagraph (i) of this paragraph, shall be reduced in relation to income as follows:

Amount of income	Schedule of reduction of base amount
(1) Less than seven thousand dollars	None
(2) Seven thousand dollars or more, but less than eleven thousand dollars	Seven per centum of excess over seven thousand dollars
(3) Eleven thousand dollars or more, but less than eighteen thousand dollars	Two hundred eighty dollars plus ten per centum of excess over eleven thousand dollars
(4) Eighteen thousand dollars or more, but not more than sixty thousand dollars	Nine hundred eighty dollars plus twelve per centum of excess over eighteen thousand dollars

(iv) If the amount of reduction is not a whole dollar, it shall be reduced to the next lowest whole dollar. In the case of any student who has received four or more payments pursuant to any and all awards provided for in this subdivision, for the two thousand--two thousand one academic year the base amount shall be reduced by an additional one hundred fifty dollars for the two thousand one--two thousand two academic year and thereafter the base amount shall be reduced by an additional one hundred dollars.

(v) The award shall be the net amount of the base amount determined pursuant to subparagraph (i) of this paragraph reduced pursuant to subparagraph (ii) or (iii) of this paragraph but the award shall not be reduced for the two thousand--two thousand one and two thousand one--two

thousand two academic years below two hundred seventy-five dollars if the amount of income is eighty thousand dollars or less and more than seventy thousand dollars, three hundred twenty-five dollars if the amount of income is seventy thousand dollars or less and more than sixty thousand dollars and four hundred twenty-five dollars if the amount of income is sixty thousand dollars or less.

(vi) For the two thousand two--two thousand three through two thousand twenty-three--twenty-four academic years, the award shall be the net amount of the base amount determined pursuant to subparagraph (i) of this paragraph reduced pursuant to subparagraph (ii) or (iii) of this paragraph but the award shall not be reduced below five hundred dollars.

(vii) For the two thousand twenty-four--two thousand twenty-five academic year and thereafter, the award shall be the net amount of the base amount determined pursuant to subparagraph (i) of this paragraph reduced pursuant to subparagraph (ii) or (iii) of this paragraph but the award shall not be reduced below one thousand dollars.

b. Amount. The president shall make awards to students enrolled in two year programs offered in registered private business schools except for registered not-for-profit business schools qualified for tax exemption under section 501(c)(3) of the internal revenue code for federal income tax purposes in the following amounts:

(i) For each year of study, assistance shall be provided as computed on the basis of the amount which is the lesser of the following:

(A) (1) one thousand three hundred dollars, or

(2) for students receiving awards pursuant to subparagraph (iii) of this paragraph, one thousand one hundred forty dollars; or

(B) (1) Ninety-five percent of the amount of tuition (exclusive of educational fees) charged.

(2) For the two thousand one--two thousand two academic year and thereafter one hundred percent of the amount of tuition (exclusive of educational fees).

(ii) Except for students as noted in subparagraph (iii) of this paragraph, the base amount as determined in subparagraph (i) of this paragraph, shall be reduced in relation to income as follows:

Amount of income	Schedule of reduction of base amount

(A) Less than seven thousand dollars	None
(B) Seven thousand dollars or more, but less than eleven thousand dollars	Seven per centum of the excess over seven thousand dollars

(iii) For students who have been granted exclusion of parental income and were single with no dependent for income tax purposes during the tax year next preceding the academic year for which application is made, the base amount, as determined in subparagraph (i) of this paragraph, shall be reduced in relation to income as follows:

Amount of income	Schedule of reduction of base amount
(A) Less than three thousand dollars	None
(B) Three thousand dollars or more, but not more than ten thousand dollars	Thirty-one per centum of the excess over three thousand dollars

(iv) If the amount of reduction is not a whole dollar, it shall be reduced to the next lowest whole dollar. In the case of any student who has received four or more payments pursuant to any and all awards provided for in this subdivision, for the two thousand--two thousand one academic year the base amount shall be reduced by an additional one hundred fifty dollars for the two thousand one--two thousand two academic year and thereafter the base amount shall be reduced by an additional one hundred dollars.

(v) The award shall be the net amount of the base amount determined pursuant to subparagraph (i) of this paragraph reduced pursuant to subparagraph (ii) or (iii) of this paragraph but the award shall not be reduced below one hundred dollars. If the income exceeds the maximum amount of income allowable under subparagraph (ii) or (iii) of this paragraph, no award shall be made.

c. Restrictions. In no even shall shall any award:

(i) be made unless the annual tuition (exclusive of educational fees) and, if applicable, the college fee levied by the state university of New York pursuant to the April first, nineteen hundred sixty-four financing agreement with the New York state dormitory authority charged

for the program in which the student is enrolled total at least two hundred dollars; or

(ii) exceed the amount by which such annual tuition (exclusive of educational fees) and, if applicable, the college fee levied by the state university of New York pursuant to the April first, nineteen hundred sixty-four financing agreement with the New York state dormitory authority exceed the total of all other state, federal, or other educational aid that is received or receivable by such student during the school year for which such award is applicable and that, in the judgment of the commissioner, would duplicate the purposes of the award; or

(iii) be made when income exceeds the maximum income set forth in this subdivision. The commissioner shall list in his regulations all major state and federal financial aid available to New York state students and identify any forms of aid that are duplicative of the purposes of the tuition assistance program. For the purposes of this subdivision, neither United States war orphan educational benefits nor benefits under the veterans' readjustment act of nineteen hundred sixty-six shall be considered as federal or other educational aid.

§ 667-a. Supplemental tuition assistance program. 1. Legislative intent. The legislature hereby finds that to further the goal of equal opportunity it is necessary to assure the availability of supplemental assistance for the successful remediation of educationally disadvantaged students in addition to assistance currently available under existing statute for students with financial need. Accordingly, tuition assistance shall be extended to students whose need for remediation precludes them from fulfilling the program pursuit and academic progress requirements of the tuition assistance program.

2. Operation. (a) The supplemental tuition assistance program shall be governed by all law, rules and regulations pertaining to the tuition assistance program provided however that, notwithstanding any law, rule and regulation to the contrary, eligibility for supplemental tuition assistance program awards shall be limited to any undergraduate student receiving aid under this article for the first time during school year

nineteen hundred ninety-five--nineteen hundred ninety-six or thereafter who meets both of the following conditions:

(i) The student shall not be enrolled in the higher education opportunity program, educational opportunity program, the Percy Ellis Sutton search for education, elevation and knowledge program or the college discovery program.

(ii) The student must be accepted into an institution of higher education and be enrolled in an approved non-credit bearing remediation program in the summer immediately preceding and/or immediately following the initial year of matriculated study.

(b) Students who meet the conditions described in paragraph (a) of this subdivision shall be eligible to receive up to one quarter of the annual tuition assistance program award for each session, up to two sessions, of summer remediation in addition to those tuition assistance program awards specified in subdivision two of section six hundred sixty-seven of this article.

§ 667-c. Part-time tuition assistance program awards. 1. Notwithstanding any law, rule or regulation to the contrary, the president of the higher education services corporation is authorized to make tuition assistance program awards to:

a. part-time students enrolled at a degree granting institution of higher education incorporated by the regents or by the legislature who meet all requirements for tuition assistance program awards except for the students' part-time attendance; or

b. part-time students enrolled at a community college or a public agricultural and technical college in a non-degree workforce credential program directly leading to the employment or advancement of a student in a "significant industry" as identified by the department of labor in its three most recent statewide significant industries reports published preceding the student's enrollment in such non-degree workforce credential program. The state university of New York and the city university of New York shall publish and maintain a master list of all eligible non-degree workforce credential program courses and update such

list every semester. Eligible non-degree workforce credential programs shall include those programs less than twelve semester hours, or the equivalent, per semester. A student who successfully completes a non-degree workforce credential program and receives part-time tuition assistance program awards pursuant to this paragraph shall be awarded academic credit by the state university of New York or city university of New York upon matriculation into a degree program at such institution, provided that such credit shall be equal to the corresponding credit hours earned in the non-degree workforce credential program.

2. For purposes of this section:

a. for students defined in paragraph a of subdivision one of this section, a part-time student is one who: (i) is enrolled at a college or university within the state university, including a statutory or contract college, a community college established pursuant to article one hundred twenty-six of this chapter, the city university of New York, or a non-profit college or university incorporated by the regents or by the legislature;

(ii) is enrolled for at least three but less than twelve semester hours, or the equivalent, per semester in an approved undergraduate degree program; and

(iii) has a cumulative grade-point average of at least 2.00.

b. for students defined in paragraph b of subdivision one of this section, a part-time student is one who: (i) meets all requirements for tuition assistance program awards except for the student's part-time attendance and any other requirements that are inconsistent with the student's enrollment in a non-degree workforce credential program; and

(ii) is enrolled in an approved non-degree workforce credential program at a community college or a public agricultural and technical college pursuant to paragraph b of subdivision one of this section.

3. a. For part-time students defined in this section, the award shall be calculated as provided in section six hundred sixty-seven of this article and shall be in an amount equal to the enrollment factor percent

of the award the student would have been eligible for if the student were enrolled full-time. For part-time students defined in paragraph a of subdivision one of this section, the enrollment factor percent is the percentage obtained by dividing the number of credits the student is enrolled in, as certified by the school, by the number of credits required for full-time study in the semester, quarter or term as defined by the commissioner. For part-time students defined in paragraph b of subdivision one of this section, the enrollment factor shall be calculated pursuant to regulations established by the higher education services corporation.

b. (i) For part-time students defined in paragraph a of subdivision one of this section, any semester, quarter or term of attendance during which a student receives an award pursuant to this section shall be counted as the enrollment factor percent of a semester, quarter or term toward the maximum term of eligibility for tuition assistance awards pursuant to section six hundred sixty-seven of this article. The total period of study for which payment may be made shall not exceed the equivalent of the maximum period authorized for that award.

(ii) For part-time students defined in paragraph b of subdivision one of this section, the total period of study for which payment may be made shall not exceed the equivalent of the maximum period authorized for the non-degree workforce credential program pursuant to paragraph b of subdivision one of this section.

§ 667-d. Enhanced tuition awards. 1. Recipient qualifications. a. Establishment. Enhanced tuition awards are available for students who are enrolled in approved programs in private degree granting institutions of higher education except those institutions set forth in paragraph b of subdivision four of section six hundred sixty-one of this part and who demonstrate the ability to complete such courses, in accordance with standards established by the commissioner; provided, that, no award shall exceed one hundred percent of the amount of tuition charged.

b. Application for other awards. A student who would be eligible for a

tuition assistance program award pursuant to section six hundred sixty-seven of this subpart and/or a federal Pell grant pursuant to section one thousand seventy of title twenty of the United States code, et. seq., is required to apply for each such award. Any award shall be applied to tuition after the application of payments received under the tuition assistance program pursuant to section six hundred sixty-seven of this subpart.

c. GPA requirements. Notwithstanding paragraph c of subdivision four of section six hundred sixty-one of this part, a school shall certify that a recipient has achieved a grade point average necessary for successful completion of his or her coursework to receive payment under the award.

d. Credit requirements. An award shall be made to an applicant who: (i) if enrolled in (A) a private degree granting institution of higher education prior to application, has completed at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study or (B) a public degree granting institution of higher education prior to application, has completed at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study and which were accepted upon transfer to a private degree granting institution of higher education; (ii) enrolls in at least twelve credits per semester and completes at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study except in limited circumstances as prescribed by the corporation in regulation. Notwithstanding, in the student's last semester, the student may take at least one course needed to meet his or her graduation requirements and enroll in and complete at least twelve credit hours or its equivalent. For students who are disabled as defined by the Americans With Disabilities Act of 1990, 42 USC 12101, the corporation shall prescribe rules and regulations that allow applicants who are disabled to be eligible for an award pursuant to this section based on modified criteria.

e. Notwithstanding paragraph d of this subdivision, a student who otherwise satisfies all of the requirements under this section but fails to complete at least thirty combined credits, or its equivalent, applicable to his or her program or programs of study in any year shall be eligible to receive an award payment for the first semester of such year, provided however, the student shall be ineligible for any further payments under this section.

f. Additional requirements. A recipient shall agree to reside exclusively in New York state, and shall not be employed in any other state, for a continuous number of years equal to the duration of the award received within six months of receipt of his or her final award payment, and sign a contract with the corporation to have his or her full award converted to a student loan according to a schedule to be determined by the corporation if such student fails to fulfill this requirement. The terms and conditions of this paragraph may, as established by the rules and regulations of the corporation, be deferred: (i) to complete undergraduate study; or (ii) to attend graduate school on at least a half-time basis. Any obligation to comply with such provisions as outlined in this paragraph may be cancelled upon the death of the recipient. Notwithstanding any provisions of this paragraph to the contrary, the corporation is authorized to promulgate rules and regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

g. Failure to meet the conditions of the award shall not otherwise disqualify a student's eligibility to receive an award under section six hundred sixty-seven of this subpart.

2. Duration. No undergraduate shall be eligible for more than four academic years of study, or five academic years if the program of study normally requires five years. An undergraduate student enrolled in an eligible two-year program approved by the commissioner shall be eligible for no more than two academic years. Under no circumstances shall a student receive an award for a two-year program for more than two consecutive years of academic study or four consecutive semesters of academic study; or at a four or five-year program, for more than four

consecutive years or eight consecutive semesters of academic study or five consecutive years, or ten consecutive semesters of study if the program normally requires five years. Notwithstanding, such duration may be extended for an allowable interruption of study including, but not limited to, death of a family member, medical leave, military service, and parental leave, as established by the corporation in regulation.

3. Income. An award shall be made to an applicant who has an adjusted gross income for the qualifying year, as such terms are defined in this subdivision, equal to or less than: (i) one hundred thousand dollars for recipients receiving an award in the two thousand seventeen--two thousand eighteen academic year; (ii) one hundred ten thousand dollars for recipients receiving an award in the two thousand eighteen--two thousand nineteen academic year; and (iii) one hundred twenty-five thousand dollars for recipients receiving an award in the two thousand nineteen--two thousand twenty academic year and thereafter. Adjusted gross income shall be the total of the combined adjusted gross income of the applicant and the applicant's parents or the applicant and the applicant's spouse, if married. Qualifying year shall be the adjusted gross income as reported on the federal income tax return, or as otherwise obtained by the corporation, for the calendar year coinciding with the tax year established by the U.S. department of education to qualify applicants for federal student financial aid programs authorized by Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, for the school year in which application for assistance is made. Provided, however, if an applicant demonstrates to the corporation that there has been a change in such applicant's adjusted gross income in the year or years subsequent to the qualifying year which would qualify such applicant for an award, the corporation shall review and make a determination as to whether such applicant meets the requirement set forth in this subdivision based on such year. Provided, further that such change was caused by the death, permanent and total physical or mental disability, divorce, or separation by judicial decree or pursuant to an agreement of separation which is filed with a court of competent jurisdiction of any person whose income was required to be used to compute the applicant's total adjusted gross income.

4. Amount. Within the amounts appropriated therefor and based on availability of funds, awards shall be granted beginning with the two thousand seventeen--two thousand eighteen academic year and thereafter to applicants that the corporation has determined are eligible to receive such awards. Recipients of an award under this program shall receive six thousand dollars through a combination of the enhanced tuition award plus a student's tuition assistance program award pursuant to section six hundred sixty-seven of this subpart plus the institution's matching award pursuant to subdivision five of this section. Provided, however, any institution that charges tuition that is reduced by greater than fifteen percent from the level of tuition charged six years prior to the academic year in which the award is to be applied shall be exempt from the requirement to provide such match and students attending such institutions shall receive an enhanced tuition award without such institutional match.

5. Matching awards. Commencing with the two thousand seventeen--two thousand eighteen academic year and thereafter, participating institutions shall credit each recipient's remaining tuition expenses in an amount equal to the recipient's award under this section. Provided, however that any institution that charges tuition that is reduced by greater than fifteen percent from the level of tuition charged six years prior to the academic year in which the award is to be applied shall be exempt from the requirement to provide such match, and shall remain exempt from providing such match to such recipient in any academic year in which such recipient receives an award under this section.

6. Tuition. The rate of tuition charged to an individual receiving an award shall not be increased for the duration of time that such individual receives an award.

7. College option. An institution may choose not to participate in the program and students attending any non-participating college may still be eligible to receive an award pursuant to section six hundred sixty-seven of this subpart.

8. Recipient selection. The president may establish: a. an application

deadline and b. a method of selecting recipients if in any given year there are insufficient funds to cover the needs of all the applicants provided that priority shall be given to eligible applicants who are currently in attendance at an institution of higher education.

9. Rules and regulations. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section including, but not limited to, the criteria for distributing the awards, which may include a lottery or other form of random selection.

§ 668. Regents awards for children of deceased and disabled veterans. 1. Period of military service. For a student to be eligible, the parent, or step-parent where the student is the dependent of the step-parent, (i) must have been a recipient of the armed forces expeditionary medal, the navy expeditionary medal or the marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nineteen hundred ninety, or (ii) must have served on regular active duty (other than for training) in the armed forces of the United States during part of one of the following periods:

(a) April sixth, nineteen hundred seventeen to November eleven, nineteen hundred eighteen.

(b) December seven, nineteen hundred forty-one to December thirty-one, nineteen hundred forty-six, or have been employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant

vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense or have served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or have served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

(c) June twenty-seven, nineteen hundred fifty to January thirty-one, nineteen hundred fifty-five.

(d) November first, nineteen hundred fifty-five to May seventh, nineteen hundred seventy-five.

(e) August two, nineteen hundred ninety to the end of hostilities in the Persian Gulf conflict.

(f) From September eighteenth, two thousand one until the end of the United States military efforts in Afghanistan.

(g) From October sixteenth, two thousand two until the end of the United States military efforts in Iraq.

2. Eligible groups. Awards shall be made to students each of whom has a parent with such service, or a step-parent with such service where the student is the dependent of the step-parent even if the student's biological parent is still living, who:

(a) was a legal resident of New York state at the time of his or her demise and who died or die while so serving, or as a result of injury or illness suffered or incurred during such military service; or

(b) (i) is an honorably discharged veteran of the United States or member of the armed forces of the United States, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, who is a resident of the state of New York, and who has a current disability of forty percent or more as a result of an injury or illness which is incurred or was incurred during such military service; or

(c) is now deceased, who was a resident of this state at the time of his or her demise, and who at the time of his or her demise had a disability to a degree of forty percent or more as a result of an injury or illness which was incurred during such military service; or

(d) is classified as a former prisoner of war, or as missing in action, who has been so classified by the United States department of defense, and who is a resident of the state of New York if a former prisoner of war or was a resident of the state of New York when classified as missing in action.

3. Determinations of disability. Determinations concerning disability or death by the United States Administrator of Veterans Affairs or the separate branches of the armed forces of the United States shall be conclusive.

4. Amount and duration. Every recipient shall receive an annual award of four hundred fifty dollars for each of not more than four academic years, or five academic years if the recipient is enrolled in a program normally requiring five years, as defined by the commissioner, pursuant to article thirteen.

§ 668-a. Regents awards for children of deceased police officers, peace officers, firefighters and volunteer firefighters. 1. Eligible students. Awards shall be made to resident children of police officers and peace officers as defined in the criminal procedure law, firefighters and volunteer firefighters and correction officers of the state or any political subdivision thereof, or volunteer firefighters of fire departments or companies under contract to provide fire protection to a municipality or fire district who have died as a result of an injury sustained in the line of duty.

2. Amount and duration. Every recipient shall receive an annual award of four hundred fifty dollars for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to article thirteen of this chapter.

3. Notwithstanding any inconsistent provision of this chapter, no child of a correction officer of the state who is receiving an award under the provisions of section six hundred sixty-nine of this article shall receive an award under the provisions of this section.

§ 668-b. Memorial scholarships for children, spouses and financial dependents of deceased firefighters, volunteer firefighters, police officers, peace officers, and emergency medical service workers. 1. Notwithstanding subdivision five of section six hundred sixty-one of this article, children, spouses or the financial dependents of firefighters, volunteer firefighters, police officers, peace officers, and emergency medical service workers who have died as a result of an

injury sustained in the line of duty, in service to the state of New York shall be eligible to receive an annual amount determined pursuant to subdivision two of section six hundred sixty-eight-d of this article. Any award pursuant to this section shall be inclusive of any amount the student would otherwise be eligible for pursuant to section six hundred sixty-eight-a or six hundred sixty-eight-d of this article.

2. Awards under this section shall be payable for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to article thirteen of this title.

§ 668-c. Awards for Vietnam veterans' children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions. 1. Eligible students. Awards shall be made to Vietnam veterans' resident children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions. For the purpose of this section, "Vietnam veteran" shall mean a person who served in Indochina at any time from the first day of November, nineteen hundred fifty-five, to and including the seventh day of May, nineteen hundred seventy-five and (a) was honorably discharged from the armed forces of the United States, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from the armed forces of the United States, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from the armed forces of the United States; "born with Spina Bifida" shall mean a diagnosis at birth of such disease inclusive of all forms, manifestations, complications and associated medical conditions thereof, but shall not include Spina Bifida Occulta. Such diagnosis shall be in accordance with the provisions of the federal Spina Bifida program and shall be documented by the United States Administration of Veterans' Affairs.

2. Amount and duration. Every recipient shall receive an annual award

of four hundred fifty dollars for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to article thirteen of this chapter.

§ 668-d. World trade center memorial scholarships. 1. Eligible groups. Notwithstanding subdivisions three and five of section six hundred sixty-one of this article, children, spouses and financial dependents of innocent victims who have died or have been severely and permanently disabled, or those innocent victims who have become severely and permanently disabled as a direct result of an injury sustained in the impact area of the September eleventh, two thousand one attack on the United States of America, shall be eligible to receive a memorial scholarship. The attack on the United States of America shall consist of the attack on the world trade center, the attack on the Pentagon and the hijackings and crashes of United Airlines flights 93 and 175 and American Airlines flights 11 and 77.

2. Amount. (a) The president shall grant annual scholarships in the following amounts:

(1) If the recipient attends an institution of the city university of New York or an institution of the state university of New York other than the statutory colleges at Cornell, the college of environmental science and forestry at Syracuse and the college of ceramics at Alfred, the annual award shall be an amount equal to: the tuition charged at such institution provided that, notwithstanding any provision of law to the contrary, the tuition charged to award recipients shall not exceed that charged to state resident students attending such institution; the mandatory fees charged at such institution; and the non-tuition cost of attendance at such institution or college, provided that the scholarship shall not exceed an amount that is equal to the total cost of attendance determined for federal Title IV student financial aid purposes, less all other scholarships and grants provided by New York state, other states, the federal government, or other governments, and the amount of educational benefits paid under any program that would duplicate the purposes of this program, provided that any scholarships or grants

provided to a recipient by the institution which are intended to fund any portion of the difference between the annual state award and the actual costs of attendance at any such institution shall not be considered to duplicate the purposes of this program; or

(2) If the recipient attends any other approved program within New York state, the annual award shall be based upon an amount equal to: the tuition charged to state resident students attending a four-year college of the state university of New York; the average mandatory fees charged at four-year colleges of the state university of New York, or the actual tuition and fees charged to the recipient, whichever is less; and the average non-tuition cost of attendance, as determined by the president and as approved by the director of the budget, for a student at the state university of New York or actual non-tuition cost of attendance at such institution, whichever is less, provided that the scholarship shall not exceed an amount that is equal to the total cost of attendance determined for federal Title IV student financial aid purposes, less all other scholarships and grants provided by New York state, other states, the federal government, or other governments, and the amount of educational benefits paid under any program that would duplicate the purposes of this program, provided that any scholarships or grants provided to a recipient by the institution which are intended to fund any portion of the difference between the annual state award and the actual costs of attendance at any such institution shall not be considered to duplicate the purposes of this program.

(3) Notwithstanding paragraph a of subdivision four of section six hundred sixty-one of this article, if the recipient is a New York state resident and, on September eleventh, two thousand one, was matriculated and in attendance in an institution of higher education that provides a two-year or four-year program of instruction for which the institution awards an associate or baccalaureate degree and which is eligible to participate in a program under Title IV of the Higher Education Act of 1965, as amended or any successor statutes located outside of New York state, the annual award shall be based upon an amount equal to: the tuition charged to state resident students attending a four-year college of the state university of New York; the average mandatory fees charged at four-year colleges of the state university of New York or the actual tuition and fees charged to the recipient, whichever is less; and the

average non-tuition cost of attendance, as determined, by the president and as approved by the director of the budget, for a student at the state university of New York or actual non-tuition cost of attendance at such institution, whichever is less, provided that the scholarship shall not exceed an amount that is equal to the total cost of attendance determined for federal Title IV student financial aid proposes, less all other scholarships and grants provided by New York state, other states, the federal government, or other governments, and the amount of educational benefits paid under any program that would duplicate the purposes of this program, provided that any scholarships or grants provided to a recipient by the institution which are intended to fund any portion of the difference between the annual state award and the actual annual costs of attendance at any such institution shall not be considered to duplicate the purposes of this program.

(4) "Non-tuition cost of attendance", as used in this subdivision, shall mean: (i) the actual amount charged by the institution for room and board, and (ii) an allowance for transportation, books and supplies as determined by the president and as approved by the director of the budget, provided that such determination shall be made no later than December first of each year for use in the succeeding academic year. In the event a student does not incur room or board charges at the institution, "non-tuition cost of attendance" shall mean an allowance for room and board as determined by the president and approved by the director of the budget. In determining allowances pursuant to this subparagraph, the president may take into consideration the allowances provided for in the Pell grant program.

(b) In no event shall the combination of all student financial aid received by a student exceed a recipient's total cost of attendance at the institution being attended.

3. Duration. Awards under this section shall be payable for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to article thirteen of this title.

§ 668-e. Military enhanced recognition, incentive and tribute

("MERIT") scholarships. 1. Eligible persons. a. Notwithstanding subdivisions three and five of section six hundred sixty-one of this title, children, spouses and financial dependents of a member of the armed forces of the United States or state organized militia who at any time while in service in the armed forces of the United States, as defined by subdivision eight of section one of the military law or in a force of the state organized militia, as defined in subdivision nine of section one of the military law: (i) while a legal resident of New York state, died, became severely and permanently disabled or was classified as missing in action, or died as a result of injury or illness suffered or incurred during such military service; or (ii) while a legal resident of New York state, died or became severely and permanently disabled as a result of injury or illness suffered or incurred during military training operations.

b. A member of the armed forces of the United States who: (i) became severely and permanently disabled as a result of service in the armed forces of the United States, as defined by subdivision eight of section one of the military law,; and (ii) was a legal resident of New York state at the time of military service.

c. A member of the armed forces of the United States who: (i) became severely and permanently disabled as a result of injury or illness suffered or incurred during military training operations; and (ii) was a legal resident of New York state at the time of military service.

d. A member of the state organized militia who: (i) became severely and permanently disabled as a result of injury or illness suffered or incurred during active military service, as defined in subdivision six of section one of the military law; and (ii) was a legal resident of New York state at the time of active military service.

2. Amount. The president shall grant annual scholarships in amounts determined in accordance with subdivisions two and three of section six hundred sixty-eight-d of this subpart.

§ 668-f. American Airlines flight 587 memorial scholarships. 1. Eligible groups. Notwithstanding subdivisions three and five of section six hundred sixty-one of this part, children, spouses, and financial dependents of persons who died as a direct result of the crash of American Airlines flight 587, in Rockaway, Queens, on November twelfth, two thousand one, shall be eligible to receive a memorial scholarship.

2. Amount. The president shall grant annual scholarships in amounts determined in accordance with subdivision two of section six hundred sixty-eight-d of this subpart.

3. Duration. Awards under this section shall be payable for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to article thirteen of this title.

§ 668-g. Continental Airlines flight 3407 memorial scholarships. 1. Eligible groups. Notwithstanding subdivisions three and five of section six hundred sixty-one of this part, children, spouses and financial dependents of persons who died as a direct result of the crash of Continental Airlines flight 3407, in Clarence, New York, on February twelfth, two thousand nine, shall be eligible to receive a memorial scholarship for their attendance at an institution located within New York state.

2. Amount. The president shall grant annual scholarships in amounts determined in accordance with subdivision two of section six hundred sixty-eight-d of this subpart.

3. Duration. Awards under this section shall be payable for each of not more than four academic years of undergraduate study or five academic years if a program normally requires five years, as defined by the commissioner pursuant to article thirteen of this title.

§ 669. Regents awards for children of deceased state correction

officers and state civilian employees of a correction facility. 1. Eligible students. Awards shall be made to resident children of state correction officers and state civilian employees of a correctional facility who died as a result of an injury sustained in the line of duty during the period from September ninth, nineteen hundred seventy-one through September thirteenth, nineteen hundred seventy-one, inclusive.

2. Amount and duration. The award shall not exceed the sum of tuition, educational fees, room and board charged by the state university of New York nor shall it be for more than four academic years of undergraduate study or five academic years if a program of study normally requires five years, as defined by the commissioner pursuant to article thirteen.

3. Notwithstanding any inconsistent provision of this chapter, no child of a state correction officer who is receiving an award under the provisions of section six hundred sixty-eight-a of this article shall receive an award under the provisions of this section.

§ 669-a. Veterans tuition awards program. 1. As used in this section, the following terms shall have the following meanings:

a. "Vietnam veteran" means (i) a person who is a resident of this state, (ii) who served in the armed forces of the United States in Indochina at any time from the first day of November, nineteen hundred fifty-five, to and including the seventh day of May, nineteen hundred seventy-five, and (iii) who was either discharged therefrom under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

b. "Persian Gulf veteran" means (i) a person who is a resident of this

state (ii) who served in the armed forces of the United States in the hostilities that occurred in the Persian Gulf from the second day of August, nineteen hundred ninety through the end of such hostilities, and (iii) who was either discharged therefrom under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

c. "Afghanistan veteran" means (i) a person who is a resident of this state (ii) who served in the armed forces of the United States in the hostilities that occurred in Afghanistan from the eleventh day of September, two thousand one, to the end of such hostilities, and (iii) who was either discharged therefrom under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.

d. "Other eligible veteran" means: an individual who (i) is a resident of this state, (ii) served in the armed forces of the United States (1) on active duty for at least four years, or (2) in hostilities that occurred after February twenty-eighth, nineteen hundred sixty-one, as evidenced by their receipt of an Armed Forces Expeditionary Medal, Navy Expeditionary Medal, or Marine Corps Expeditionary Medal, and (iii) was either discharged under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section one of the veterans' services law, and

has received a discharge other than bad conduct or dishonorable from such service.

e. "Part time study" means enrollment for at least three but less than twelve semester hours per semester, or the equivalent, in an approved undergraduate or graduate program.

f. "Approved vocational training programs" means programs offered by agencies approved by the commissioner for funding pursuant to this section. The commissioner shall approve only such non-credit programs which are at least three hundred twenty clock hours in length, and which meet standards of instructional quality established in regulations by the commissioner. These standards shall include, but not be limited to, qualifications of administrative and instructional personnel, quality of facilities and equipment, recordkeeping, admission, grading, attendance, and record of placement of completers which meets standards of acceptability as established by the commissioner.

* g. "Eligible immediate family member" means a person who is the spouse, child or financial dependent of a qualified veteran, and who resides in this state.

* NB Effective July 1, 2027

* h. "Qualified veteran" means a veteran who satisfies the requirements set forth in paragraph a, b, c, or d of subdivision one of this section.

* NB Effective July 1, 2027

* i. "Survivor" means a person who: (i) was married to a qualified veteran who died as a result of military service; or (ii) was married to the qualified veteran within fifteen years of their discharge from military service in which the cause of death, disease or injury started or was aggravated; or (iii) was married to the veteran for at least one year; or (iv) had a child with the qualified veteran and lived together with the veteran continuously until the veteran's death or, if separated, was not at fault for the separation.

* NB Effective and Repealed July 1, 2027

2. a. Tuition awards are available for all Vietnam, Persian Gulf, Afghanistan and other eligible veterans, as defined in subdivision one

of this section, who are enrolled, pursuant to paragraph a of subdivision four of section six hundred sixty-one of this part, in approved undergraduate or graduate programs at degree granting institutions or enrolled in approved vocational training programs and who apply for a tuition assistance program award, for up to the equivalent of eight full-time semesters, pursuant to section six hundred sixty-seven of this subpart.

b. Eligibility for awards under this section shall be established as of the date the application is received by the corporation. All eligible recipients shall receive an award in an amount as set forth in subdivision four of this section.

3. a. No recipient shall receive awards for more than eight semesters of full time undergraduate study, or the equivalent of four academic years, or, if an undergraduate program normally requires five academic years of full time study, for more than ten semesters of full time study, or the equivalent of five academic years. Recipients enrolled in a program of remedial study conforming to the provisions of this article, approved by the commissioner in a degree granting institution, and intended to culminate in an undergraduate degree shall be considered as enrolled in a program normally requiring five years. No recipient enrolled in an approved vocational training program shall receive awards for more than four semesters of full-time study or the equivalent of two academic years of full-time study.

b. No recipient shall receive awards for more than sixteen semesters of part time undergraduate study as defined in subdivision one, or the equivalent of eight academic years of part time study, or, if an undergraduate program normally requires five academic years of full time study, for more than twenty semesters of part time study, or the equivalent of ten academic years. Recipients enrolled in a program of remedial study conforming to the provisions of this chapter, approved by the commissioner in a degree granting institution, and intended to culminate in an undergraduate degree shall be considered as enrolled in a program normally requiring five years. No recipient enrolled in an approved vocational training program shall receive awards for more than

eight semesters of part-time study or the equivalent of four academic years of part-time study.

c. No recipient shall receive awards for more than six semesters of full time study, or the equivalent of three academic years, for graduate study. No recipient shall receive awards for more than twelve semesters of part time graduate study as defined in subdivision one of this section, or the equivalent of six academic years of part time graduate study.

4. Every recipient shall receive an award equal to the amount of undergraduate tuition for residents of New York state charged by the state university of New York or actual tuition charged, whichever is less, for each semester, or the equivalent, of full time study, or a pro-rated amount for part-time study; provided, however, that such award shall not be reduced by any benefits available under the federal Montgomery GI Bill act of 1984 or the federal Pell grant program pursuant to section one thousand seventy-a of title twenty of the United States code.

* 5. a. A qualified veteran who has not utilized such tuition award, may elect to transfer in a single instance all or any remaining tuition award to one eligible immediate family member.

b. A qualified veteran who elects to transfer their award shall designate the eligible immediate family member to whom such award is being transferred in the manner prescribed by the corporation.

c. A child to whom a tuition award is transferred under this subdivision shall be under twenty-six years of age.

d. The tuition award transfers designated by a qualified veteran pursuant to this subdivision shall not exceed the award available to such veteran under this section.

e. The total number of tuition award transfers under this subdivision shall not exceed one hundred per year.

* NB Effective July 1, 2027

* 6. The president is authorized to promulgate rules and regulations to implement the provisions of this section. The president may establish a. an application deadline and b. a method of selecting which one hundred tuition award transfers are to be granted if in any given year there are more than one hundred eligible tuition award transfers requested.

* NB Effective July 1, 2027

*** § 669-b. Recruitment incentive and retention program for members of the New York state organized militia.** 1. The division of military and naval affairs is authorized, within amounts appropriated or otherwise lawfully available from any other source, to establish a recruitment incentive and retention program.

2. Definitions as used in this section:

a. The term "active member" shall mean a member of a federally recognized unit of the New York army national guard, New York air national guard, or New York naval militia who meets the minimum requirements for satisfactory active membership as set forth in the regulations of the United States departments of the army, navy and air force, as applicable, and the New York state division of military and naval affairs.

b. The term "degree producing curriculum" shall mean a series of courses programmed to culminate in a specific post-secondary degree or diploma when successfully completed.

c. The term "tuition" shall mean the total semester, quarter, or classroom hour cost of instruction to the student as periodically published in the catalogue of the institution, specifically excluding mandatory fees, book charges, and room and board.

d. The term "tuition benefit" shall mean the payment of whatever cost is attributable to the cost of tuition after the deduction of any other available educational grant aid, including the Army Continuing Education

System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, that could defray such cost; however, specifically excluding the federal Montgomery GI Bill.

e. The term "part-time study" shall mean enrollment in an approved post-secondary degree program for at least six but less than twelve semester hours, or the equivalent per semester, or at least four but less than eight semester hours per quarter in an institution.

f. The term "institution" shall mean any institution of higher education recognized and approved by the regents or the university of the state of New York which provides a course of study leading to the granting of a post-secondary degree or diploma.

g. The term "legal resident" shall mean a person whose principal domicile is located within New York state in excess of one hundred eighty-six days per year; excepting active federal military duty.

3. Notwithstanding the provisions of any other general, special, or local law, rule, or regulation, any active member who has successfully completed advanced individual training or commissioning and other requirements of the division of military and naval affairs for tuition benefit eligibility shall be entitled to the tuition benefit provided by this section upon his or her enrollment in a degree producing curriculum in any institution.

4. Unless otherwise provided for in this section, eligibility for the tuition benefit provided by this section shall be determined by the education services offices of the division of military and naval affairs, which shall issue certificates of eligibility and promulgate such administrative rules and procedures as are necessary to implement the tuition benefit provided under this section. Such administrative rules and procedures shall include in the factors for the determination of eligibility for the tuition benefit provided by this section the fulfillment of the contractual obligation and commitments for service in the New York army national guard, New York air national guard and New York naval militia.

5. Any active member who currently possesses a baccalaureate degree or higher is ineligible for participation in the recruitment incentive program provided by this section.

5-a. Notwithstanding the provisions of subdivision three of this section, the adjutant general may, as defined in agency regulation, and within appropriated amounts, allow active members who have not completed basic or advanced individual training or commissioning to participate in the recruitment incentive program.

5-b. Notwithstanding the provisions of any other general, special or local law, rule or regulation, a recipient who has failed to successfully complete his or her term of enlistment, if such failure is not due to causes beyond his or her control as determined by the adjutant general or his designee, shall be ineligible to participate in the tuition benefit provided by this section. Monies expended by the administrating agency of such benefit shall be reimbursed to the state in the full amount by the former recipient within one year of termination of active membership.

5-c. Notwithstanding the provisions of any other general, special or local law, a recipient who has successfully completed his or her term of enlistment due to having served in a combat theater or combat zone of operations, shall be eligible to continue to participate in the tuition benefit provided by this section, if such recipient was enrolled in said benefit prior to deployment in a combat theater or combat zone of operations.

6. The tuition benefit provided by this section shall be restricted to legal residents of the state. The benefit may be used for either part-time or full-time study. No restriction as to sessions, student status, or space availability which does not apply to all students shall be placed by institutions upon recipients under this program.

7. Upon the recipient's attainment of a baccalaureate degree or cessation of status as an active member, whichever occurs first, the

benefit provided by this section shall be discontinued. The tuition benefit provided by this section may be suspended at the direction of the division of military and naval affairs for a recipient's failure to maintain good military standing as an active member, for the failure to maintain good academic progress and program pursuit, or for the failure to maintain sufficient academic standing to retain eligibility for any other financial assistance the recipient may be receiving.

8. Unless otherwise provided for in this section, the tuition benefit shall be on the terms and conditions set by the division of military and naval affairs, provided that any such benefit shall not exceed an amount equal to the actual annual tuition charged to the recipient or the tuition charged by the state university of New York, whichever is less, offset by any financial assistance and any other resources available through the national guard or the division of military and naval affairs on behalf of the recipient, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, and the total of all other state, federal, or other educational grant aid that is received or receivable by such student during the school year for which such benefit is applicable. For the purposes of this subdivision, benefits available under the federal Montgomery GI Bill act of 1984 shall not be considered as federal or other educational aid.

9. Any active member who is eligible for the tuition benefit provided by this section must apply for all other available state, federal, including the Army Continuing Education System (ACES) (AR-621-5 17 November 1993) and any successor Army regulations, or other educational grant aid at time of enrollment. The division of military and naval affairs shall access all financial assistance available on behalf of all such active members. Any grant aid or financial assistance received, excluding that of the Montgomery GI Bill Act of 1984, shall be utilized to offset the cost of tuition to the maximum extent possible, except that nothing shall require that aid or assistance received which may be used towards costs other than that of tuition shall be applied toward the cost of tuition.

10. The tuition benefit provided by this section shall be effective beginning with the school semester or quarter following its enactment into law.

* NB Repealed September 1, 2031

§ 669-d. New York state math and science teaching incentive program. 1. Eligibility. Notwithstanding subdivision five of section six hundred sixty-one of this part, undergraduate and/or graduate students who are matriculated in an approved undergraduate or graduate program at degree granting institutions leading to a career as a math or science teacher in secondary education shall be eligible for an award under this section, provided the applicant: (a) signs a contract with the corporation agreeing to teach in the classroom on a full-time basis for five years in the field of math or science in a school located within New York state providing secondary education recognized by the board of regents or the university of the state of New York; and (b) complies with the applicable provisions of this article and all requirements promulgated by the corporation for the administration of the program.

2. Within amounts appropriated therefor, awards shall be granted to applicants that the corporation has certified are eligible to receive such awards. Up to five hundred awards may be made to new recipients annually. Such awards shall be made to recipients after the successful completion of each academic year, as defined by the corporation.

3. An award shall entitle the recipient to annual payments for not more than four academic years of full-time undergraduate study and one academic year of full-time graduate study leading to certification as a classroom teacher in mathematics or science.

4. Recipients shall receive an annual payment for the successful completion of an academic year, equal to the annual tuition charged to state resident students attending an undergraduate program full-time at the state university of New York, or actual tuition charged, whichever is less.

5. The corporation shall convert to a student loan the full amount of the award given pursuant to this section, plus interest, according to a schedule to be determined by the corporation if: (a) two years after the completion of the degree program and receipt of initial certification it is found that a recipient is not teaching in the field of math or science in a school located within New York state providing secondary education recognized by the board of regents or the university of the state of New York; or (b) a recipient has not taught in the field of math or science in a school located within New York state providing secondary education recognized by the board of regents or the university of the state of New York for five of the seven years after the completion of the degree program and receipt of initial certification; or (c) a recipient fails to complete their degree program or changes majors to an undergraduate degree program other than in science or math; or (d) a recipient fails to receive or maintain their teaching certificate or license in New York state; or (e) a recipient fails to respond to requests by the corporation for the status of his or her academic or professional progress. The terms and conditions of this subdivision shall be deferred for any interruption in undergraduate or graduate study or employment as established by the rules and regulations of the corporation. Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. Notwithstanding any provisions of this subdivision to the contrary, the corporation is authorized to promulgate rules and regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

6. The corporation is authorized to promulgate rules and regulations necessary for the implementation of the provisions of this section, including the criteria for the provision of awards on a competitive basis and the rate of interest charged for repayment of the student loan.

§ 669-e. New York state science, technology, engineering and mathematics incentive program. 1. Undergraduate students who are matriculated in an approved undergraduate program leading to a career in

science, technology, engineering or mathematics at a New York state public institution of higher education for the purpose of subdivision two of this section, or a New York state private degree granting institution of higher education for the purpose of subdivision two-a of this section, shall be eligible for an award under this section, provided the applicant: (a) graduates from a high school located in New York state during or after the two thousand thirteen--fourteen school year; and (b) graduates within the top ten percent of his or her high school class; and (c) enrolls in full-time study each term beginning in the fall term after his or her high school graduation in an approved undergraduate program in science, technology, engineering or mathematics, as defined by the corporation, at a New York state institution of higher education; and (d) signs a contract with the corporation agreeing that his or her award will be converted to a student loan in the event the student fails to comply with the terms of this program as set forth in subdivision four of this section; and (e) complies with the applicable provisions of this article and all requirements promulgated by the corporation for the administration of the program.

2. Awards shall be granted beginning with the two thousand fourteen--two thousand fifteen academic year and thereafter to applicants at New York state public institutions of higher education that the corporation has determined are eligible to receive such awards. The corporation shall grant such awards in an amount equal to the amount of undergraduate tuition for residents of New York state charged by the state university of New York or actual tuition charged, whichever is less; provided, however, (i) a student who receives educational grants and/or scholarships that cover the student's full cost of attendance shall not be eligible for an award under this program; (ii) for a student who receives educational grants and/or scholarships that cover less than the student's full cost of attendance, such grants and/or scholarships shall not be deemed duplicative of this program and may be held concurrently with an award under this program, provided that the combined benefits do not exceed the student's full cost of attendance; and (iii) an award under this program shall be applied to tuition after the application of all other educational grants and scholarships limited

to tuition and shall be reduced in an amount equal to such educational grants and/or scholarships. Upon notification of an award under this program, the institution shall defer the amount of tuition equal to the award. No award shall be final until the recipient's successful completion of a term has been certified by the institution.

2-a. Within amounts appropriated therefor and based on availability of funds, beginning with the two thousand eighteen--two thousand nineteen academic year and thereafter, awards shall be granted to applicants at New York state private degree granting institutions of higher education that the corporation has determined are eligible to receive such awards. The corporation shall grant such awards in an amount equal to the amount of undergraduate tuition for residents of New York state charged by the state university of New York or actual tuition charged, whichever is less; provided, however, (i) a student who receives educational grants and/or scholarships that cover the student's full cost of attendance shall not be eligible for an award under this program; (ii) for a student who receives educational grants and/or scholarships that cover less than the student's full cost of attendance, such grants and/or scholarships shall not be deemed duplicative of this program and may be held concurrently with an award under this program, provided that the combined benefits do not exceed the student's full cost of attendance; and (iii) an award under this program shall be applied to tuition after the application of all other educational grants and scholarships limited to tuition and shall be reduced in an amount equal to such educational grants and/or scholarships. Upon notification of an award under this program, the institution shall defer the amount of tuition equal to the award. No award shall be final until the recipient's successful completion of a term has been certified by the institution.

3. An eligible recipient shall not receive an award for more than four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years, excluding any allowable interruption of study.

4. The corporation shall convert to a student loan the full amount of the award given pursuant to this section, plus interest, according to a

schedule to be determined by the corporation if: (a) a recipient fails to complete an approved undergraduate program in science, technology, engineering or mathematics or changes majors to a program of undergraduate study other than in science, technology, engineering or mathematics; or (b) upon completion of such undergraduate degree program a recipient fails to either (i) complete five years of continuous full time employment in the science, technology, engineering or mathematics field with a public or private entity located within New York state, or (ii) maintain residency in New York state for such period of employment; or (c) a recipient fails to respond to requests by the corporation for the status of his or her academic or professional progress. The terms and conditions of this subdivision shall be deferred for individuals who graduate with a degree in an approved undergraduate program in science, technology, engineering or mathematics and enroll on at least a half-time basis in a graduate or higher degree program or other professional licensure degree program until they are conferred a degree, and shall also be deferred for any interruption in undergraduate study or employment as established by the rules and regulations of the corporation. The terms and conditions of this subdivision may also be deferred for a grace period, to be established by the corporation, following the completion of an approved undergraduate program in science, technology, engineering or mathematics a graduate or higher degree program or other professional licensure degree program. Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. Notwithstanding any provisions of this subdivision to the contrary, the corporation is authorized to promulgate rules and regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

5. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section, including, but not limited to, the rate of interest charged for repayment of the student loan and the criteria for distributing the awards, which may include a lottery or other form of random selection for awards distributed pursuant to subdivision two-a of this section.

§ 669-f. New York state masters-in-education teacher incentive scholarship program. 1. Eligibility. Students who are matriculated in an approved master's degree in education program at a New York state college, as defined in subdivision two of section six hundred one of this title, leading to a career as a teacher in public elementary, secondary, or early childhood education shall be eligible for an award under this section, provided the applicant: (a) earned an undergraduate degree from a college located in New York state; (b) was a New York state resident while earning such undergraduate degree; (c) achieved academic excellence as an undergraduate student, as defined by the corporation in regulation; (d) enrolls in full-time study in an approved master's degree in education program at a New York state college, as defined in subdivision two of section six hundred one of this title, leading to a career as a teacher in public elementary, secondary or early childhood education; (e) signs a contract with the corporation agreeing to teach in a classroom setting on a full-time basis for five years in a school located within New York state providing public elementary, secondary or early childhood education recognized by the board of regents or the university of the state of New York, including charter schools authorized pursuant to article fifty-six of this chapter; and (f) complies with the applicable provisions of this article and all requirements promulgated by the corporation for the administration of the program.

1-a. Preference for scholarship awards. Preference for the award of scholarships shall be given to eligible students matriculated at public colleges, as defined in subdivision two of section six hundred one of this title, in New York state. Remaining scholarships may be awarded to other eligible students matriculated at private colleges, as defined in subdivision two of section six hundred one of this title, in New York state.

2. Within amounts appropriated therefor, awards shall be granted to applicants that the corporation has certified are eligible to receive such awards. Up to five hundred awards may be granted to new recipients

annually. Such awards shall be granted upon successful completion of each term, as defined by the corporation.

3. An award shall entitle the recipient to annual payments for not more than two academic years of full-time graduate study leading to certification as an elementary, secondary or early childhood teacher.

4. The corporation shall grant such awards in an amount equal to the annual tuition charged to state resident students attending a graduate program full-time at the state university of New York, or actual tuition charged, whichever is less; provided, however, (i) a student who receives educational grants and/or scholarships that cover the student's full cost of attendance shall not be eligible for an award under this program; (ii) for a student who receives educational grants and/or scholarships that cover less than the student's full cost of attendance, such grants and/or scholarships shall not be deemed duplicative of this program and may be held concurrently with an award under this program, provided that the combined benefits do not exceed the student's full cost of attendance; and (iii) an award under this program shall be applied to tuition after the application of all other educational grants and scholarships limited to tuition and shall be reduced in an amount equal to such educational grants and/or scholarships. Upon notification of an award under this program, the institution shall defer the amount of tuition equal to the award. No award shall be final until the recipient's successful completion of a term has been certified by the institution. A recipient of an award under this program shall not be eligible for an award under the New York state math and science teaching incentive program.

5. The corporation shall convert to a student loan the full amount of the award granted pursuant to this section, plus interest, according to a schedule to be determined by the corporation if: (a) two years after the completion of the degree program and receipt of initial certification it is found that a recipient is neither teaching in a public school located within New York state providing elementary or secondary education recognized by the board of regents or the university of the state of New York, including charter schools authorized pursuant

to article fifty-six of this chapter, nor employed by an eligible agency as defined by paragraph b of subdivision one of section thirty-six hundred two-e of this chapter; (b) a recipient has neither taught in a public school located within New York state providing elementary or secondary education recognized by the board of regents or the university of the state of New York, including charter schools authorized pursuant to article fifty-six of this chapter, nor been employed by an eligible agency as defined by paragraph b of subdivision one of section thirty-six hundred two-e of this chapter, for five of the seven years after the completion of the graduate degree program and receipt of initial certification; (c) a recipient fails to complete their graduate degree program in education; (d) a recipient fails to receive or maintain their teaching certificate or license in New York state for the required period; or (e) a recipient fails to respond to requests by the corporation for the status of their academic or professional progress. The terms and conditions of this subdivision shall be deferred for any interruption in graduate study or employment as established by the rules and regulations of the corporation. Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. Notwithstanding any provisions of this subdivision to the contrary, the corporation is authorized to promulgate rules and regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

6. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section including, but not limited to, the criteria for the provision of awards on a competitive basis, and the rate of interest charged for repayment of the student loan.

§ 669-g. The New York state achievement and investment in merit scholarship (NY-AIMS). 1. Purpose. The New York state achievement and investment in merit scholarship (NY-AIMS) is hereby established for the purpose of granting merit based scholarship awards to New York state high school graduates who achieve academic excellence.

2. Eligibility. To be eligible for such awards, an applicant must have graduated from a New York state high school, enrolled in an approved undergraduate program of study in a New York state post-secondary institution beginning in the two thousand fifteen--two thousand sixteen academic year or thereafter, and achieved at least two of the following during high school:

a. graduated with a grade point average of 3.3 or above;

b. graduated with a "with honors" distinction on a New York state regents diploma or received a score of 3 or higher on two or more advanced placement examinations; or

c. graduated within the top fifteen percent of their high school class, provided that actual class rank may be taken into consideration.

3. Priority. a. Such awards shall be made to eligible applicants in the following priority:

(i) first, to applicants who have received payment of an award pursuant to this section in a prior year and remain in good academic standing; and

(ii) second, to applicants in descending order based on the unmet need to reach the full cost of attendance as indicated on the financial aid award letter.

However, in the program's first year, first priority shall be in accordance with subparagraph (ii) of this paragraph.

b. In the event that there are more applicants who have the same priority than there are remaining scholarships, the president shall distribute the remaining number of such scholarships by means of a lottery or other form of random selection.

c. In each year, the awards made shall be proportionate to the total applications received for students accepted for undergraduate study at public and private not-for-profit degree granting institutions.

4. Awards. Within amounts appropriated therefor, the president shall grant an annual award to eligible applicants on a competitive basis pursuant to subdivisions two and three of this section in the amount of five hundred dollars for not more than four academic years of undergraduate study, or five academic years, if the program of study normally requires five years as defined by the commissioner pursuant to article thirteen of this chapter. Up to five thousand awards may be granted to new recipients annually.

5. Offset. Such awards may be used to offset the applicant's total cost of attendance determined for federal Title IV student financial aid purposes.

6. Rules. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section.

§ 669-h. Excelsior scholarship. 1. Eligibility. An excelsior scholarship award shall be made to an applicant who: (a) is matriculated in an approved program leading to an undergraduate degree at a New York state public institution of higher education; (b) if enrolled in (i) a public institution of higher education prior to application, has completed at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study or (ii) an institution of higher education prior to application, has completed at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study and which were accepted upon transfer to a public institution of higher education; (c) enrolls in at least twelve credits per semester and completes at least thirty combined credits per year following the student's start date, or its equivalent, applicable to his or her program or programs of study except in limited circumstances as prescribed by the corporation in regulation. Notwithstanding, in the student's last semester, the student may take at least one course needed to meet his or her graduation requirements and

enroll in and complete at least twelve credit hours or its equivalent. For students who are disabled as defined by the Americans With Disabilities Act of 1990, 42 USC 12101, the corporation shall prescribe rules and regulations that allow applicants who are disabled to be eligible for an award pursuant to this section based on modified criteria; (d) has an adjusted gross income for the qualifying year, as such terms are defined in this subdivision, equal to or less than: (i) one hundred thousand dollars for recipients receiving an award in the two thousand seventeen--two thousand eighteen academic year; (ii) one hundred ten thousand dollars for recipients receiving an award in the two thousand eighteen--two thousand nineteen academic year; and (iii) one hundred twenty-five thousand dollars for recipients receiving an award in the two thousand nineteen--two thousand twenty academic year and thereafter; and (e) complies with the applicable provisions of this article and all requirements promulgated by the corporation for the administration of the program. Adjusted gross income shall be the total of the combined adjusted gross income of the applicant and the applicant's parents or the applicant and the applicant's spouse, if married. Qualifying year shall be the adjusted gross income as reported on the federal income tax return, or as otherwise obtained by the corporation, for the calendar year coinciding with the tax year established by the U.S. department of education to qualify applicants for federal student financial aid programs authorized by Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, for the school year in which application for assistance is made. Provided, however, if an applicant demonstrates to the corporation that there has been a change in such applicant's adjusted gross income in the year(s) subsequent to the qualifying year which would qualify such applicant for an award, the corporation shall review and make a determination as to whether such applicant meets the requirement set forth in paragraph (d) of this subdivision based on such year. Provided, further that such change was caused by the death, permanent and total physical or mental disability, divorce, or separation by judicial decree or pursuant to an agreement of separation which is filed with a court of competent jurisdiction of any person whose income was required to be used to compute the applicant's total adjusted gross income.

2. Amount. Within amounts appropriated therefor and based on availability of funds, awards shall be granted to applicants that the corporation has determined are eligible to receive such awards. The corporation shall grant such awards in an amount up to actual tuition; provided, however, (a) a student who receives educational grants and/or scholarships that cover the student's full cost of attendance shall not be eligible for an award under this program; and (b) an award under this program shall be applied to tuition after the application of payments received under the tuition assistance program pursuant to section six hundred sixty-seven of this subpart, tuition credits pursuant to section six hundred eighty-nine-a of this article, federal Pell grant pursuant to section one thousand seventy of title twenty of the United States code, et seq., and any other program that covers the cost of attendance unless exclusively for non-tuition expenses, and the award under this program shall be reduced in the amount equal to such payments, provided that the combined benefits do not exceed the resident undergraduate tuition charged by the state university of New York.

3. Duration. An eligible recipient shall not receive an award for more than four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years. An eligible recipient enrolled in an eligible two year program of study shall not receive an award for more than two academic years. Notwithstanding, such duration may be extended for an allowable interruption of study including, but not limited to, death of a family member, medical leave, military service, and parental leave, as established by the corporation in regulation.

4. Conditions. (a) An applicant who would be eligible for a New York state tuition assistance program award pursuant to section six hundred sixty-seven of this subpart and/or a federal Pell grant pursuant to section one thousand seventy of title twenty of the United States code, et. seq., is required to apply for each such award.

(b) An applicant who has earned a bachelor's degree is ineligible to receive an award pursuant to this section.

(c) An applicant who has earned an associate's degree is ineligible to receive an award for a two year program of study pursuant to this

section.

(d) Notwithstanding paragraph c of subdivision four of section six hundred sixty-one of this part, a school shall certify that a recipient has achieved a grade point average necessary for successful completion of his or her coursework to receive payment under the award.

(e) A recipient shall agree to reside exclusively in New York state, and shall not be employed in any other state, for a continuous number of years equal to the duration of the award received within six months of receipt of his or her final award payment, and sign a contract with the corporation to have his or her full award converted to a student loan according to a schedule to be determined by the corporation if such student fails to fulfill this requirement. The terms and conditions of this paragraph may, as established by the rules and regulations of the corporation, be deferred: (i) to complete undergraduate study; or (ii) to attend graduate school on at least a half-time basis. Any obligation to comply with such provisions as outlined in this paragraph may be cancelled upon the death of the recipient. Notwithstanding any provisions of this paragraph to the contrary, the corporation is authorized to promulgate rules and regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

(f) Notwithstanding paragraph (c) of subdivision one of this section, a student who otherwise satisfies all of the requirements under this section but fails to complete at least thirty combined credits, or its equivalent, applicable to his or her program or programs of study in any year shall be eligible to receive an award payment for the first semester of such year, provided however, the student shall be ineligible for any further payments under this section.

5. Recipient selection. The president may establish: (a) an application deadline and (b) a method of selecting recipients if in any given year there are insufficient funds to cover the needs of all the applicants provided that priority shall be given to eligible applicants who are currently in attendance at a public institution of higher education.

6. Rules and regulations. The corporation is authorized to promulgate

rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section including, but not limited to, the criteria for distributing the awards, which may include a lottery or other form of random selection.

SUBPART III

ACADEMIC PERFORMANCE AWARDS

Section 670. Regents college scholarships.
670-a. Empire state scholarships of excellence.
670-b. Scholarships for academic excellence.
671. Regents professional education in nursing scholarships.
672. Regents professional education in medicine or dentistry scholarships.
672-a. Regents professional education in optometry scholarships.
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673. Regents physician shortage scholarships.
674. Regents veterans with war service scholarships.
675. Empire state challenger scholarships for teachers.
676. Empire state challenger fellowships for teachers.
677. Regents physician loan forgiveness program.
677-a. Physician loan repayment program.
678. Regents health care professional opportunity scholarships.
679. Regents professional opportunity scholarships.

§ 670. Regents college scholarships. 1. Number and certification. Twenty-five thousand regents college scholarships shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen to eligible students as certified to the president by the commissioner.

2. Duration. Each scholarship recipient shall receive an annual award for each of not more than four academic years of undergraduate study, or five academic years if a program of study normally requires five years

as defined by the commissioner pursuant to article thirteen; provided, however, for the purposes of this section a student who is in his or her last term of eligibility and who need not take twelve or more credits or the equivalent thereof to complete the prescribed course of study of the institution such student is attending shall remain eligible for such award.

3. Amount. The president shall make awards in the following amounts:

(a) The annual award shall be one thousand dollars, but if the income exceeds one thousand eight hundred dollars, the award shall be reduced by one dollar for each ten dollars, or part thereof, of the excess, provided the minimum award shall be two hundred fifty dollars. If the annual amount of tuition and educational fees payable by the student is more than three hundred fifty dollars, the award shall not exceed the amount of such tuition and educational fees; if the amount of such tuition and educational fees is three hundred fifty dollars or less, the award shall not exceed three hundred fifty dollars.

(b) The annual award for any scholarship awarded pursuant to this section and effective subsequent to the nineteen hundred seventy-three--nineteen hundred seventy-four school year shall be two hundred fifty dollars. Provided, however, in the case of any student who has received an award effective with the nineteen hundred seventy-four--nineteen hundred seventy-five school year, if the award of two hundred fifty dollars when combined with any award made pursuant to the provisions of subdivision four of section six hundred sixty-seven of this article would be less than the total of the combined awards he might otherwise be entitled to receive pursuant to the provisions of paragraph (a) of this subdivision and of subdivision three of section six hundred sixty-seven, he shall be entitled to receive the combined amount computed pursuant to the provisions of paragraph (a) of this subdivision and of subdivision three of section six hundred sixty-seven.

§ 670-a. Empire state scholarships of excellence. 1. Number and certification. One thousand empire state scholarships of excellence shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen of this chapter to eligible students

certified to the president by the commissioner.

2. Duration. A scholarship shall entitle the recipient to an annual award for not more than four academic years of undergraduate study, or five academic years if the program of study normally requires five years as defined by the commissioner pursuant to article thirteen of this chapter.

3. Amount. The annual award shall be in the amount of two thousand dollars provided in no event shall the amount of the annual award exceed the recipient's cost of attendance at the institution attended. Cost of attendance shall mean tuition, required fees, laboratory and other instruction related expenses, books, transportation, room and board. The cost of attendance however shall be reduced by the amount the recipient shall receive or would be entitled to receive as a Pell grant pursuant to section one thousand seventy-a of title twenty of the United States Code. Anything in this article to the contrary notwithstanding, a recipient of an empire state scholarship of excellence may concurrently receive with such award any other academic or general award for which he or she may be eligible provided however in no event shall the combination of all such awards exceed the recipient's cost of attendance at the institution.

§ 670-b. Scholarships for academic excellence. 1. Number and certification. Five thousand scholarships shall be awarded in the nineteen hundred ninety-seven--ninety-eight academic year, and eight thousand scholarships shall be awarded in the nineteen hundred ninety-eight--ninety-nine academic year and thereafter. Such scholarships shall be allocated as provided in article thirteen of this chapter to eligible students certified to the president by the commissioner.

2. Duration. A scholarship shall entitle the recipient to an annual award for not more than four academic years of undergraduate study, or five academic years, if the program of study normally requires five years as defined by the commissioner pursuant to article thirteen of

this chapter.

3. Amount. a. (i) For the nineteen hundred ninety-seven--ninety-eight academic year, there shall be two thousand scholarships in the amount of one thousand dollars each and there shall be three thousand scholarships in the amount of five hundred dollars each.

(ii) For the nineteen hundred ninety-eight--ninety-nine academic year and thereafter, there shall be two thousand scholarships in the amount of one thousand five hundred dollars each and there shall be six thousand scholarships in the amount of five hundred dollars each.

(iii) Notwithstanding any inconsistent provision of law, students awarded one thousand dollar scholarships in the nineteen hundred ninety-seven--ninety-eight academic year shall be entitled in the nineteen hundred ninety-eight--ninety-nine academic year and thereafter to an annual award of one thousand five hundred dollars.

b. In no event shall the amount of the annual award exceed the recipient's cost of attendance at the institution attended. Cost of attendance shall mean tuition, required fees, laboratory and other instruction related expenses, books, transportation, room and board. Anything in this article to the contrary notwithstanding, a recipient of a scholarship may concurrently receive with such award any other academic or general award for which he or she may be eligible provided however in no event shall a recipient be awarded a scholarship in any amount where the combination of all such awards would exceed the recipient's cost of attendance at the institution.

§ 671. Regents professional education in nursing scholarships. 1. Number and certification. Eight hundred regents professional education in nursing scholarships shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen to eligible students as certified to the president by the commissioner.

2. Duration. Each such scholarship shall entitle the recipient to an annual award for each year while enrolled in an approved course of study leading to registration as a professional nurse, but not exceeding the

normal period of study required to complete the requirements for the program, as such approved courses and normal periods of study are defined by the commissioner pursuant to article thirteen.

3. Amount. The president shall make awards in the following amounts:

(a) The annual award shall be five hundred dollars, but if the income exceeds one thousand eight hundred dollars, the award shall be reduced by one dollar for each ten dollars, or part thereof, of the excess. The minimum award shall be two hundred dollars. If the annual amount of tuition and educational fees payable by the student is more than three hundred fifty dollars, the award shall not exceed the amount of such tuition and fees; if the amount of such tuition and educational fees is three hundred fifty dollars, or less, the award shall not exceed three hundred fifty dollars.

(b) The annual award for any scholarship awarded pursuant to this section and effective subsequent to the nineteen hundred seventy-three--nineteen hundred seventy-four school year shall be two hundred fifty dollars. Provided, however, in the case of any student who has received an award effective with the nineteen hundred seventy-four--nineteen hundred seventy-five school year, if the award of two hundred fifty dollars when combined with any award made pursuant to the provisions of subdivision four of section six hundred sixty-seven of this article would be less than the total of the combined awards he might otherwise be entitled to receive pursuant to the provisions of paragraph (a) of this subdivision and of subdivision three of section six hundred sixty-seven, he shall be entitled to receive the combined amount computed pursuant to the provisions of paragraph (a) of this subdivision and of subdivision three of section six hundred sixty-seven.

§ 672. Regents professional education in medicine or dentistry scholarships. 1. Number and certification. One hundred regents professional education in medicine or dentistry scholarships shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen to eligible students as certified to the president by the commissioner.

2. Duration. Such scholarship shall entitle the recipient to an award for not more than four academic years while matriculated in an approved program, as defined by the commissioner pursuant to article thirteen.

3. Amount. The president shall make academic year awards in the amount of one thousand dollars, but if the income exceeds one thousand eight hundred dollars, the award shall be reduced by the amount of one dollar for each eight dollars, or part thereof, of the excess, except that in no event shall the award be less than three hundred fifty dollars. If the annual amount of tuition and educational fees payable by the student is more than three hundred fifty dollars, the award shall not exceed the amount of such tuition and fees.

4. The provisions of this section shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

§ 672-a. Regents professional education in optometry scholarships. 1. Number and certification. Five regents professional education in optometry scholarships shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen to eligible students as certified to the president by the commissioner.

2. Duration. Such scholarship shall entitle the recipient to an award for not more than four academic years while matriculated in an approved program, as defined by the commissioner pursuant to article thirteen.

3. Amount. The president shall make academic year awards in the amount of one thousand dollars, but if the income exceeds one thousand eight hundred dollars, the award shall be reduced by the amount of one dollar for each eight dollars, or part thereof, of the excess, except that in no event shall the award be less than three hundred fifty dollars. If the annual amount of tuition and educational fees payable by the student is more than three hundred fifty dollars, the award shall not exceed the amount of such tuition and fees.

4. The provisions of this section shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

§ 672-b. Regents professional education in veterinary medicine scholarships. 1. Number and certification. Ten regents professional education in veterinary medicine scholarships shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen to eligible students as certified to the president by the commissioner.

2. Duration. Such scholarship shall entitle the recipient to an award for not more than four academic years while matriculated in an approved program, as defined by the commissioner pursuant to article thirteen.

3. Amount. The president shall make academic year awards in the amount of one thousand dollars, but if the income exceeds one thousand eight hundred dollars, the award shall be reduced by the amount of one dollar for each eight dollars, or part thereof, of the excess, except that in no event shall the award be less than three hundred fifty dollars. If the annual amount of tuition and educational fees payable by the student is more than three hundred fifty dollars, the award shall not exceed the amount of such tuition and fees.

4. The provisions of this section shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

§ 673. Regents physician shortage scholarships. 1. Number and certification. At least thirty percent of the total scholarships awarded each year under the provisions of section six hundred seventy-two shall be awarded to eligible students certified to the president by the commissioner.

2. Duration. Each such scholarship shall entitle the recipient to an

award for not more than four academic years while matriculated in an approved program, as defined by the commissioner pursuant to article thirteen.

3. Amount. The president shall make academic year awards in amounts provided in this subdivision. The academic year award shall be four thousand dollars, but if the family income of an applicant exceeds six thousand dollars, the award shall be reduced by the amount of one dollar for each four dollars, or part thereof, of the excess, except that in no event shall the award be less than one thousand dollars.

4. The provisions of this section shall only apply to any recipient who receives his or her first award payment prior to the nineteen hundred eighty-five--nineteen hundred eighty-six academic year.

§ 674. Regents veterans with war service scholarships. 1. Number and certification. Six hundred regents veterans with war service scholarships shall be awarded for study beginning with the college year nineteen hundred seventy-five--nineteen hundred seventy-six, to eligible students certified to the president by the commissioner.

2. Residence. Notwithstanding any provision of this article to the contrary, for such scholarship the only residence requirement for eligibility is that an applicant must have been a legal resident of New York state at the time of entry into the armed forces and must currently be a legal resident.

3. Duration. Each such scholarship shall entitle the recipient thereto to an annual award for each of four academic years of full-time or part-time study, as defined by the commissioner pursuant to article thirteen, at a college or at a business, professional, vocational, technical or trade school licensed or approved by the regents. If all of a scholarship holder's attendance is less than full-time, as so defined, payments may be made for a total period not to exceed five academic years.

4. Amount. Notwithstanding any provisions of this article to the contrary, the president shall make academic year awards in the amounts provided in this subdivision. The recipient shall be entitled to a maximum award of three hundred fifty dollars for each semester or term of full-time or part-time study, but not to exceed the cost of tuition and educational fees for such study. However, the aggregate award for a single academic year shall not exceed three hundred fifty dollars, or five hundred twenty-five dollars if the recipient is in continuous attendance during the entire academic year, including the summer term, and the total aggregate payment under this subdivision shall in no case exceed one thousand four hundred dollars.

5. Leave of absence. Notwithstanding any provision of the article to the contrary, if an award is paid the recipient under this subdivision for any semester, quarter or term of attendance during an academic year, then a leave of absence shall not be required for non-attendance during any part of the balance of such academic year.

§ 675. Empire state challenger scholarships for teachers. 1. Number and certification. Three hundred twelve Empire state challenger scholarships for teachers shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen of this chapter to eligible students as certified to the president by the commissioner.

2. Duration. Such scholarship shall entitle the recipient to an annual award for not more than four academic years while matriculated in an approved program, as defined by the commissioner pursuant to article thirteen of this chapter. In order to be eligible for an award, a recipient must be enrolled in an approved program no later than the beginning of the junior year.

3. Amount. The president shall make academic year awards up to a maximum amount of three thousand dollars in reimbursement for tuition and fees. An award shall not exceed the amount of such tuition and fees.

§ 676. Empire state challenger fellowships for teachers. 1. Number and certification. Two hundred full-time academic study fellowships and two hundred part-time academic study fellowships shall be awarded each year. All such fellowships shall be awarded to eligible students certified to the president by the commissioner pursuant to article thirteen of this chapter.

2. Duration. Each fellowship award pursuant to paragraph b or c of subdivision eight of section six hundred five of this chapter shall entitle the recipient to an award for one academic year of full-time study while matriculated in an approved graduate program, as defined by the commissioner pursuant to article thirteen of this chapter. Each fellowship awarded pursuant to paragraph d of subdivision eight of section six hundred five of this chapter shall entitle the recipient to an award for not more than two academic years of part-time study while matriculated in any approved graduate program, as defined by the commissioner pursuant to article thirteen of this chapter. No recipient shall receive an award subsequent to completion of an approved graduate program leading to permanent certification as a teacher in the field or fields for which the fellowship was awarded.

3. Amount. The president shall make full-time academic study awards up to a maximum annual amount of four thousand dollars. The president shall make part-time academic study awards up to a maximum annual amount of one thousand dollars. Awards shall not exceed the recipient's cost of attendance at the institution. Cost of the attendance shall mean tuition, required fees, laboratory and other instruction related expenses, books, transportation, room and board.

§ 677. Regents physician loan forgiveness program. 1. Number and certification. Eighty regents physician loan forgiveness awards shall be awarded each year. Such awards shall be allocated as provided in article thirteen of this chapter to eligible physicians as certified to the president by the commissioner.

2. Calculation of award amounts. Each award shall consist of two

consecutive annual loan forgiveness payments. Each of the annual payments shall be for an amount equal to the total of undergraduate and medical school student loan expense or ten thousand dollars whichever is less. The president shall be responsible for calculating the dollar amount of each award that eligibile candidates may receive from this program. For the purposes of this section, student loan expense shall mean the cumulative total of the annual student loans covering the cost of attendance at an undergraduate institution and/or medical school. Interest paid or due on student loans that an applicant has taken out for use in paying for such undergraduate and/or medical education shall be considered eligible for reimbursement under this program.

3. Award disbursement. a. Annual award disbursements shall be the responsibility of the president and shall occur prior to the beginning of each of the required terms of service as specified in the service contract. The board of trustees of the higher education services corporation shall adopt rules and regulations regarding criteria for determining successful completion of the service contract and any appeal process that may be required to implement this paragraph upon recommendation of the president in consultation with the commissioner.

b. The disbursement of the second annual award shall be dependent upon successful completion of the first year requirement of the service contract as defined by the president, as well as other criteria set forth in this section.

§ 677-a. Physician loan repayment program. 1. Certification. Physician loan repayment awards shall be awarded each year. Such awards shall be allocated as provided in article nine of the public health law to eligible physicians as certified to the president by the commissioner of health.

2. Duration. Each award shall entitle the recipient to an annual award and a recipient shall be eligible for no more than two academic years and no more than four years in post-residency placement.

3. Calculation of award amounts. The president shall be responsible for calculating the dollar amount of each award that eligible candidates may receive from this program pursuant to section nine hundred three of the public health law. For the purposes of this section, student loan expense shall mean the cumulative total of the annual student loans covering the cost of attendance at an undergraduate institution and/or medical school. Interest paid or due on student loans that an applicant has taken out for use in paying for such undergraduate and/or medical education shall be considered eligible for reimbursement under this program.

4. Award disbursement. Annual award disbursements shall be the responsibility of the president.

*** § 678. Regents health care professional opportunity scholarships.** 1. Number and certification. One hundred regents health career professional opportunity scholarships shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen of this chapter to eligible students as certified to the president by the commissioner.

2. Duration. Such scholarship shall entitle the recipient to an award for not more than four academic years while matriculated in an approved program, as defined by the commissioner pursuant to article thirteen of this chapter.

3. Amount. The president shall make academic year awards in amounts provided in this subdivision. The academic year award shall be ten thousand dollars per year, provided, however, that in no event shall the award exceed the actual costs of attendance. Costs of attendance shall include tuition, required fees, laboratory and other instruction related expenses, books, transportation, room and board.

* NB Scholarship terminated per ch 31/85 § 17, as amended

*** § 679. Regents professional opportunity scholarships.** 1. Number and certification. Two hundred twenty regents professional opportunity

scholarships shall be awarded each year. Such scholarships shall be allocated as provided in article thirteen of this chapter to eligible students as certified to the president by the commissioner.

2. Duration. No recipient shall be eligible to receive an award pursuant to this section for more than four academic years unless enrolled in a program of study recognized by the regents as normally requiring more than four years to complete.

3. Amount. The president shall make academic year awards in amounts provided in this subdivision. The academic year award shall be up to five thousand dollars provided however that if family income of the applicant exceeds an amount established by the regents and approved by the director of the division of the budget for an economically disadvantaged applicant, the award shall be reduced by the amount of one dollar for each four dollars, or part thereof, of the excess, provided, however, that in no event shall the award be less than one thousand dollars, and no award shall exceed the actual costs of attendance. Costs of attendance shall include tuition, required fees, laboratory and other instruction related expenses, books, transportation, room and board.

* NB Scholarship terminated per ch 31/85 § 17, as amended

SUBPART IV - OTHER AWARDS

Section 679-a. New York state licensed social worker loan forgiveness program.
679-b. Primary care practitioner scholarship program.
679-c. Senator Patricia K. McGee nursing faculty scholarship program.
679-d. New York state nursing faculty loan forgiveness incentive program.
679-e. New York state district attorney and indigent legal services attorney loan forgiveness program.
679-f. New York state young farmers loan forgiveness incentive program.
679-g. New York state get on your feet loan forgiveness program.
679-h. New York state child welfare worker incentive scholarship

program.
679-i. New York state child welfare worker loan forgiveness incentive program.
679-j. The New York state teacher loan forgiveness program.

§ 679-a. New York state licensed social worker loan forgiveness program. 1. Purpose. The president shall grant student loan forgiveness awards for the purpose of increasing the number of social workers serving in critical human service areas. For the purposes of this section, the term "critical human service area" shall mean an area in New York state designated by the corporation, in consultation with a committee comprised of one representative each from the corporation, the department, the department of health, the department of mental hygiene, and the office of children and family services, provided that such areas shall include, but not be limited to, areas with a shortage of social workers in home care, health, mental health, substance abuse, aging, HIV/AIDS and child welfare concerns, or communities with multi-lingual needs.

2. Eligibility. To be eligible for an award pursuant to this subdivision, applicants shall (a) be licensed as a social worker pursuant to article one hundred fifty-four of this chapter; (b) comply with subdivisions three and five of section six hundred sixty-one of this part; and (c) have an outstanding student loan debt.

3. Priority. Such awards shall be made annually to applicants in the following priority:

(a) First priority shall be given to applicants who have received payment of an award pursuant to this section in a prior year and who, in the year prior to application, have provided social work services in (i) a critical human service area, or (ii) a previously designated critical human service area;

(b) Second priority shall be given to applicants who have not received payment of an award pursuant to this section in a prior year and who have provided social work services in a critical human service area in the year prior to such application; and

(c) Third priority shall be given to applicants who are economically disadvantaged as defined by the corporation.

4. Awards. The corporation shall grant awards in the value of six thousand five hundred dollars to individuals who have provided full-time social work services in a critical human service area in the year prior to such application, provided that no recipient shall receive an award that exceeds the total remaining balance of the student loan debt and that no recipient shall receive cumulative awards, pursuant to this section, in excess of twenty-six thousand dollars. Awards shall be within the amounts appropriated for such purpose and based on availability of funds.

5. Rules and regulations. The corporation is authorized to promulgate rules and regulations necessary for the implementation of the provisions of this section. In the event that there are more applicants who have the same priority, as provided in subdivision three of this section, than there are remaining awards, the corporation shall provide in regulation the method of distributing the remaining number of such awards, which may include a lottery or other form of random selection.

§ 679-b. Primary care practitioner scholarship program. 1. Certification. Primary care practitioner scholarships may be awarded annually, subject to the availability of funds therefor. Such awards shall be allocated pursuant to section nine hundred four of the public health law, to eligible students certified to the president by the commissioner of health.

2. Duration. Each scholarship shall entitle the recipient to an annual award and a recipient shall be eligible for no more than the equivalent of two academic years based on full-time study.

3. Calculation of award amounts. The president shall make annual awards of up to fifteen thousand dollars, but in no event shall the award exceed cost of attendance at the institution. Cost of attendance shall mean tuition, required fees, books, transportation, room and

board.

4. Award disbursement. Annual award disbursements shall be the responsibility of the president.

§ 679-c. Senator Patricia K. McGee nursing faculty scholarship program. 1. Purpose:

a. The president shall grant scholarship awards for the purpose of increasing the number of educators and adjunct clinical faculty teaching in the field of nursing education in New York state. Such awards shall be made on a competitive basis, as promulgated by the corporation through rules and regulations to applicants who are registered professional nurses and are enrolling in an approved program to obtain a master's degree in nursing or a doctoral degree that will qualify them as nursing faculty or adjunct clinical faculty.

b. To be eligible for an award pursuant to this subdivision, applicants shall (1) be a licensed registered nurse in New York state; (2) enroll in a master's degree program in nursing or doctoral degree program that will qualify them as nursing faculty or adjunct clinical faculty in New York state; (3) agree to practice in New York state as nursing faculty upon completion of such degree program; and (4) comply with subdivisions three and five of section six hundred sixty-one of this part.

2. Award conditions and requirements. Scholarships shall be awarded on a competitive basis as promulgated by the corporation through rules and regulations to applicants whom the corporation has certified are eligible to receive such awards; and who agree to provide not less than twelve academic credit hours or its equivalent as nursing faculty or clinical teaching service for the duration of at least four years upon completion of the degree program.

3. Amount. The corporation shall grant such awards within the amounts appropriated for such purpose and based on availability of funds

according to a schedule to be determined by the corporation in an amount:

a. equal to the tuition charged to state resident students attending a master's degree program in nursing or doctoral degree program that will qualify them as nursing faculty or adjunct clinical faculty at the state university of New York; the average mandatory fees charged at the state university of New York, or the actual tuition and fees charged to the recipient, whichever is less; and the average non-tuition cost of attendance, as determined by the corporation and as approved by the director of the budget, for a student at the state university of New York or actual non-tuition cost of attendance at such institution, whichever is less, provided that the scholarship shall not exceed an amount that is equal to the total cost of attendance determined for federal Title IV student financial aid purposes, less all other scholarships and grants provided by New York state, other states, the federal government, or other governments, and the amount of educational benefits paid under any program that would duplicate the purposes of this program, provided that any scholarships or grants provided to a recipient by the institution which are intended to fund any portion of the difference between the annual state award and the actual costs of attendance at any such institution shall not be considered to duplicate the purposes of this program.

b. No annual award shall exceed twenty thousand dollars.

4. Other awards. Award recipients shall be eligible to apply for other awards.

5. Penalties for noncompliance. a. The corporation shall convert to a student loan the full amount of the award given pursuant to this section, plus interest, according to a schedule to be determined by the corporation if: (1) three years after the completion of the degree program it is found that an applicant did not begin to provide nursing faculty or clinical nurse faculty services; (2) if such applicant does not provide nursing faculty or clinical nursing faculty services for four years within seven years of the completion of the master's degree

program in nursing or doctoral degree; or (3) the student fails to receive a master's degree in nursing or doctoral degree that will qualify them as nursing faculty or adjunct clinical faculty within the three years of receiving the award. The terms and conditions of this subdivision shall be deferred for any interruption in graduate or doctoral study or employment as established by the rules and regulations of the corporation. Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. Notwithstanding any provisions of this subdivision to the contrary, the corporation is authorized to promulgate rules and regulations to provide for the waiver or suspension of any financial obligation which would involve extreme hardship.

b. The rate of interest charged for repayment of the student loan shall be determined pursuant to rules and regulations promulgated by the corporation.

§ 679-d. New York state nursing faculty loan forgiveness incentive program. a. Purpose. (1) The president shall grant student loan forgiveness awards for the purpose of increasing the number of educators and adjunct clinical faculty teaching in the field of nursing education in New York state. Such awards shall be made on a competitive basis as promulgated by the corporation through rules and regulations, to applicants who are registered professional nurses with previous clinical experience in nursing who have completed a masters program in nursing or doctoral degree that qualified them as nursing faculty or adjunct clinical faculty.

(2) To be eligible for an award pursuant to this subdivision, applicants shall (i) be licensed as a registered professional nurse; (ii) have an outstanding student loan debt from a nursing degree program acquired on or after January first, two thousand one; (iii) have a master's degree in nursing or doctoral degree that qualified them as nursing faculty or adjunct clinical faculty; (iv) be employed as a faculty member at a nursing school located in New York state; and (v) comply with subdivisions three and five of section six hundred sixty-one of this part.

(3) An award of eight thousand dollars shall be made annually to recipients who have provided classroom or clinical instruction of not less than twelve academic credit hours, or its equivalent, as nursing faculty or in clinical teaching service in the academic year preceding the granting of the award, provided that no recipient shall receive cumulative awards, pursuant to this section, in excess of forty thousand dollars.

(4) Other awards. Award recipients shall be eligible to apply for other awards.

b. Duration. Loan forgiveness awards shall be made annually to applicants whom the corporation has certified are eligible to receive such awards and have provided nursing faculty or clinical nurse faculty services required pursuant to this article; provided that no award shall be granted for more than five years.

c. Amount. The corporation shall grant such awards within the amounts appropriated for such purpose and based on availability of funds in an amount not to exceed the total cost of the student loan debt.

§ 679-e. New York state district attorney and indigent legal services attorney loan forgiveness program. 1. Purpose. The president shall grant student loan forgiveness awards for the purpose of increasing the number of experienced attorneys serving in the position of district attorney or indigent legal services attorney in the counties of the state.

2. Definitions. a. (i) "Eligible attorney" means an attorney, who is a resident of and is admitted to practice law in New York state, who is employed full-time as either a district attorney, as defined in subparagraph (ii) of this paragraph, or an indigent legal services attorney, as defined in subparagraph (iii) of this paragraph, who is admitted to practice law in this state for not more than eleven years or who was within the eligible period as defined in paragraph b of this subdivision during the time for which such person is seeking a student loan expense grant. Notwithstanding the foregoing, an eligible attorney shall include those district attorney applicants who were awarded

program eligibility and who provided qualified service between April first, two thousand eight and March thirty-first, two thousand eleven; such an eligible attorney shall remain eligible to participate in the program provided they are within an eligible period measured from six years from the date which such attorney was first employed as a district attorney.

(ii) "District attorney" means the district attorney of one of the counties of the state or an employee of the office of any such district attorney.

(iii) "Indigent legal services attorney" means an attorney who is an employee of (A) any agency designated by subdivisions one and two of section seven hundred twenty-two of the county law, who is engaged in the practice of criminal law on behalf of persons charged with a crime who are financially unable to obtain counsel; (B) a not-for-profit corporation that is exempt from the payment of federal income taxes pursuant to section 501(c)(3) of the internal revenue code and established for the purpose of providing legal services that include civil legal services to persons within New York state who are financially unable to obtain counsel; or (C) an agency specified in clause (A) of this subparagraph and/or a corporation specified in clause (B) of this subparagraph and who provides a combination of the civil and criminal services specified therein.

b. "Eligible period" means the six-year period after completion of the third year and before the commencement of the tenth year of employment as an eligible attorney. For purposes of this section, all periods of time during which an admitted attorney was employed as an eligible attorney and all periods of time during which a law school graduate awaiting admission to the New York state bar was employed by a prosecuting or criminal defense agency as permitted by section four hundred eighty-four of the judiciary law shall be combined.

c. "Student loan expense" means the total loan balance required to be paid by the eligible attorney on the cumulative total of the attorney's outstanding student loans covering his or her cost of attendance at an undergraduate institution and/or law school, at the time of the attorney's first application for reimbursement. Interest paid or due on

such loans shall be considered eligible for reimbursement under this program. For purposes of this calculation, the amount of the student loan expenses shall be reduced by any grants, loan forgiveness, or similar reductions to the attorney's indebtedness that the attorney has received or shall receive, including, but not limited to, law school loan forgiveness and public service scholarships.

d. "Year of qualified service" means the twelve month period measured from the anniversary of the attorney's employment as an eligible attorney, or as a law school graduate awaiting admission to the New York state bar employed by a prosecuting or criminal defense agency as permitted by section four hundred eighty-four of the judiciary law, adjusted for any interruption in employment. Any period of temporary leave from service taken by an eligible attorney shall not be considered in the calculation of qualified service. However, the period of temporary leave shall be considered an interruption in employment and the calculation of the time period of qualified service shall recommence when the eligible attorney returns to full time service.

3. Awards. a. An eligible attorney may apply for reimbursement after the completion of each year of qualified service provided however that reimbursement to each eligible attorney shall not exceed three thousand four hundred dollars, per qualifying year, subject to appropriations available therefor. The president may establish: (i) an application deadline and (ii) a method of selecting recipients if in any given year there are insufficient funds to cover the needs of all the applicants. Awards shall be within the amounts appropriated for such purpose and based on availability of funds.

b. An eligible attorney may apply after the completion of the fourth year of qualified service, and annually thereafter after the completion of the fifth through ninth year of qualified service, and may seek a student loan expense grant for only the previous year of qualified service within the time periods prescribed by the president. An eligible attorney may receive student loan expense grants for no more than six years of qualified service within an eligible period.

4. Rules and regulations. The president shall promulgate rules and regulations for the administration of this program. The president may promulgate rules and regulations to delegate to the entities employing the eligible attorneys the responsibility to certify the employment status and the student loan balance of the applicants.

§ 679-f. New York state young farmers loan forgiveness incentive program. 1. Purpose. The president shall grant student loan forgiveness awards for the purpose of alleviating the burden of student loan debt for young farmers. Such awards shall be made on a competitive basis, in accordance with rules and regulations promulgated by the corporation for such purposes, to applicants who meet the eligibility criteria. Such rules and regulations shall include provisions for the consideration of applicants who are economically disadvantaged.

2. Eligibility. To be eligible for an award pursuant to this section, applicants shall: (a) have graduated and obtained a degree from an approved New York state college or university; (b) have an outstanding student loan debt from obtaining such degree; (c) operate a farm in New York state on a full-time basis; (d) agree to operate such farm for the duration of no less than five years; (e) have produced an "agricultural product" as defined by section three hundred twenty-eight of the agriculture and markets law, for no more than ten consecutive years; and (f) comply with subdivisions three and five of section six hundred sixty-one of this part.

3. Awards. Awards shall be granted to qualified applicants in the amount of up to ten thousand dollars per year, per applicant, not to exceed a duration of five years and not to exceed the total amount of such applicant's student loan debt. The corporation shall grant such awards within amounts appropriated for such purposes and based on the availability of funds. No one applicant shall receive more than a total of fifty thousand dollars upon the end of a five year period.

4. Priority. First priority shall be given to applicants who are completing the second, third, fourth or fifth year of full-time farm

operation and are re-applying to receive an award under this program. Second priority shall be given to an applicant who can demonstrate economic need but did not receive an award during a previous application period. If larger numbers of applicants are eligible pursuant to this subdivision than funds available, applicants shall be chosen pursuant to rules and regulations promulgated by the corporation. Provided, however, that each applicant chosen shall receive an award of up to ten thousand dollars in each year such applicant is accepted into the program.

§ 679-g. New York state get on your feet loan forgiveness program. 1. Purpose. The president shall grant student loan forgiveness awards for the purpose of alleviating the burden of federal student loan debt for recent New York state college graduates.

2. Eligibility. To be eligible for an award pursuant to this section, an applicant shall: (a) have graduated from a high school located in New York state or attended an approved New York state program for a state high school equivalency diploma and received such high school equivalency diploma; (b) have graduated and obtained an undergraduate degree from a college or university with its headquarters located in New York state in or after the two thousand fourteen--fifteen academic year; (c) apply for this program within two years of obtaining such degree; (d) be a participant in a federal income-driven repayment plan whose payment amount is generally ten percent of discretionary income; (e) have income of less than fifty thousand dollars; (f) comply with subdivisions three and five of section six hundred sixty-one of this part; and (g) work in New York state, if employed. For purposes of this program, "income" shall be the total adjusted gross income of the applicant and the applicant's spouse, if applicable.

3. Awards. An applicant whose annual income is less than fifty thousand dollars shall be eligible to receive an award equal to one hundred percent of his or her monthly federal income-driven repayment plan payments for twenty-four months of repayment under the federal program. Provided, however, that the awards granted under this section shall be deferred for a recipient who has been granted a deferment or

forbearance under the federal income-driven repayment plan. Upon completion of such deferment or forbearance period, such recipient shall be eligible to receive an award for the remaining time period under this subdivision. A recipient who is not a resident of New York state at the time any payment is made under this program shall be required to refund such payments to the state. The corporation shall be authorized to recover such payments in accordance with rules and regulations promulgated by the corporation. A student who is delinquent or in default on a student loan made under any statutory New York state or federal education loan program or has failed to comply with the terms of a service condition imposed by an award made pursuant to this article or has failed to repay an award shall be ineligible to receive an award under this program until such delinquency, default or failure is cured.

4. Rules and regulations. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations necessary for the implementation of the provisions of this section.

§ 679-h. New York state child welfare worker incentive scholarship program. 1. Purpose. The president shall grant scholarship awards for the purpose of enhancing the proficiency of current child welfare workers in New York state. Such awards shall be made on a competitive basis to applicants who are currently employed at a voluntary not-for-profit child welfare agency in New York state licensed by the office of children and family services, or employed within such state agency as a child welfare worker, with at least two years' experience and are enrolling in an approved program to obtain a degree that will enhance their ability to work in such agency.

2. Eligibility. To be eligible for an award pursuant to this section, applicants shall: a. be currently employed at a voluntary not-for-profit child welfare agency in New York state licensed by the office of children and family services, with at least two years of qualified experience;

b. be matriculated in an undergraduate or graduate degree program at

an institution of higher education located within New York state in a program of study that would enhance their ability to work in such agency as determined by the president;

c. agree to work in a voluntary not-for-profit child welfare agency in New York state licensed by the office of children and family services as a child welfare worker on a full time basis for a period of no less than five continuous years upon completion of such degree program within a reasonable period of time and maintain residency in New York state for such period of employment; and

d. comply with subdivisions three and five of section six hundred sixty-one of this part.

3. Award conditions and requirements. a. Within amounts appropriated therefore and based on availability of funds, scholarships shall be granted beginning with the two thousand seventeen -- two thousand eighteen academic year and thereafter on a competitive basis to applicants whom the corporation has certified are eligible to receive such awards; and who agree to work in a voluntary not-for-profit child welfare agency in New York state licensed by the office of children and family services as a child welfare worker on a full time basis for a period of no less than five continuous years upon completion of such degree within a reasonable period of time and maintain residency in New York state for such period of employment.

b. An applicant must make every reasonable effort to obtain employment in a voluntary not-for-profit child welfare agency in New York state licensed by the office of children and family services as a child welfare worker upon graduation.

4. Amount. The corporation shall grant such awards within the amounts appropriated for such purpose and based on availability of funds according to a schedule to be determined by the corporation in an amount:

a. equal to the tuition charged to state resident students attending

an undergraduate or graduate degree program, as applicable, at the state university of New York; the average mandatory fees charged at the state university of New York, or the actual tuition and fees charged to the recipient, whichever is less; and the average non-tuition cost of attendance, as determined by the corporation and as approved by the director of the budget, for a student at the state university of New York or actual non-tuition cost of attendance at such institution, whichever is less provided that the scholarship shall not exceed an amount that is equal to the total cost of attendance determined for federal Title IV student financial aid purposes, less all other scholarships and grants provided by New York state, other states, the federal government, or other governments, and the amount of educational benefits paid under any program that would duplicate the purposes of this program, provided that any scholarships or grants provided to a recipient by the institution which are intended to fund any portion of the difference between the annual state award and the actual costs of attendance at any such institution shall not be considered to duplicate the purposes of this program.

b. not to exceed twenty thousand dollars for a master's degree program at a private institution; the average mandatory fees charged at the private institution, or the actual tuition and fees charged to the recipient, whichever is less; and the average non-tuition cost of attendance, as determined by the corporation and as approved by the director of the budget, for a student at such private institution or actual non-tuition cost of attendance at such institution, whichever is less, provided that the scholarship shall not exceed an amount that is equal to the total cost of attendance determined for federal Title IV student financial aid purposes, less all other scholarships and grants provided by New York state, other states, the federal government, or other governments, and the amount of educational benefits paid under any program that would duplicate the purposes of this program, provided that any scholarships or grants provided to a recipient by the institution which are intended to fund any portion of the difference between the annual state award and the actual costs of attendance at any such institution shall not be considered to duplicate the purposes of this program.

5. Other awards. Award recipients shall be eligible to apply for other awards.

6. Duration. An award shall entitle the recipient to annual payments for either an associate's degree, bachelor's degree, or graduate degree. An eligible recipient enrolled in an eligible two year program of study shall not receive an award for more than two academic years. An eligible recipient enrolled in an eligible undergraduate program of study shall not receive an award for more than four academic years of undergraduate study or five academic years if the program of study normally requires five years. An eligible recipient enrolled in a graduate program of study shall not receive an award for more than two academic years. Notwithstanding, such duration may be extended for an allowable interruption of study as determined by the corporation.

7. Penalties for noncompliance. a. The corporation may collect the full amount of the award given pursuant to this section, plus interest, according to a schedule to be determined by the corporation, if: (i) the recipient fails to complete their degree program within a reasonable time as determined by the corporation; or (ii) one year after the completion of the degree program it is found that a recipient did not begin full-time employment at a voluntary not-for-profit child welfare agency in New York state licensed by the office of children and family services as a child welfare worker; or (iii) the recipient fails to complete five continuous years of full-time employment at a voluntary not-for-profit child welfare agency in the state licensed by the office of children and family services as a child welfare worker or maintain residency in New York state for such period of employment; or (iv) the recipient fails to respond to requests by the corporation for the status of his or her academic or professional progress. The terms and conditions of this subdivision shall be deferred for any interruption in an undergraduate or graduate study or employment as established by the rules and regulations of the corporation. Any obligation to comply with such provisions as outlined in this section shall be cancelled upon the death of the recipient. Notwithstanding any provisions of this subdivision to the contrary, the corporation is authorized to promulgate

rules and regulations necessary for the waiver of suspension of any financial obligation which would involve extreme hardship.

8. Recipient selection. The president may establish:

a. an application deadline; and

b. a method of selecting recipients if in any given year there are insufficient funds to cover the needs of all applicants and returning recipients.

9. Rules and regulations. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section including, but not limited to, the criteria to distributing the awards, which may include a lottery or other form of random selection, and the rate of interest charges for repayment of the student loan.

§ 679-i. New York state child welfare worker loan forgiveness incentive program. 1. Purpose. the president shall grant student loan forgiveness awards for the purpose of attracting workers to be employed in voluntary not-for-profit child welfare agencies in New York state licensed by the office of children and family services as a child welfare worker. Such awards shall be made on a competitive basis, in accordance with rules and regulations promulgated by the corporation for such purposes, to applicants who meet the eligibility criteria.

2. Eligibility. To be eligible for an award pursuant to this section, applicants shall:

a. have graduated and obtained an undergraduate or graduate degree from a college or university located in New York state;

b. have outstanding student loan debt from obtaining such degree;

c. agree to work in a voluntary not-for-profit child welfare agency in

New York state licensed by the office of children and family services as a child welfare worker, on a full time basis for a period of no less than five years;

d. apply for this program within two years of college graduation; and

e. comply with subdivisions three and five of section six hundred sixty-one of this part.

3. Awards. Awards shall be granted to qualified applicants in the amount of up to ten thousand dollars per year, per applicant, not to exceed a duration of five years and not to exceed the total amount of such applicant's student loan debt. The corporation shall grant such awards within amounts appropriated for such purposes and based on the availability of funds. No one applicant shall receive more than a total of fifty thousand dollars upon the end of a five-year period.

4. Priority. First priority shall be given to applicants who have received payment of an award pursuant to this section in a prior year and remain eligible. Second priority shall be given to applicants who are completing the second, third, fourth or fifth year of full-time employment at a voluntary not-for-profit child welfare agency in New York state licensed by the office of children and family services. Third priority shall be given to an applicant who can demonstrate economic need but did not receive an award during the first year of this program's operation. If larger numbers of applicants are eligible pursuant to this subdivision than funds available, applicants shall be chosen pursuant to rules and regulations promulgated by the corporation; provided, however, that each applicant chosen shall receive an award of up to ten thousand dollars in each year such applicant is accepted into the program.

5. Rules and regulations. The corporation is authorized to promulgate rules and regulations, and may promulgate emergency regulations, necessary for the implementation of the provisions of this section.

§ 679-j. The New York state teacher loan forgiveness program. 1. Purpose. The president shall grant student loan forgiveness awards for the purpose of increasing the number of teachers serving in the state.

2. Eligibility. To be eligible for an award pursuant to this subdivision, applicants shall (a) be certified as a teacher; (b) be employed full time in this state in an elementary or secondary school; (c) comply with subdivisions three and five of section six hundred sixty-one of this part; (d) have an outstanding student loan debt; and (e) meet one of the following criteria:

(i) teach in a shortage subject area;

(ii) teach in a hard to staff district; or

(iii) the applicant is economically disadvantaged, as defined by the corporation.

3. Definitions. For the purposes of this section, the term "shortage subject area" shall mean a curriculum subject matter or practice of teaching where there is a shortage of teachers in New York state, as designated by the department, and the term "hard to staff school districts" shall mean school districts that have a shortage of teachers, as designated by the department.

4. Priority. Such awards shall be made annually to applicants in the following priority:

(a) First priority shall be given to applicants who have received payment of an award pursuant to this section in a prior year and who, in the year prior to application, are teachers in (i) a subject shortage area, or (ii) a hard to staff school district;

(b) Second priority shall be given to applicants who have not received payment of an award pursuant to this section in a prior year and who are teachers in (i) a subject shortage area, or (ii) hard to staff school district in the year prior to such application; and

(c) Third priority shall be given to applicants who are economically disadvantaged as defined by the corporation.

5. Awards. The corporation shall grant awards pursuant to the amount appropriated for such purpose and based on availability of funds in an

amount up to five thousand dollars to individuals who are employed full-time as teachers for the school year prior to such application, provided that no recipient shall receive an award that exceeds the total remaining balance of the student loan debt pursuant to this section, in excess of twenty thousand dollars.

6. Rules and regulations. The corporation is authorized to promulgate rules and regulations and may promulgate emergency regulations necessary for the implementation of the provisions of this section. In the event that there are more applicants who have the same priority, as provided in subdivision four of this section, than there are remaining awards, the corporation shall provide in regulation the method of distributing the remaining number of such awards, which may include a lottery or other form of random selection.

PART III

STUDENT LOANS

Section 680. Powers and duties.
681. Capacity of minors.
681-a. Guaranteed student loans; special requirements.
683-a Sale of student loan; notification to borrower.
683-b. Information furnished by the state tax commission and the comptroller.

§ 680. Powers and duties. 1. In furtherance of the purposes set forth in this article, the corporation, acting by and through its board, shall have the following additional powers:

a. To lend money in compliance with applicable federal law and regulation, and upon such terms as the board may prescribe (1) to persons who are attending or plan to attend colleges or career education institutions in this state or (2) to persons who are residents of this state and who are attending or plan to attend colleges or career education institutions outside the state or (3) to persons on behalf of eligible dependents who are attending or plan to attend colleges or

career education institutions in the state or (4) to persons who are residents of this state on behalf of eligible dependents who are attending or plan to attend colleges or career education institutions outside the state; and

b. To guarantee the loan of money in compliance with applicable federal law and regulation, and upon such terms as the board may prescribe by banks, savings banks, savings and loan associations, pension funds, credit unions, colleges, career education institutions, and insurance companies (1) to persons who are attending or plan to attend colleges or career education institutions in this state or (2) to persons who are residents of this state and who are attending or plan to attend colleges or career education institutions outside the state or (3) to persons on behalf of eligible dependents who are attending or plan to attend colleges or career education institutions in the state or (4) to persons who are residents of this state on behalf of eligible dependents who are attending or plan to attend colleges or career education institutions outside the state. Loans under this paragraph are made under the authority of the federal student aid programs; and

c. To enter into cooperative agreements, subject to the approval of the board of trustees and the director of the budget, with other entities, including, but not limited to, other states, the federal government, and post-secondary institutions, to establish, administer, and operate federal student aid programs. Notwithstanding the provisions of paragraphs a and b of this subdivision, the corporation is authorized, pursuant to such cooperative agreements, to provide federal student aid services to students and families who are not residents of New York state.

2. The board shall adopt rules and regulations, consistent with federal and state law, governing the programs administered by the corporation pursuant to this part including, but not limited to the application, granting, payment and repayments of loans made or guaranteed by the corporation. Further, the board shall adopt rules and regulations consistent with federal and state law governing the participation of a college or career education institution in the

programs established by this part, including procedures for the limitation, suspension or termination of such participation after notice and opportunity for a hearing, due to the violation or failure to carry out any rule or regulation prescribed by the board.

3. The president of the higher education services corporation shall ensure that information regarding training, employment services and employment opportunities, including opportunities for programs available without cost through the job opportunities and basic skills program, is provided to any person determined to be a recipient of public assistance. The commissioner of social services shall ensure that such information is made available to the higher education services corporation.

§ 681. Capacity of minors. Any person otherwise qualifying for a loan from the corporation, or qualifying for a loan guaranteed by the corporation, shall not be disqualified by reason of his being under the age of eighteen years and for the purposes of applying for, receiving and repaying such a loan any such person shall be deemed to have full legal capacity to act; provided, however, that the signature of both parents of an applicant not meeting emancipated status requirements shall be required for the purposes of receiving such a loan unless the president determines in accordance with rules and regulations to be promulgated by the board that unusual family circumstances preclude the availability of such signatures.

§ 681-a. Guaranteed student loans; special requirements. 1. As used in this section:

(a) "Federal guaranteed student loan program" shall mean the program of the United States government making low interest loans available to students or parents of students to pay for their cost of attending post-secondary institutions established under Title IV, Part B of the Higher Education Act of nineteen hundred sixty-five, as amended, or any successor statute.

(b) "Guaranteed student loan" shall mean a loan made by a lender to a

student who is resident of and is attending an institution in this state or a parent of such a student under and pursuant to the federal guaranteed student loan program.

(c) "Lender" shall mean a bank, savings and loan association, credit union, pension fund, insurance company, school or state lending agency participating in such federal guaranteed student loan program.

(d) "Guarantee agency" shall mean any state agency or not-for-profit corporation which has entered into an agreement with the United States secretary of education to guarantee loans made under the federal guaranteed student loan program and which guarantees loans made to residents of this state attending institutions in this state.

(e) "Institution" shall mean any post-secondary institution, including a vocational school, participating in the federal guaranteed student loan program.

2. (a) Any individual, institution, lender or guarantee agency which shall provide a student with an application for a guaranteed student loan shall advise the student prior to his or her execution of such application that it is for such a loan. Any application for such a loan provided to a student shall contain, on its face in bold faced, sixteen point size print, the following statement: "This is an application for a guaranteed student loan. The money loaned to you must be repaid by you in full, with interest, in accordance with the terms of the loan. Failure to repay the loan can adversely affect your credit and result in legal action against you."

3. No institution shall accept from a student an application for a guaranteed student loan if the name of the lender is not prominently set forth in the application.

4. An institution shall not require a student to make an application for a guaranteed student loan to a particular lender or otherwise select for the student such lender. An institution may recommend a lender, however, in such case, at such time it shall deliver to the student a statement supplied by the president as to the student's right and ability to obtain such loan from other lenders and as to the insurance premiums charged by guarantee agencies on such loans.

5. The corporation, pursuant to its authority to coordinate the state's administrative effort in student financial aid and loan programs with those of other levels of government shall develop and maintain records of the guaranteed student loans made by lenders to students who are residents of the state attending institutions in this state which are guaranteed by guarantee agencies other than the corporation. It shall obtain and collect from other guarantee agencies, at such times and in such form as the president shall determine, information as to such guaranteed student loans which shall include the following: (i) the number and total dollar amount of such loans made during the period reported, shown by lender and by institution; (ii) the number and total dollar amount of loans made to students while attending institutions in this state which were purchased in default during the period reported, shown by lender and by institution; and (iii) the current default rate for such loans by lender and by institution.

6. Where a violation of this section by a guarantor or an institution other than a public institution of higher education is alleged to have occurred, the attorney general may apply in the name of the people of the state of New York to the supreme court of the state of New York within the judicial district in which such violations are alleged to have occurred, on notice of five days, for an order enjoining or restraining commission or continuance of the alleged unlawful acts. In any such proceeding, the court may impose a civil penalty in an amount not to exceed five thousand dollars. Enforcement of any violation by a public institution shall be as otherwise authorized by law.

§ 683-a. Sale of student loan; notification to borrower. 1. "Banking institution" as used in this section shall mean and include all banks, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations whether incorporated, chartered, organized or licensed under the laws of this state or any other state or the United States.

2. "Lender" as used in this section shall mean and include:

(a) a national or state chartered bank, mutual savings bank, savings and loan association, or credit union that:

(1) is subject to examination and supervision in its capacity as a lender by an agency of the United States or of the state in which its principal place of operation is established; and

(2) does not make or hold loans to students under the federal guaranteed student loan program that total more than one-half of its consumer credit loan dollar volume, including home mortgages, unless it is a bank that is wholly owned by a state; or

(b) a pension fund as defined in the federal employees retirement income security act; or

(c) an insurance company that is subject to examination and supervision by an agency of the United States or a state; or

(d) in any state, a single agency of the state or a single private nonprofit agency designated by the state; or

(e) for purposes only of purchasing and holding loans made by other lenders under the federal guaranteed student loan program, the student loan marketing association or an agency of any state functioning as a secondary market.

3. "Guaranteed education loan" as used in this section shall mean and include any loan made for the purpose of financing higher education which is made under the authority of Part B of Title IV of the Higher Education Act of 1965 or under the authority of section six hundred eighty of this chapter.

4. Any banking institution or other eligible lender as such terms are defined in this section which sells a student loan held by it to the federal student loan marketing association in the manner authorized by the federal guaranteed student loan program and applicable provisions of federal law shall be required to provide written notification of such sale to the student borrower by mail not later than the fifteenth day next succeeding the date of such sale.

5. Whenever a banking institution or other eligible lender as such terms are defined in this section sells a guaranteed education loan to another banking institution or eligible lender, such selling institution

shall notify the borrower in writing within fifteen days of such sale. Such notice shall include the name and address of the institution which has purchased such loan. The selling institution shall also notify the New York state higher education services corporation or other guarantor of such sale. Notice shall include:

(a) the name and address of the institution which has purchased the loan; and

(b) the name, address and social security number of the borrower and the borrower's account number.

§ 683-b. Information furnished by the state tax commission and the comptroller. Information furnished to the New York state higher education services corporation by the state tax commission and the comptroller under or as a result of the agreement authorized by section one hundred seventy-one-d of the tax law shall be considered confidential and shall not be disclosed except to such federal department or agency entitled to such information because such disclosure is necessary for the proper administration of this part.

PART IV

MISCELLANEOUS PROVISIONS

Section 686. Dissolution of corporation.
687. Separability.
688. Construction.
689. Transfer of officers and employees.
689-a. Tuition credits.

§ 686. Dissolution of corporation. The corporation and its corporate existence shall continue until terminated by law upon a finding that there no longer exists any need for such a corporation; provided, however, that no such law shall take effect so long as the corporation shall have notes or other obligations outstanding. For the purpose of this section, any appropriation or advance made to the corporation by the state, which has not been repaid, shall not be deemed to be an

outstanding obligation of the corporation. Upon the dissolution of the corporation or the cession of its activities all the property and moneys of such corporation shall be disposed of in a manner provided by such law.

§ 687. Separability. If any clause, sentence, subdivision, paragraph, section or part of this article be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

§ 688. Construction. To the extent that the provisions of this article are inconsistent with the provisions of any other general or special law, rule, regulation or charter, the provisions of this article shall be controlling.

§ 689. Transfer of officers and employees. 1. Officers and employees of state departments and agencies may be transferred to the corporation and officers and employees of the corporation may be transferred to state departments and agencies without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state department or division involved and the director of the budget and the president of the corporation and in compliance with the rules and regulations of the state civil service commission.

2. Promotions from positions in state departments and agencies to positions in the corporation, and vice versa, may be made from interdepartmental promotion lists resulting from promotion examinations in which both employees of the corporation and employees of the state are eligible to participate.

3. In computing seniority for purposes of promotion or for purposes of suspension or demotion upon the abolition of positions in the service of the corporation or in the service of the state, in the case of an employee of the corporation a period of prior employment in the service of the state shall be counted in the same manner as though such period of employment had been in the service of the corporation, and in the case of an employee of the state a period of prior employment in the service of the corporation shall be counted in the same manner as though such period of employment had been in the service of the state. For the purposes of the establishment and certification of preferred lists, employees suspended from the corporation shall be eligible for reinstatement in the service of the state, and employees suspended from the service of the state shall be eligible for reinstatement in the service of the corporation, in the same manner as though the corporation were a department of the state.

*** § 689-a. Tuition credits.** 1. The New York state higher education services corporation shall calculate a tuition credit for each resident undergraduate student who has filed an application with such corporation for a tuition assistance program award pursuant to section six hundred sixty-seven of this article, and is determined to be eligible to receive such award, and is also enrolled in a program of undergraduate study at a state operated or senior college of the state university of New York or the city university of New York where the annual resident undergraduate tuition rate will exceed the maximum tuition assistance program award pursuant to subitem (a) of item one of clause (A) of subparagraph (i) of paragraph a of subdivision three of section six hundred sixty-seven of this article. Such tuition credit shall be calculated for each semester, quarter or term of study that tuition is charged and tuition for the corresponding semester, quarter or term shall not be due for any student eligible to receive such tuition credit until such credit is calculated, the student and school where the student is enrolled is notified of the tuition credit amount, and such tuition credit is applied toward the tuition charged.

2. Each tuition credit pursuant to this section shall be an amount

equal to the product of the total annual resident undergraduate tuition rate minus the maximum tuition assistance program award pursuant to subitem (a) of item one of clause (A) of subparagraph (i) of paragraph a of subdivision three of section six hundred sixty-seven of this article then multiplied by an amount equal to the product of the total annual award for the student pursuant to section six hundred sixty-seven of this article divided by an amount equal to the maximum amount the student qualifies to receive pursuant to clause (A) of subparagraph (i) of paragraph a of subdivision three of section six hundred sixty-seven of this article.

* NB Repealed July 1, 2027

PART V

THE NEW YORK HIGHER EDUCATION LOAN PROGRAM

Section 690. Definitions.
691. Powers and duties.
692. Education loans; special requirements.
693. Repayment of loans.
694. Sale of education loans.
694-a. Miscellaneous.
694-b. Reporting.

§ 690. Definitions. As used in this part, the following terms shall have the following meanings unless otherwise specified:

1. "Education loan" shall mean any loan that is made under this program to finance or refinance higher education expenses at an eligible college.

2. "Eligible borrower" or "borrower" shall mean (i) a student who is a resident of New York state attending, or accepted for enrollment at, an eligible college, or (ii) the parent, legal guardian, or sponsor, as defined by the corporation in regulation, of a student attending, or accepted for enrollment at, an eligible college who is a resident of New York state, and who obtains an education loan from a lending institution

to pay for or finance higher education expenses under this program.

3. "Eligible college" shall mean a post-secondary institution, located within New York state, eligible for funds under Title IV of the Higher Education Act of nineteen hundred sixty-five, as amended, or successor statute offering a two-year, four-year, graduate or professional degree granting or certificate program.

4. "Eligible co-signer" shall mean a parent, legal guardian or otherwise credit worthy individual over twenty-one years of age who satisfies applicable credit criteria approved by the corporation and is a resident of New York state.

5. "Higher education expenses" shall mean the cost of attendance at an eligible college and shall include tuition and fees, books, room and board, and other educationally related expenses, as determined by the corporation.

6. "Holder" shall mean, with respect to an education loan: (i) a lender; (ii) a public benefit corporation authorized to finance the purchase or making of education loans pursuant to the public authorities law; or (iii) any assignee of such lender or public benefit corporation.

7. "Lending institution" or "lender" shall mean any entity that itself or through an affiliate originates education loans, other than an entity authorized to finance the purchase or making of education loans through the issuance of bonds pursuant to the public authorities law.

8. "Program" shall mean the New York Higher Education Loan Program established by this article.

9. "Student" shall mean any individual who is enrolled at least half-time, as defined by the commissioner, in a two year, four year, graduate or professional degree granting or certificate program at an eligible college.

§ 691. Powers and duties. In furtherance of the purposes set forth in this part, the corporation shall have the following additional powers and duties:

1. To market, originate, disburse, service, collect, administer, guarantee, secure, finance, and purchase education loans not in default status made under this program or contract for these services.

2. To purchase defaulted education loans made under this program.

3. To establish and maintain one or more default reserve funds and accounts within such funds, in accordance with the terms of this program.

4. To develop and administer or contract to administer one or more financial literacy programs.

5. To provide or contract to provide default aversion services.

6. To establish criteria for eligible colleges, lenders, and other entities such as, but not limited to, servicers, and to enter into participation agreements with any such eligible colleges, lenders, and other entities and any entity authorized to finance the purchase or making of education loans through the issuance of bonds pursuant to the public authorities law, and any subsequent purchaser of education loans made under this program.

7. To establish criteria for all lender underwriting, education loan purchases, servicing and default insurance payments.

8. To establish criteria for the distribution of education loans made under this program.

9. To audit lenders, servicers, holders, and eligible colleges for program compliance.

10. To adopt rules and regulations to implement this program.

§ 692. Education loans; special requirements. In any year in which fixed rate education loans are to be acquired using the proceeds of bonds issued by the state of New York mortgage agency or other public benefit corporation authorized to issue bonds for the purposes of this program, preference shall be given to education loans made to eligible borrowers for the benefit of students who demonstrate financial need based on such student's family gross income, pursuant to rules and regulations promulgated by the corporation after consultation with the state of New York mortgage agency or other public benefit corporation authorized to issue bonds for the purposes of this program. 1. Terms and conditions. (a) eligible borrowers shall apply for education loans under this program on forms prescribed by the corporation;

(b) except as may be provided by regulation, a student for whom an education loan is made shall be required to first apply for and exhaust: (i) their maximum eligibility of loans under the Federal Family Education Loan Program (FFELP) and the Federal Direct Student Loan Program (FDSLP), excluding PLUS loans; (ii) any other federal student aid, other than HEAL loans and other aid permitted by the corporation to be excluded; (iii) any state student aid; and (iv) any other student aid as prescribed by the corporation before being eligible for any education loan under this program;

(c) borrowers shall successfully complete a financial literacy course as prescribed by the corporation;

(d) student borrowers must apply for education loans under this program with an eligible co-signer;

(e) a borrower, or co-signer, who is in default on an education loan made under this program, the Federal Family Education Loan Program, the Williams D. Ford Program, or has failed to comply with the terms and conditions of any award under this article and has failed to satisfactorily cure such default or non-compliance as prescribed by applicable law or regulation shall be ineligible to receive a loan under this program, and shall further be ineligible for any other state student aid while in default on an education loan made under this program; and

(f) participating eligible colleges, lending institutions, and other

participants in this program shall be required to enter into a participation agreement with the corporation and comply with all reporting and processing requirements and procedures as established by the corporation. These participation agreements shall contain such other specific terms and conditions of the program as shall be determined by the corporation.

2. Citizenship. A borrower must be (a) a citizen of the United States, or

(b) a noncitizen lawfully admitted for permanent residence in the United States, or

(c) an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States.

3. Loan limits. Education loans made under this program shall have annual and cumulative loan limits as approved from time to time by the corporation, subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity.

4. Interest rates. The interest rate of loans made under this program shall be established in a manner that shall be approved at least annually by the corporation, subject to the approval of the state of New York mortgage agency, or other subject to public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity.

5. Default fee. A percentage of the education loan shall be paid as a default fee, by or on behalf of the borrower or the lender, in an amount to be established at least annually by the corporation subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity. The default fee established

by the corporation, subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to education loans that are expected to be financed by such entity, shall be a percentage of the principal amount of such loans, as determined by the corporation, that, together with other amounts on deposit in the applicable default reserve fund, shall not exceed an amount sufficient to ensure that the balance of such funds satisfies the obligations of such default reserve fund and permits such loans to be financed. This fee may be considered part of the cost of attendance for the purposes of calculating the loan amount for this program and shall be transmitted to the corporation in accordance with rules or regulations promulgated by the corporation. The corporation shall deposit these funds into a designated account within the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable.

6. Consolidation. Education loans made pursuant to this program may be eligible for consolidation upon the terms and conditions established by the corporation. Any person consolidating education loans under this program shall be considered a borrower for purposes of this part.

7. Default reserve funds. (a) General provisions. One or more default reserve funds shall be established in the custody of the comptroller pursuant to sections seventy-eight-a and seventy-eight-b of the state finance law. One or more default reserve funds shall be established in the custody of the state of New York mortgage agency pursuant to subdivision six of section two thousand four hundred five-a of the public authorities law. These funds shall be used by the corporation to pay default claims to participating lenders and holders of education loans made pursuant to this program.

(b) Deposits. The corporation shall promptly deposit or transfer into the New York higher education loan program variable rate default reserve fund created by section seventy-eight-a of the state finance law, the New York higher education loan program fixed rate default reserve fund

created by section seventy-eight-b of the state finance law or the state of New York mortgage agency New York higher education loan program default reserve fund created by subdivision six of section two thousand four hundred five-a of the public authorities law, with respect to education loans, described in such provisions, any moneys received in connection with this program other than payments of principal and interest of education loans that are not in default status, including, but not limited to: (i) default fees; (ii) fees received from eligible colleges; (iii) funds received for the repayment of defaulted education loans, the unpaid principal, capitalized and unpaid accrued interest of which have been paid from the funds, including without limitation all such amounts received through the operation of voluntary collection activities, administrative wage garnishment or credit of tax overpayments less any amounts received for collection fees assessed by the corporation; (iv) contractual penalties and subsidy fees; (v) any amount that may be appropriated to the corporation; (vi) any amount received by the corporation or any agent from any other source for deposit therein; and (vii) interest and investment income earned by the funds.

8. Lender due diligence. Participating lenders shall be required to perform all due diligence requirements as prescribed by the corporation and incorporated into the participation agreement and into regulations promulgated by the corporation.

9. Eligible college requirements. (a) Participating eligible colleges shall be required to certify loan eligibility upon forms prescribed by the corporation and incorporated into the participation agreement and pursuant to regulations promulgated by the corporation.

(b) Participating eligible colleges shall be required to contribute a one percent fee prescribed by the corporation, subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity, based upon the loan dollar volume or have the contribution made on its behalf, pursuant to the terms of the participation agreement. This fee shall be deposited into a designated

account within the New York higher education loan program variable rate default reserve fund the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as described in subdivision seven of this section as applicable. This fee, or any other college fee, shall not be assessed to the student or eligible borrower in connection with this program.

§ 693. Repayment of loans. 1. Terms of repayment. The terms of repayment of education loans made under this program shall be established in rules and regulations promulgated by the corporation subject to the approval of the state of New York mortgage agency or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program with respect to loans that are expected to be financed by such entity.

2. Grace period. The terms of any grace period for education loans made under this program shall be established in rules and regulations promulgated by the corporation subject to the approval of the state of New York mortgage agency or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program with respect to loans that are expected to be financed by such entity. Notwithstanding, the grace period established shall be no less than six months.

3. Forbearance and deferments. Education loans made under this program shall be eligible for in-school and military deferments pursuant to rules and regulations promulgated by the corporation, or pursuant to such additional deferments and/or forbearance as offered by an eligible lender, in each case, subject to the approval of the state of New York mortgage agency, or other authorized public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity. Upon the assignment of a defaulted education loan made under this program for collection as described in subdivision five of this section, the borrower shall no longer be eligible for any

forbearance or deferments while such loan remains in default.

4. Delinquency. A borrower shall be considered delinquent on an education loan under this program after thirty days of non-payment. The holder shall notify the corporation promptly after the first day of delinquency and the corporation shall undertake actions to return the borrower to repayment pursuant to rules and regulations established by the corporation. Such actions shall include, but not be limited to, attempts at: (i) locating and contacting the borrower and/or co-signer, as applicable, regarding the delinquent status of their loan; (ii) explaining the account history and clarifying any discrepancies; (iii) counseling the borrower and/or co-signer, as applicable, regarding all available repayment options, inducing deferments, and any public assistance available to them; (iv) providing the borrower and/or co-signer, as applicable, with documentation in connection with their loan or loans; (v) informing the borrower and/or co-signer, as applicable, of the consequences of default; and (vi) any other assistance that would prevent a default by a borrower.

5. Default. Any education loan under this program that is delinquent for one hundred eighty days shall be deemed in default. Upon default, the holder shall file a claim with the corporation and, if applicable, the state of New York mortgage agency, for payment from the New York education loan program variable rate default reserve fund, the New York education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York education loan program default reserve fund, as described in subdivision seven of section six hundred ninety two of the education law, as applicable, pursuant to regulations promulgated by the corporation. Upon receipt of a claim, the corporation shall notify the borrower that their loan is being assigned to the corporation for collection. The lender, or holder shall be paid one hundred percent of the outstanding principal, and of the capitalized and unpaid accrued interest. Upon such payment, this amount shall be the principal owed by the borrower.

All collection payments received by the corporation from a borrower, or on behalf of borrowers, in default on loans made under this program,

except collection fees shall be deposited into a designated account within the New York higher education loan program variable rate default reserve fund, New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable.

6. Collection fee. The corporation shall assess a collection fee, in an amount to be determined by the corporation at least annually, on all defaulted education loans under this program. This fee shall be retained by the corporation for the administration of the program. The aggregate annual revenue generated by such fee shall not exceed the actual costs incurred by the corporation, in the preceding year, in collecting a defaulted loan under this program on which the corporation has paid a claim, except in the initial year for which such fee shall not exceed the fee charged by the corporation for the collection of defaulted loans under the federal family education loan program. Any amounts in excess of actual cost shall be used to reduce the fee charged in the subsequent year.

7. Administrative wage garnishment. (a) Notwithstanding any provision of law to the contrary, the corporation shall be entitled to garnish the disposable pay of an individual to collect the amount owed by the individual, if such individual fails to make required voluntary payments under a repayment agreement with the corporation, provided that:

(i) The amount deducted for any pay period does not exceed fifteen percent of disposable pay. However, the amount deducted for any period may exceed fifteen percent with the written consent of the individual;

(ii) Prior to garnishment the individual shall have been given thirty days written notice to the individual's last known address advising such individual of the nature of the obligation, amount of the loan obligation, the corporation's intent to garnish and an explanation of the individual's rights under this section including the right to inspect and copy records relating to the debt;

(iii) The individual shall have been given an opportunity within the aforementioned thirty days to enter into a written repayment agreement with the corporation to avoid garnishment of wages;

(iv) The individual shall have been provided an opportunity for a

hearing pursuant to the requirements of paragraph (f) of this subdivision.

(b) The individual's employer shall pay to the corporation amounts as directed in the withholding order and shall be liable for failure to comply with said order. The corporation may sue an employer in a court of competent jurisdiction to recover from such employer the amount the employer fails to withhold from the individual's wages following receipt of the order of withholding with interest thereon plus attorneys' fees and costs;

(c) The notice of withholding served upon the employer shall contain only such information as is necessary for the employer to comply with the withholding order.

(d) No amount may be deducted from the wages of an individual who has been involuntarily separated from employment and has not been continuously employed for twelve months. An individual must prove that separation from employment was involuntary. Separation due to incarceration shall not qualify as involuntary separation.

(e) An employer may not discharge from employment, take disciplinary action against or refuse to employ an individual by reason of the fact that such individual's wages are subject to an order of withholding. Such individual may take action against said employer in a court of competent jurisdiction for reinstatement, back pay or such further relief as may be just and necessary.

(f) A hearing as described in subparagraph (iv) of paragraph (a) of this subdivision shall be provided prior to an order of withholding if the individual submits a written request for a hearing on or before the fifteenth day following the notice described in subparagraph (ii) of paragraph (a) of this subdivision in accordance with procedures set forth by the corporation. If an individual fails to submit a written request in the time frame provided, the corporation shall still provide a hearing upon receipt of a written request, but such hearing need not be provided prior to an order of withholding being issued to the employer. The hearing shall not be conducted by a party under the supervision or control of the corporation except that nothing shall prohibit the corporation from appointing an administrative law judge. A hearing decision shall be issued no later than sixty days after the filing of the petition requesting the hearing.

(g) For purposes of this section "disposable pay" shall mean that part of the compensation of any individual from an employer remaining after deduction of amounts required to be withheld by law.

(h) All funds received through administrative wage garnishment shall be deposited into a designated account within the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable.

8. New York state tax offset. The corporation shall be entitled to receive credits of New York state tax overpayments pursuant to section one hundred seventy-one-d and paragraph three of subdivision (e) of section six hundred ninety-seven of the tax law with respect to defaulted education loans under this program. All funds, or credits, received through such tax offsets shall be deposited into a designated account within the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable.

9. Data share. The corporation shall be entitled to receive data from the New York state department of taxation and finance pursuant to section one hundred seventy-one-a and paragraph three of subdivision (e) of section six hundred ninety-seven of the tax law with respect to defaulted education loans under this program.

10. Statute of limitation. Notwithstanding any provision of law to the contrary, there shall be no statute of limitations to bring suit or otherwise collect an education loan under this program. Judgments in favor of the corporation under this program shall not expire and there shall be no statute of limitations upon which to enforce or collect said judgment.

11. Capacity of minors. Any person otherwise qualifying for an education loan under this program shall not be disqualified by reason of his or her being under the age of eighteen years and for the purposes of

applying for, receiving and repaying such a loan, any such person shall be deemed to have full legal capacity to act. The corporation, in collecting education loans under this program, shall not be subject to a defense raised by any borrower based on a claim of infancy.

12. Usury. Notwithstanding any provision of law to the contrary the rate or amount of interest or fees payable on education loans made under this program shall not exceed twenty-five per centum per annum or its equivalent rate for a longer or shorter period.

13. Death and disability discharge. Upon the death of a student, for the funding of whose higher education expenses an education loan was made, the education loan made under this program shall be deemed discharged. If such a student becomes totally and permanently disabled, the education loan under this program shall be deemed discharged. A total or permanent disability shall mean a condition of an individual who is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. The holder of such discharged education loans shall be paid the outstanding principal, capitalized and unpaid accrued interest due from the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable.

14. Bankruptcy. Education loans under this program shall be considered non-dischargeable pursuant to section 523(a)(8) of the U.S. Bankruptcy Code.

15. Notwithstanding any other provision of law, other than section one thousand six hundred eighty two and section two thousand four hundred five-a of the public authorities law, a security interest in education loans shall be perfected only by the filing of a financing statement in the manner provided under section 9-310 of the uniform commercial code, and shall attach and be assigned priority in the manner provided under the uniform commercial code with respect to security interests perfected by such a filing, and a description of collateral consisting of

education loans in any financing statement shall be conclusively deemed to be legally sufficient if it refers to records identifying such loans retained by the corporation, provided that any such security interest shall be subject to any applicable lien under section two thousand four hundred five-a of the public authorities law. The owner of any education loan shall advise the corporation of any sale or assignment of such loan at the time and in the manner required by the corporation.

16. Notwithstanding any other provision of law, any eligible public college or public career education institution is hereby authorized to enter into one or more agreements with the corporation and any entity authorized to finance education loans pursuant to the public authorities law providing for the participation of such college or career education institution in the program and to perform or contract the performance of its obligations under any such agreement. Such obligations may include without limitation the payment obligations described in this title.

§ 694. Sale of education loans. 1. The corporation and holders shall be authorized to enter into one or more agreements for the sale of education loans made pursuant to this program.

2. Education loan purchases may be financed (i) by bonds issued by the state of New York mortgage agency, or other entity authorized to issue bonds for such purpose pursuant to the public authorities law, in an amount approved by the director of the division of the budget; or (ii) by other non-state sources in amounts established pursuant to an agreement with the corporation.

3. The corporation shall establish the criteria and terms upon which lenders may sell education loans subject to the approval of the state of New York mortgage agency or any other entity authorized to issue bonds under this program with respect to loans that are expected to be financed by such entity.

§ 694-a. Miscellaneous. 1. No education loan shall be deemed subject

to section one hundred eight of the banking law, to article nine of the banking law or to any other provisions of law governing the qualifications to make loans or the terms or conditions of loans described in this part, including, without limitation, the interest rates, fees and charges applicable thereto. Neither the corporation nor any entity authorized to finance education loans pursuant to the public authorities law shall be subject to any licensing requirements in connection with its education lending activities. No entity shall be considered a lender for purposes of any other provision of law solely as a result of its interest in an education loan made under this part.

2. Funds may be appropriated to the corporation and/or the state of New York mortgage agency, or other entity authorized to issue bonds under this program, for the administration of this program.

3. Interest paid on education loans made under this program shall be allowed as a deduction in computing the net taxable income of any such person for purposes of any income or franchise tax imposed by the state or any political subdivision thereof.

4. Any agreement of an entity authorized to issue bonds under the public authorities law for purposes of this program to acquire education loans from a lender shall be subject to the availability to such entity of funding for such purpose upon terms and conditions approved by such entity and shall not require the expenditure by such entity of funds from any source other than amounts obtained through the issuance of bonds or notes, including earnings thereon, and any appropriations thereof.

5. The corporation, the state of New York mortgage agency, any lender, and any public benefit corporation authorized to issue bonds under the public authorities law for the purposes of this program shall not be subject to Title 5 of the general obligations law with respect to education loans and such education loans shall not be subject to such title.

6. To the extent that the provisions of this part are inconsistent

with the provisions of any other part of this article, the provisions of this part shall be controlling.

§ 694-b. Reporting. The corporation, after consultation with the state of New York mortgage agency, and any other public benefit corporation that shall have issued bonds under the public authorities law for purposes of this program, with respect to loans that have been financed by or that are expected to be financed by such entity, shall report annually with respect to education loans made under this program for the prior academic year to the governor, the temporary president of the senate, the speaker of the assembly, the director of the division of the budget, the senate finance committee, the assembly ways and means committee and the standing committees of the legislature having jurisdiction of higher education on the number and characteristics of students who received fixed rate and/or variable rate loans under this program, including, but not limited to, the interest rate charged, the default and collection fees established, the grace period established if other than six months, the number of students who received loans that demonstrated financial need pursuant to section six hundred ninety-two of this part, the income established by the corporation pursuant to section six hundred ninety-two of this part, the number of students who received fixed rate loans, the number of students who received variable rate loans, the number of default claims received by the corporation, the number of borrowers subject to administrative wage garnishment, and a list of the lenders and holders, if known, who have provided variable rate loans. Such annual report shall be submitted by the first day of December following the close of the academic year for which such education loans were made.

ARTICLE 14-A

NEW YORK STATE

COLLEGE CHOICE TUITION SAVINGS PROGRAM

Section 695. Program established.
695-a. Purposes.
695-b. Definitions.

695-c. Functions of the comptroller and the corporation.
695-d. Powers of the comptroller.
695-e. Program requirements; family tuition account.
695-f. Program limitations; family tuition account.
695-g. Scholarships and financial aid.

§ 695. Program established. There is hereby established the college choice tuition savings program and such program shall be known and may be cited as the "New York state college choice tuition savings program".

§ 695-a. Purposes. The purposes of the tuition savings program shall be to authorize the establishment of family tuition accounts and to provide guidelines for the maintenance of such accounts to:

1. Enable residents of this state and other states to benefit from the tax incentive provided for qualified state tuition programs under the Internal Revenue Code of 1986, as amended; and

2. Attract students to public and private colleges and universities within the state.

§ 695-b. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Account" or "family tuition account" shall mean an individual savings account established in accordance with the provisions of this article.

2. "Account owner" shall mean a person who enters into a tuition savings agreement pursuant to the provisions of this article, including a person who enters into such an agreement as a fiduciary or agent on behalf of a trust, estate, partnership, association, company or corporation. The account owner may also be the designated beneficiary of

the account.

3. "Designated beneficiary" shall mean, with respect to an account or accounts, the individual designated as the individual whose higher education expenses are expected to be paid from the account or accounts.

4. "Financial organization" shall mean an organization authorized to do business in the state of New York and (a) which is an authorized fiduciary to act as a trustee pursuant to the provisions of an act of congress entitled "Employee Retirement Income Security Act of 1974" as such provisions may be amended from time to time, or an insurance company; and (b)(i) is licensed or chartered by the department of financial services, (ii) is chartered by an agency of the federal government, (iii) is subject to the jurisdiction and regulation of the securities and exchange commission of the federal government, or (iv) is any other entity otherwise authorized to act in this state as a trustee pursuant to the provisions of an act of congress entitled "Employee Retirement Income Security Act of 1974" as such provisions may be amended from time to time.

5. "Eligible educational institution" shall mean (a) any institution of higher education defined as an eligible educational institution in section 529(e)(5) of the Internal Revenue Code of 1986, as amended, or (b) any apprenticeship program described in section 529(c)(8) of the Internal Revenue Code of 1986, as amended.

6. "Member of family" shall mean a family member as defined in section 529 of the Internal Revenue Code of 1986, as amended.

7. "Program" shall mean the New York state college choice tuition savings program established pursuant to this article.

8. "Qualified higher education expenses" shall mean any qualified higher education expense included in section 529 of the Internal Revenue Code of 1986, as amended.

9. "Qualified withdrawal" shall mean a withdrawal from an account:

a. to pay the qualified higher education expenses of the designated beneficiary of the account at an eligible educational institution;

b. to pay principal and interest on any qualified education loan as provided for in section 529(c)(9) of the Internal Revenue Code of 1986, as amended; and

c. to make a rollover to a Roth Individual Retirement Account as provided for in section 529(c)(3)(E) of the Internal Revenue Code of 1986, as amended.

10. "Nonqualified withdrawal" shall mean a withdrawal from an account but shall not mean:

a. a qualified withdrawal;

b. a withdrawal made as the result of the death or disability of the designated beneficiary of an account; or

c. a withdrawal made on the account of a scholarship.

11. "Corporation" shall mean the New York state higher education services corporation.

12. "Comptroller" shall mean the comptroller of the state of New York.

13. "Management contract" shall mean the contract executed by the comptroller and a financial organization selected to act as a depository and manager of the program.

14. "Tuition savings agreement" shall mean an agreement between the comptroller or a financial organization and the account owner.

15. "Program manager" shall mean a financial organization selected by the comptroller to act as a depository and manager of the program.

§ 695-c. Functions of the comptroller and the corporation. 1. The comptroller and the corporation shall implement the program under the terms and conditions established by this article and a memorandum of understanding relating to any terms or conditions not otherwise expressly provided for in this article.

2. In furtherance of such implementation the memorandum of understanding shall address the authority and responsibility of the comptroller and the corporation to:

a. develop and implement the program in a manner consistent with the provisions of this article through rules and regulations established in accordance with the state administrative procedure act;

b. engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

c. seek rulings and other guidance from the United States Department of Treasury and the Internal Revenue Service relating to the program;

d. make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529 of the Internal Revenue Code of 1986, as amended, or any similar successor legislation;

e. charge, impose, and collect administrative fees and service charges in connection with any agreement, contract or transaction relating to the program;

f. develop marketing plans and promotion material;

g. establish the methods by which the funds held in such accounts be dispersed;

h. establish the method by which funds shall be allocated to pay for administrative costs; and

i. do all things necessary and proper to carry out the purposes of this article.

§ 695-d. Powers of the comptroller. 1. The comptroller may implement the program through use of financial organizations as account depositories and managers. Under the program, individuals may establish accounts directly with an account depository.

2. The comptroller may solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instrument which will be held in accounts. The comptroller shall select as program depositories and managers the financial organization, from among the bidding financial organizations that demonstrates the most advantageous combination, both to potential program participants and this state, of the following factors:

a. Financial stability and integrity of the financial organization;

b. The safety of the investment instrument being offered;

c. The ability of the investment instrument to track increasing costs of higher education;

d. The ability of the financial organization to satisfy recordkeeping and reporting requirements;

e. The financial organization's plan for promoting the program and the investment it is willing to make to promote the program;

f. The fees, if any, proposed to be charged to persons for opening accounts;

g. The minimum initial deposit and minimum contributions that the financial organization will require;

h. The ability of banking organizations to accept electronic withdrawals, including payroll deduction plans; and

i. Other benefits to the state or its residents included in the proposal, including fees payable to the state to cover expenses of operation of the program.

3. The comptroller may enter into a contract with a financial organization. Such financial organization management may provide one or more types of investment instrument.

4. The comptroller may select more than one financial organization for the program.

5. A management contract shall include, at a minimum, terms requiring the financial organization to:

a. Take any action required to keep the program in compliance with requirements of section six hundred ninety-five-e of this article and any actions not contrary to its contract to manage the program to qualify as a "qualified state tuition plan" under section 529 of the Internal Revenue Code of 1986, as amended;

b. Keep adequate records of each account, keep each account segregated from each other account, and provide the comptroller with the information necessary to prepare the statements required by section six hundred ninety-five-e of this article;

c. Compile and total information contained in statements required to be prepared under section six hundred ninety-five-e of this article and provide such compilations to the comptroller;

d. If there is more than one program manager, provide the comptroller with such information necessary to determine compliance with section six hundred ninety-five-e of this article;

e. Provide the comptroller or his designee access to the books and records of the program manager to the extent needed to determine compliance with the contract;

f. Hold all accounts for the benefit of the account owner;

g. Be audited at least annually by a firm of certified public accountants selected by the program manager and that the results of such audit be provided to the comptroller;

h. Provide the comptroller with copies of all regulatory filings and reports made by it during the term of the management contract or while it is holding any accounts, other than confidential filings or reports that will not become part of the program. The program manager shall make available for review by the comptroller the results of any periodic examination of such manager by any state or federal banking, insurance, or securities commission, except to the extent that such report or reports may not be disclosed under applicable law or the rules of such commission; and

i. Ensure that any description of the program, whether in writing or through the use of any media, is consistent with the marketing plan developed in the memorandum of understanding pursuant to the provisions of section six hundred ninety-five-c of this article.

6. The comptroller may provide that an audit shall be conducted of the operations and financial position of the program depository and manager at any time if the comptroller has any reason to be concerned about the financial position, the recordkeeping practices, or the status of accounts of such program depository and manager.

7. During the term of any contract with a program manager, the comptroller shall conduct an examination of such manager and its handling of accounts. Such examination shall be conducted at least biennially if such manager is not otherwise subject to periodic examination by the superintendent of financial services, the federal deposit insurance corporation or other similar entity.

8. a. If selection of a financial organization as a program manager or depository is not renewed, after the end of its term:

(i) Accounts previously established and held in investment instruments at such financial organization may be terminated;

(ii) Additional contributions may be made to such accounts;

(iii) No new accounts may be placed with such financial organization; and

(iv) Existing accounts held by such depository shall remain subject to all oversight and reporting requirements established by the comptroller.

b. If the comptroller terminates a financial organization as a program manager or depository, he or she shall take custody of accounts held by such financial organization and shall seek to promptly transfer such accounts to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.

9. The comptroller may enter into such contracts as it deems necessary and proper for the implementation of the program.

§ 695-e. Program requirements; family tuition account. 1. Family tuition accounts established pursuant to the provisions of this article shall be governed by the provisions of this section.

2. A family tuition account may be opened by any person who desires to save money for the payment of the qualified higher education expenses of the designated beneficiary. An account owner may designate another person as successor owner of the account in the event of the death of the original account owner. Such person who opens an account or any successor owner shall be considered the account owner as defined in section six hundred ninety-five-b of this article.

a. An application for such account shall be in the form prescribed by the program and contain the following:

(i) the name, address and social security number, employer

identification number, or individual taxpayer identification number of the account owner unless a family tuition account that was in effect prior to the effective date of the chapter of the laws of two thousand nineteen that amended this subparagraph does not allow for a taxpayer identification number, in which case a taxpayer identification number shall be allowed upon the expiration of the contract;

(ii) the designation of a designated beneficiary;

(iii) the name, address, and social security number, employer identification number, or individual taxpayer identification number of the designated beneficiary, unless a family tuition account that was in effect prior to the effective date of the chapter of the laws of two thousand nineteen that amended this subparagraph does not allow for a taxpayer identification number, in which case a taxpayer identification number shall be allowed upon the expiration of the contract; and

(iv) such other information as the program may require.

b. The comptroller and the corporation may establish a nominal fee for such application.

3. Any person, including the account owner, may make contributions to the account after the account is opened.

4. Contributions to accounts may be made in cash or may be deposited by a taxpayer who has elected to contribute all or a portion of a refund of personal income tax to an account that has been established under this article.

a. Taxpayer contributions shall be made by direct deposit to the designated account. The amount elected to be contributed by the taxpayer must be at least twenty-five dollars and may be applied as a contribution only for the tax year in which the refund is issued.

b. The election shall be made on a form prescribed by the department of taxation and finance and filed with the taxpayer's tax return for the tax year or at such other time and in such other manner as the department may prescribe. The department shall prescribe the maximum number of accounts to which a taxpayer may elect to contribute a portion

of the refund.

c. The election to contribute all or a portion of a refund shall not be revocable.

d. All or a portion of a refund may not be contributed to an account that has been established under this article if the amount of the taxpayer's elected refund for such tax year is reduced by any other sections of the tax law to the amount less than the minimum amount of contribution authorized under this section.

5. An account owner may withdraw all or part of the balance from an account on sixty days notice or such shorter period as may be authorized under rules governing the program. Such rules shall include provisions that will generally enable the determination as to whether a withdrawal is a nonqualified withdrawal or a qualified withdrawal.

6. a. An account owner may change the designated beneficiary of an account to an individual who is a member of the family of the prior designated beneficiary in accordance with procedures established by the memorandum of understanding pursuant to the provisions of section six hundred ninety-five-c of this article.

b. An account owner may transfer all or a portion of an account to another family tuition account, the subsequent designated beneficiary of which is a member of the family as defined in section 529 of the Internal Revenue Code of 1986, as amended.

c. Changes in designated beneficiaries and transfers under this subdivision shall not be permitted to the extent that they would cause all accounts for the same beneficiary to exceed the permitted aggregate maximum account balance.

7. The program shall provide separate accounting for each designated beneficiary.

8. No account owner or designated beneficiary of any account shall be

permitted to direct the investment of any contributions to an account or the earnings thereon more than two times in any calendar year.

9. Neither an account owner nor a designated beneficiary may use an interest in an account as security for a loan. Any pledge of an interest in an account shall be of no force and effect.

10. The comptroller shall promulgate rules or regulations to prevent contributions on behalf of a designated beneficiary in excess of an amount that would cause the aggregate account balance for all accounts for a designated beneficiary to exceed a maximum account balance, as established from time to time by the comptroller and the corporation on the basis of higher education costs in the state, with adequate safeguards to prevent more contributions than necessary to provide for the qualified higher education costs of the beneficiary, as required to maintain the program as a "qualified tuition program" under section 529 of the Internal Revenue Code of 1986, as amended.

11. a. If there is any distribution from an account to any individual or for the benefit of any individual during a calendar year, such distribution shall be reported to the Internal Revenue Service and the account owner, the designated beneficiary, or the distributee to the extent required by federal law or regulation.

b. Statements shall be provided to each account owner at least once each year within sixty days after the end of the twelve month period to which they relate. The statement shall identify the contributions made during a preceding twelve month period, the total contributions made to the account through the end of the period, the value of the account at the end of such period, distributions made during such period and any other information that the comptroller shall require to be reported to the account owner.

c. Statements and information relating to accounts shall be prepared and filed to the extent required by federal and state tax law.

12. a. A local government or organization described in section

501(c)(3) of the Internal Revenue Code of 1986, as amended, may open and become the account owner of an account to fund scholarships for persons whose identity will be determined upon disbursement.

b. In the case of any account opened pursuant to paragraph a of this subdivision the requirement set forth in subdivision two of this section that a designated beneficiary be designated when an account is opened shall not apply and each individual who receives an interest in such account as a scholarship shall be treated as a designated beneficiary with respect to such interest.

13. An annual fee may be imposed upon the account owner for the maintenance of the account.

14. The program shall disclose the following information in writing to each account owner and prospective account owner of a family tuition account:

a. the terms and conditions for purchasing a family tuition account;

b. any restrictions on the substitution of beneficiaries;

c. the person or entity entitled to terminate the tuition savings agreement;

d. the period of time during which a beneficiary may receive benefits under the tuition savings agreement;

e. the terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

f. the probable tax consequences associated with contributions to and distributions from accounts; and

g. all other rights and obligations pursuant to tuition savings agreements, and any other terms, conditions, and provisions deemed

necessary and appropriate by the terms of the memorandum of understanding entered into pursuant to section six hundred ninety-five-c of this article.

15. Tuition savings agreements shall be subject to section fourteen-c of the banking law and the "truth-in-savings" regulations promulgated thereunder.

16. Nothing in this article or in any tuition savings agreement entered into pursuant to this article shall be construed as a guarantee by the state or any college that a beneficiary will be admitted to a college, or, upon admission to a college will be permitted to continue to attend or will receive a degree from a college.

§ 695-f. Program limitations; family tuition account. 1. Nothing in this article shall be construed to:

a. give any designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner;

b. guarantee that a designated beneficiary will be admitted to an eligible educational institution;

c. create state residency for an individual merely because the individual is a designated beneficiary; or

d. guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

2. a. Nothing in this article shall create or be construed to create any obligation of the comptroller, the state, or any agency or instrumentality of the state to guarantee for the benefit of any account owner or designated beneficiary with respect to:

(i) the rate of interest or other return on any account; and

(ii) the payment of interest or other return on any account.

b. The comptroller and the corporation by rule or regulation shall provide that every contract, application, deposit slip, or other similar document that may be used in connection with a contribution to an account clearly indicate that the account is not insured by the state and neither the principal deposited nor the investment return is guaranteed by the state.

§ 695-g. Scholarships and financial aid. Monies in a family tuition account shall not be used toward the calculation of New York state financial aid under a financial aid program administered by the state.

ARTICLE 15

TEXT-BOOKS

Section 701. Power to designate text-books; purchase and loan of text-books; purchase of supplies.
702. Requisites for change.
704. Text-books containing seditious or disloyal matter.
705. Penalty for violation.

§ 701. Power to designate text-books; purchase and loan of text-books; purchase of supplies. 1. In the several cities and school districts of the state, boards of education, trustees or such body or officer as perform the functions of such boards, shall designate text-books to be used in the schools under their charge.

2. A text-book, for the purposes of this section shall mean: (i) any book, or a book substitute, which shall include hard covered or paperback books, work books, or manuals and (ii) for expenses incurred after July first, nineteen hundred ninety-nine, any courseware or other content-based instructional materials in an electronic format, as such terms are defined in the regulations of the commissioner, which a pupil is required to use as a text, or a text-substitute, in a particular

class or program in the school he or she legally attends. For expenses incurred on or after July first, two thousand eleven, a text-book shall also mean items of expenditure that are eligible for an apportionment pursuant to sections seven hundred eleven, seven hundred fifty-one and/or seven hundred fifty-three of this title, where such items are designated by the school district as eligible for aid pursuant to this section, provided, however, that if aided pursuant to this section, such expenses shall not be aidable pursuant to any other section of law. Expenditures aided pursuant to this section shall not be eligible for aid pursuant to any other section of law. Courseware or other content-based instructional materials in an electronic format included in the definition of textbook pursuant to this subdivision shall be subject to the same limitations on content as apply to books or book substitutes aided pursuant to this section.

3. In the several cities and school districts of the state, boards of education, trustees or such body or officers as perform the function of such boards shall have the power and duty to purchase and to loan upon individual request, textbooks, to all children residing in such district who are enrolled in a public school including children attending the public schools of the district for whom the district is eligible to receive reimbursement pursuant to paragraph a of subdivision eight of section thirty-two hundred two of this chapter, provided, however, that such children shall not be counted by any other school district, and to all children residing in such district who are enrolled in a nonpublic school. Textbooks loaned to children enrolled in said nonpublic schools shall be textbooks which are designated for use in any public schools of the state or are approved by any boards of education, trustees or other school authorities. Such textbooks are to be loaned free to such children subject to such rules and regulations as are or may be prescribed by the board of regents and such boards of education, trustees or other school authorities. Enrollment shall be as defined in subdivision one of section thirty-six hundred two of this chapter.

4. No school district shall be required to purchase or otherwise acquire textbooks, the cost of which shall exceed an amount equal to the apportionment pursuant to subdivision six of this section plus a minimum

lottery grant determined pursuant to subdivision four of section ninety-two-c of the state finance law multiplied by the number of children residing in such district and so enrolled in the base year; and no school district shall be required to loan textbooks in excess of the textbooks owned or acquired by such district; provided, however that all textbooks owned or acquired by such district shall be loaned to children residing in the district and so enrolled in public and nonpublic schools on an equitable basis.

5. In the several cities and school districts of the state, boards of education, trustees or other school authorities may purchase supplies and either rent, sell or loan the same to the pupils attending the public schools in such cities and school districts upon such terms and under such rules and regulations as may be prescribed by such boards of education, trustees or other school authorities.

6. The commissioner, in addition to the annual apportionment of public monies pursuant to other articles of this chapter, shall apportion to each school district an amount equal to the cost of the textbooks purchased and loaned by the district pursuant to this section in the base year, but in no case shall the aid apportioned to the district exceed the product of the textbook factor plus a minimum lottery grant, determined pursuant to subdivision four of section ninety-two-c of the state finance law, and the sum of the enrollments in grades kindergarten through twelve in the base year calculated pursuant to subparagraphs four, five, and six of paragraph n of subdivision one of section thirty-six hundred two of this chapter. Aid payable pursuant to this section shall be deemed final and not subject to change after April thirtieth of the school year for which payment was due.

For aid payable in the two thousand seven--two thousand eight school year and thereafter, the textbook factor shall equal forty-three dollars and twenty-five cents.

7. The apportionment provided for in this section shall be paid, at such times as may be determined by the commissioner and approved by the director of the budget, during the school year in which the expenditures

are reported to the department prior to such apportionment. Expenditures by a school district in excess of the product of the textbook factor plus a minimum lottery grant determined pursuant to subdivision four of section ninety-two-c of the state finance law and the sum of the enrollments in grades kindergarten through twelve in the base year calculated pursuant to subparagraphs four, five, and six of paragraph n of subdivision one of section thirty-six hundred two of this chapter in any school year shall be deemed approved operating expense of the district for the purpose of computation of state aid pursuant to section thirty-six hundred two of this chapter, but expenditures up to such product shall not be deemed approved operating expenses for such purpose.

8. In its discretion, a board of education may adopt regulations specifying the date by which requests for the purchase and loan of textbooks must be received by the district. Notice of such date shall be given to all non-public schools. Such date shall not be earlier than the first day of June of the school year prior to that for which such textbooks are being requested, provided, however, that a parent or guardian of a child not attending a particular non-public school prior to June first of the school year may submit a written request for textbooks within thirty days after such child is enrolled in such non-public school. In no event however shall a request made later than the times otherwise provided pursuant to this subdivision be denied where a reasonable explanation is given for the delay in making the request.

§ 702. Requisites for change. 1. When a text-book shall have been designated for use in a school district or city as provided in subdivision one of section seven hundred one, it shall not be lawful to supersede such text-book by any other book within a period of five years from the time of such designation, except upon a three-fourths vote of the board of education, trustees or of such body or officer as performs the function of such board.

§ 704. Text-books containing seditious or disloyal matter. No text-book in any subject used in the public schools in this state shall contain any matter or statements of any kind which are seditious in character, disloyal to the United States or favorable to the cause of any foreign country with which the United States may be at war. The commission, consisting of the commissioner of education and of two persons to be designated by the regents, whose duty it shall be on complaint to examine text-books used in the public schools of the state, in the subjects of civics, economics, English, history, language and literature, for the purpose of determining whether such text-books contain any matter or statements of any kind which are seditious in character, disloyal to the United States or favorable to the cause of any foreign country with which the United States may be at war, is hereby continued. Any person may present a written complaint to such commission that a text-book in any of the aforesaid subjects for use in the public schools of this state or offered for sale for use in the public schools of this state contains matter or statements in violation of this section, specifying such matter or statements in detail. If the commission determine that the text-book against which complaint is made contains any such matter or statements, it shall issue a certificate disapproving the use of such text-book in the public schools of this state, together with a statement of the reasons for its disapproval, specifying the matter found unlawful. Such certificate of disapproval of a text-book, with a detailed statement of the reasons for its disapproval, shall be duly forwarded to the boards of education or other boards or authorities having jurisdiction of the public schools of the school districts of this state, and after the receipt of such certificate the use of a text-book so disapproved shall be discontinued in such school district.

Any contract hereafter made by any such board of education or other school authorities for the purchase of a text-book in any of such subjects, which has been so disapproved, shall be void. Any school officer or teacher who permits a text-book in any of such subjects, which has been so disapproved, to be used in the public schools of the state, shall be guilty of a misdemeanor.

§ 705. Penalty for violation. Any person violating any of the provisions of this article shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars for every such violation, to be sued for by any taxpayer of the school district, and recovered before any justice of the peace and when collected, to be paid to the collector or treasurer for the benefit of said school district.

ARTICLE 15-A
SCHOOL LIBRARY MATERIALS

Section 711. Aid for the purchase of school library materials.
712. Loan of school library materials.

§ 711. Aid for the purchase of school library materials. 1. In the several cities and school districts of the state, boards of education, trustees or such body or officers as perform the functions of such boards, shall designate school library materials to be used in the schools in the district.

2. School library materials, for the purposes of this article shall mean digital materials, audio/visual materials and printed materials that may or may not require magnification which meet all of the following criteria: (1) materials which are catalogued and processed as part of the school library or media center for use by elementary and/or secondary school children and teachers; (2) materials which with reasonable care and use may be expected to last more than one year; and (3) materials which would not be eligible for aid pursuant to sections seven hundred one and seven hundred fifty-one of this title. School library materials meeting these criteria may include (i) hard cover, paperback books and e-books, periodicals, that is, print and digital publications which are subscription-based and appear at regular intervals of less than one year on a continuing basis for an indefinite period, documents other than books, pamphlets, musical scores, other printed, digital and published materials, (ii) for school year nineteen hundred eighty-six--eighty-seven and thereafter, audio/visual materials

including films, film strips, micro-film, sound recordings, processed slides, transparencies, kinescopes, video tapes, maps, charts, globes, pictorial works, including pictures and picture sets, reproductions, photographs, graphic works, and any other audio/visual materials of a similar nature made.

3. No school district shall be required to purchase or otherwise acquire school library materials, the cost of which shall exceed an amount equal to the library materials factor multiplied by the sum of the public school district enrollment and the nonpublic school enrollment in the base year as defined in subparagraphs two and three of paragraph n of subdivision one of section thirty-six hundred two of this chapter. For aid payable in the nineteen hundred ninety-eight--nineteen hundred ninety-nine school year, the library materials factor shall be four dollars. For aid payable in the two thousand seven--two thousand eight school year and thereafter, the library materials factor shall be six dollars and twenty-five cents.

4. Commencing July first, nineteen hundred ninety eight, the commissioner, in addition to the annual apportionment of public monies pursuant to other articles of this chapter, shall apportion to each school district an amount equal to the cost of the school library materials purchased by the district pursuant to this section in the base year, but in no case shall the aid apportioned to the district exceed the product of the library materials factor and the sum of public school district enrollment, nonpublic school enrollment, and additional public enrollment as defined in subparagraphs two, three, and six of paragraph n of subdivision one of section thirty-six hundred two of this chapter. Aid payable pursuant to this section shall be deemed final and not subject to change after April thirtieth of the school year for which payment was due.

§ 712. Loan of school library materials. 1. In the several cities and school districts of the state, boards of education, trustees or such body or officers as perform the function of such boards shall have the power and duty to loan upon request of an individual or a group of

individual pupils, to all pupils defined in subdivision three of section seven hundred eleven of this article, school library materials. School library materials loaned to such pupils attending private schools shall be school library materials which are designated for use in any public elementary or secondary schools of the state or are approved by any board of education, trustees or other school authorities. Such school library materials are to be loaned free to such children subject to such rules and regulations as are or may be prescribed by the board of regents and such boards of education, trustees or other school authorities.

2. No school district shall be required to loan school library materials in excess of the school library materials owned or acquired by such district pursuant to section seven hundred eleven of this article. Such school library materials shall be loaned on an equitable basis to children defined in subdivision three of section seven hundred eleven of this article attending in the current year. The payment of tuition under article eighty-nine of this chapter is deemed to be an equitable loan to children for whom such tuition is paid.

* ARTICLE 15-B

HIGHER EDUCATION TEXTBOOKS

Section 715. Instructional materials; students with disabilities.

* NB Repealed August 15, 2028

*** § 715. Instructional materials; students with disabilities.** 1. For purposes of this section, the following words shall have the following meanings: (a) "College" means college as defined in subdivision two of section six hundred one of this chapter;

(b) "Instructional material or materials" means textbooks and other materials written and published by commercial publishers primarily for use by students in postsecondary instruction that are required or essential to a student's success in a course of study in which a student with a disability is enrolled. The determination of which materials are "required or essential to student success" shall be made by the

instructor of the course. "Instructional material or materials" shall also include commercially published nontextual mathematics and science material wherever available software permits the conversion of existing electronic files of the materials into a format that is compatible with braille translation software or alternative media for students with disabilities.

(c) "Nonprinted instructional materials" means commercially published instructional materials in formats other than print, and includes commercially published instructional materials that require the availability of electronic equipment in order to be used as a learning resource, including, but not necessarily limited to, commercially published software programs, video disks, and video and audio tapes.

(d) "Printed instructional material or materials" means instructional material or materials commercially published in book or other commercially published printed form.

(e) "Structural integrity" means all of the commercially published printed instructional material, including, but not limited to, the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, pictures, illustrations, graphs, charts, indexes, glossaries, and bibliographies. If good faith efforts fail to produce an agreement pursuant to subdivision two of this section between the publisher or manufacturer and the commissioner as to an electronic format that will preserve the structural integrity of the commercially published printed instructional material, the publisher or manufacturer shall provide the instructional material in the most updated electronic format taking into consideration the recommendation made by the National Institute of Standards and Technology (NIST) and shall preserve as much of the structural integrity of the commercially published printed instructional material as possible.

(f) "Specialized format" means braille, audio, or digital text that is exclusively for use by blind persons and students with other disabilities.

(g) "Advisory council", means a group of individuals appointed as follows: seven shall be appointed directly by the governor, two shall be appointed on the nomination of the temporary president of the senate, two shall be appointed on the nomination of the speaker of the assembly, one shall be appointed on the nomination of the minority leader of the

senate, and one shall be appointed on the nomination of the minority leader of the assembly. The council shall be comprised of representatives from college disability student support services; the department; the publisher community; students with disabilities and other interested parties who will provide input into policy development, program guidelines and implementation strategies for the implementation of this section, and updates and technical assistance to regional college disability service coordinators.

(h) "Guidelines" means a set of information, training, technical guidance and best practices used in implementing the provisions of this section.

Nothing in this subdivision shall be construed to prohibit a college from assisting a student with a disability by using the electronic version of commercially published printed instructional material provided pursuant to this section solely to transcribe or arrange for the transcription of the commercially published printed instructional material into braille. In the event such a transcription is made, the college shall have the right to share such braille copy of the commercially published printed instructional material with other students with disabilities.

2. An individual, firm, partnership or corporation that publishes or manufactures commercially published printed instructional materials for students attending college shall provide for purchase by students with disabilities such printed instructional material in an electronic format mutually agreed upon by the commercial publisher or manufacturer and the commissioner. These commercially published printed instructional materials must be converted to an electronic format using the most updated software technology available to the public at that time. Computer files or electronic versions of commercially published printed instructional materials shall maintain the structural integrity of such printed instructional material, be compatible with commonly used braille translation and speech synthesis software, and include corrections and revisions as may be necessary. The computer files or electronic versions of the commercially published printed instructional material shall be available to students with disabilities at a cost comparable to the

printed version of such commercially published material and in a timely manner, upon receipt of a written request that does all of the following:

(a) Certifies that the electronic version of the commercially published printed instructional materials will be used by a student with a disability.

(b) Certifies that the student has a disability that prevents him or her from using standard commercially published instructional materials.

(c) Certifies that the commercially published printed instructional material is for use by the student in connection with a course in which he or she is registered or enrolled at the college.

(d) Is signed by the coordinator of services for students with disabilities at the college or by the campus or college official responsible for monitoring compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) at the college.

3. An individual, firm, partnership or corporation specified in subdivision two of this section may also require that, in addition to the conditions enumerated above, the request shall include a statement signed by the student agreeing to both of the following:

(a) He or she will use the electronic copy of the commercially published printed instructional material in specialized format solely for his or her own educational purposes.

(b) He or she will not copy or duplicate the commercially published printed instructional material or electronic copy for use by others consistent with the requirements of the copyright revision act of 1976, as amended (17 U.S.C. §101 et seq.).

4. If a college permits a student to directly use the electronic version of a commercially published instructional material, such student shall use the disk or file in a manner that complies at all times with the Copyright Revisions Act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

5. An individual, firm, partnership or corporation that, for commercial purposes, publishes or manufactures nonprinted instructional materials for students attending college shall provide computer files or

other electronic versions of such nonprinted instructional materials for use by students attending such college subject to the same conditions set forth in subdivisions two and three of this section for printed instructional materials, when technology is available to convert these nonprinted instructional materials published or manufactured for commercial purposes to a format that maintains the structural integrity of such nonprinted instructional materials that is compatible with braille translation and speech synthesis software.

6. Nothing in this section shall be deemed to authorize any use of any commercially published instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

7. The governor shall convene a statewide advisory council as defined in paragraph (g) of subdivision one of this section that will meet as necessary to fulfill the functions set forth in paragraph (g) of subdivision one of this section.

* NB Repealed August 15, 2028

ARTICLE 15-C
TEXTBOOK ACCESS ACT

Section 720. Definitions.
721. Pricing transparency.
722. Sales of textbooks, textbook bundles.
723. Special role of faculties in adoptions.
724. Policies addressing course material adoptions and sample materials.

§ 720. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Bundled" means a textbook and any other learning material, including, but not limited to, workbooks, online technologies, dictionaries, CD-ROMS, or books, packaged together to be sold for one

price.

2. "Institution of higher education" means any institution of higher education, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree or diploma.

3. "Publisher" means any publishing house, publishing firm, or publishing company that publishes textbooks and supplemental materials.

4. "Textbook" means any textbook that is adopted for a course, as determined by the faculty member or members or entity charged with choosing that textbook.

5. "Supplemental materials" means materials that supplement the primary textbook or textbooks that come in the form of another book, online technologies, a workbook, CD-ROM, or any other format, and that can be used by a faculty member or a student during the teaching of a course.

6. "Adopter" means any faculty member or academic department at institutions of higher learning responsible for considering and choosing textbooks and/or supplemental materials to be utilized in connection with the accredited courses taught at institutions of higher education.

§ 721. Pricing transparency. 1. To ensure pricing transparency, all publishers of college textbooks shall, on request, make readily available to prospective adopters of their products who are members of the faculties or purchasing entities of institutions of higher education the price at which the publisher would make the products available to the college bookstore that would offer the products to students.

2. For purposes of this section, the term "products" means all versions of a textbook or set of textbooks, except custom textbooks or special editions of textbooks, available in the subject area for which a prospective adopter is teaching a course, including supplemental

materials, both when sold together or separately from a textbook.

§ 722. Sales of textbooks, textbook bundles. Textbooks shall be sold in the same manner as ordered by such faculty member or entity in charge of selecting textbooks for courses. In the event such product is unavailable as ordered, the bookstore, faculty, and relevant publisher shall work together to provide the best possible substitute that most closely matches the requested item or items, and the publisher shall make available the price of such substitute or substitutes readily available.

§ 723. Special role of faculties in adoptions. Each institution of higher education shall institute policies that encourage faculty members or the entity in charge of textbook adoptions to place their orders with sufficient lead-time to enable the university, or contract-managed, bookstore to confirm the availability of the requested materials and, when appropriate, the availability of used textbooks or alternate digital formats.

§ 724. Policies addressing course material adoptions and sample materials. No employee at an institution of higher education shall demand or receive any payment, loan, advance, goods, or deposit of money, present or promised, for adopting specific course materials required for coursework or instruction; with the exception that the employee may receive:

1. sample copies, instructor's copies, or instructional material, that are not to be sold;

2. royalties or other compensation from sales of textbooks that include such instructor's own writing or work;

3. honoraria for academic peer review of course materials; or

4. training in the use of course materials and learning technologies.

ARTICLE 16

COMPUTER TECHNOLOGY

Section 751. Aid for computer software purchases.
752. Loan of computer software.
753. Instructional computer hardware and technology equipment apportionment.
754. Loan of instructional computer hardware.
755. Loan of smart schools classroom technology.

§ 751. Aid for computer software purchases. 1. In the several cities and school districts of the state, boards of education, trustees or such body or officers as perform the functions of such boards, shall designate software programs to be used in conjunction with computers of the school district.

2. A software program, for the purposes of this article shall mean (a) a computer program which a pupil is required to use as a learning aid in a particular class in the school the pupil legally attends, or (b) for expenses incurred after July first, two thousand nine, any content-based instructional materials in an electronic format that are aligned with state standards which are accessed or delivered through the internet based on a subscription model. Such electronic format materials may include a variety of media assets and learning tools, including video, audio, images, teacher guides, and student access capabilities as such terms are defined in the regulations of the commissioner. For expenses incurred on or after July first, two thousand eleven, a software program shall also mean items of expenditure that are eligible for an apportionment pursuant to sections seven hundred one, seven hundred eleven and/or seven hundred fifty-three of this title, where such items are designated by the school district as eligible for aid pursuant to this section, provided, however, that if aided pursuant to this section, such expenses shall not be aidable pursuant to any other section of law.

3. No school district shall be required to purchase or otherwise acquire software programs, the cost of which shall exceed an amount equal to the software factor multiplied by the sum of the public school district enrollment and the nonpublic school enrollment in the base year as defined in subparagraphs two and three of paragraph n of subdivision one of section thirty-six hundred two of this chapter.

4. The commissioner, in addition to the annual apportionment of public monies pursuant to other articles of this chapter, shall apportion to each school district an amount equal to the cost of the software programs purchased by the district pursuant to this section in the base year, but in no case shall the aid apportioned to the district exceed the product of the software factor and the sum of public school district enrollment, nonpublic school enrollment, and additional public enrollment as defined in subparagraphs two, three, and six of paragraph n of subdivision one of section thirty-six hundred two of this chapter.

For aid payable in the nineteen hundred ninety-seven--ninety-eight and nineteen hundred ninety-eight--ninety-nine school years, the software factor shall equal four dollars and fifty-eight cents. For aid payable in the nineteen hundred ninety-nine--two thousand school year, the software factor shall equal seven dollars and fifty-five cents. For aid payable in the two thousand--two thousand one school year, the software factor shall equal fourteen dollars and ninety-eight cents. For aid payable in the two thousand one--two thousand two school year, the software factor shall equal twenty-three dollars and ninety cents. For aid payable in the two thousand two--two thousand three school year and thereafter, the software factor shall equal fourteen dollars and ninety-eight cents. The apportionment provided for in this section shall be paid at such times as may be determined by the commissioner and approved by the director of the budget. Aid payable pursuant to this section shall be deemed final and not subject to change after April thirtieth of the school year for which payment was due.

§ 752. Loan of computer software. 1. In the several cities and school districts of the state, boards of education, trustees or such body or

officers as perform the function of such boards shall have the power and duty to loan upon request of an individual or a group of individual pupils, to all pupils defined in subdivision three of section seven hundred fifty-one of this article, software programs. Software programs loaned to such pupils attending private schools shall be software programs which are designated for use in any public elementary or secondary schools of the state or are approved by any board of education, trustees or other school authorities. Such software programs are to be loaned free to such children subject to such rules and regulations as are or may be prescribed by the board of regents and such boards of education, trustees or other school authorities.

2. No school district shall be required to loan software programs in excess of the software programs owned or acquired by such district pursuant to section seven hundred fifty-one of this article. Such software programs shall be loaned on an equitable basis to children defined in subdivision three of section seven hundred fifty-one of this article attending in the current year. The payment of tuition under article eighty-nine of this chapter is deemed to be an equitable loan to children for whom such tuition is paid.

§ 753. Instructional computer hardware and technology equipment apportionment. 1. In addition to any other apportionment under this chapter, a school district shall be eligible for an apportionment under the provisions of this section for approved expenses for (i) the purchase or lease of micro and/or mini computer equipment or terminals for instructional purposes or (ii) technology equipment, as defined in paragraph c of subdivision two of this section, used for instructional purposes, or (iii) for the repair of such equipment and training and staff development for instructional purposes as provided hereinafter, or (iv) for expenses incurred on or after July first, two thousand eleven, any items of expenditure that are eligible for an apportionment pursuant to sections seven hundred one, seven hundred eleven and/or seven hundred fifty-one of this title, where such items are designated by the school district as eligible for aid pursuant to this section, provided, however, that if aided pursuant to this section, such expenses shall not

be aidable pursuant to any other section of law. Such aid shall be provided pursuant to a plan developed by the district which demonstrates to the satisfaction of the commissioner that the instructional computer hardware needs of the district's public school students have been adequately met and that the school district has provided for the loan of instructional computer hardware to students legally attending nonpublic schools pursuant to section seven hundred fifty-four of this article. The apportionment shall equal the lesser of such approved expense in the base year or, the product of (i) the technology factor, (ii) the sum of the public school district enrollment and the nonpublic school enrollment in the base year as defined in subparagraphs two and three of paragraph n of subdivision one of section thirty-six hundred two of this chapter, and (iii) the building aid ratio, as defined in subdivision four of section thirty-six hundred two of this chapter. For aid payable in the two thousand seven--two thousand eight school year and thereafter, the technology factor shall be twenty-four dollars and twenty cents. A school district may use up to twenty percent of the product of (i) the technology factor, (ii) the sum of the public school district enrollment and the nonpublic school enrollment in the base year as defined in subparagraphs two and three of paragraph n of subdivision one of section thirty-six hundred two of this chapter, and (iii) the building aid ratio for the repair of instructional computer hardware and technology equipment and training and staff development for instructional purposes pursuant to a plan submitted to the commissioner.

2. As used in this article:

a. "Current year" shall have the same meaning as that term is defined in subdivision one of section thirty-six hundred two of this chapter;

b. "Base year" shall have the same meaning as that term is defined in subdivision one of section thirty-six hundred two of this article; and

c. "Technology equipment", for the purposes of this article, shall mean equipment with a useful life used in conjunction with or in support of educational programs including but not limited to video, solar energy, robotic, satellite, laser and such other equipment as the

commissioner shall approve provided that expenses for the purchase or lease of such equipment shall not be eligible for aid under any other provisions of this chapter.

3. No school district shall be required to purchase or otherwise acquire instructional computer hardware or technology equipment, the cost of which exceeds the amount of state aid provided pursuant to this section.

4. The apportionment provided for in this section shall be paid at such times as may be determined by the commissioner and approved by the director of the budget, during the school year in which the expenditures are reported to the department prior to such apportionment, but not earlier than the school year after the school year in which expenses are incurred.

5. Expenses aided pursuant to this section shall not be eligible for aid pursuant to any other provision of this chapter.

§ 754. Loan of instructional computer hardware. 1. In the several cities and school districts of the state, school authorities, as defined in subdivision twelve of section two of this chapter, shall have the power and duty, to the extent provided in this section, to loan, upon request of an individual or a group of individual pupils, to all pupils legally attending nonpublic elementary or secondary schools located in the school district, instructional computer hardware which is designated for use in any public elementary or secondary schools of the state or is approved by any school authorities. Such instructional computer hardware is to be loaned free to such children, commencing with the two thousand seven--two thousand eight school year, subject to such rules and regulations as are or may be prescribed by the board of regents and such school authorities.

2. No school district shall be required to loan instructional computer hardware in excess of the instructional computer hardware acquired by such district pursuant to section seven hundred fifty-three of this

article. Such instructional computer hardware shall be loaned on an equitable basis to children attending nonpublic schools in the district in the current year, provided that nothing in this article shall be construed to require a school district to loan to children attending nonpublic schools, pursuant to this section, instructional computer hardware purchased with local or federal funds or with state funds other than funds apportioned pursuant to this article. The payment of tuition under article eighty-nine of this chapter is deemed to be an equitable loan to children for whom such tuition is paid, and the provisions of this section shall not apply.

3. School authorities shall adopt regulations specifying the date by which requests for the purchase and loan of instructional computer hardware must be received by the district. Notice of such date shall be given to all non-public schools in the school district. Such date shall not be earlier than the first day of June of the school year prior to that for which such instructional computer hardware is being requested, provided, however, that a parent or guardian of a child not attending a particular non-public school prior to June first of the school year may submit a written request for instructional computer hardware within thirty days after such child is enrolled in such non-public school. In no event, however, shall a request made later than the times otherwise provided pursuant to this subdivision be denied where a reasonable explanation is given for the delay in making the request.

§ 755. Loan of smart schools classroom technology. 1. In the several cities and school districts of the state, school authorities, as defined in subdivision twelve of section two of this chapter, shall have the power and duty, to the extent provided in this section, to loan, upon request of an individual or a group of individual pupils, to all pupils legally attending nonpublic elementary or secondary schools located in the school district, smart schools classroom technology acquired pursuant to subdivision sixteen of section thirty-six hundred forty-one of this chapter which is designated for use in any public elementary or secondary schools of the state or is approved by any school authorities. Such smart schools classroom technology made available to nonpublic

students shall be limited to that allowable under both paragraph seven of subdivision sixteen of section thirty-six hundred forty-one of this chapter and section seven hundred fifty-four of this article. Such smart schools classroom technology is to be loaned free to such children, commencing with the two thousand fourteen--two thousand fifteen school year, subject to such rules and regulations as are or may be prescribed by the board of regents and such school authorities.

2. No school district shall be required to loan smart schools classroom technology in excess of the smart schools classroom technology acquired by such district pursuant to subdivision sixteen of section thirty-six hundred forty-one of this chapter. Such smart schools classroom technology shall be loaned on an equitable basis to children attending nonpublic schools in the district in the current year, provided that nothing in this article shall be construed to require a school district to loan to children attending nonpublic schools, pursuant to this section, classroom technology purchased with local or federal funds or with state funds other than funds apportioned pursuant to subdivision sixteen of section three hundred sixty-four of this chapter, and provided further that no school district may loan smart schools classroom technology in an aggregate amount greater than two hundred fifty dollars multiplied by the nonpublic school enrollment in the base year, at time of enactment, as defined in subparagraph three of paragraph n of subdivision one of section thirty-six hundred two of this chapter. The payment of tuition under article eighty-nine of this chapter is deemed to be an equitable loan to children for whom such tuition is paid, and the provisions of this section shall not apply.

3. School authorities shall adopt regulations specifying the date by which requests for the purchase and loan of smart schools classroom technology must be received by the district. Notice of such date shall be given to all non-public schools in the school district. For the two thousand fourteen--two thousand fifteen school year, such date shall not be earlier than the first day of January of such school year, and for the two thousand fifteen--two thousand sixteen school year and thereafter, such date shall not be earlier than the first day of June of the school year prior to that for which such smart schools classroom

technology is being requested, provided, however, that a parent or guardian of a child not attending a particular non-public school prior to January first or June first of the school year, as applicable, may submit a written request for smart schools classroom technology within thirty days after such child is enrolled in such non-public school. In no event, however, shall a request made later than the times otherwise provided pursuant to this subdivision be denied where a reasonable explanation is given for the delay in making the request.

ARTICLE 17

INSTRUCTION IN CERTAIN SUBJECTS

Section 801. Courses of instruction in patriotism and citizenship and in certain historic documents.

801-a. Instruction in civility, citizenship and character education.

802. Instruction relating to the flag; holidays.

802-a. Instruction relating to general elections.

803. Instruction in physical education and kindred subjects.

803-a. Courses of study in prevention of child abduction.

803-b. Courses of study in prevention of child sexual exploitation and child sexual abuse.

804. Health education regarding mental health, alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers.

804-a. Comprehensive school health education demonstration program.

804-b. Education regarding child development.

804-c. Cardiopulmonary resuscitation instruction.

804-d. Automated external defibrillator instruction.

805. Asian American, Native Hawaiians and Pacific Islander history advisory committee; appointment; powers and duties.

806. Courses of instruction in highway safety and traffic regulation; school safety patrols.

806-a. Driver education.

807. Fire and emergency drills.

807-a. Fire inspections.
807-b. College fire inspections.
807-c. Transmission of fire alarm to fire department.
807-d. Locating source of fires in schools.
808. Instruction in fire and arson prevention.
809. Instruction in the humane treatment of animals.
809-a. Instruction in the safe use of firearms and in the game laws.
810. Conservation day.
811. Procurement, use and possession of hypodermic syringes and needles by school personnel for educational purposes.
812. Health training program for secondary school students.
813. School lunch period; scheduling.
814. Courses of study in internet safety.
815. State seal of biliteracy.
816. Local library and school partnerships.
817. Expanding access to advanced courses to improve educational equity.
817*2. Student government.
818. Evidence-based and scientifically based reading instruction.
819. Evidence-based mathematics instruction.

§ 801. Courses of instruction in patriotism and citizenship and in certain historic documents. 1. In order to promote a spirit of patriotic and civic service and obligation and to foster in the children of the state moral and intellectual qualities which are essential in preparing to meet the obligations of citizenship in peace or in war, the regents of The University of the State of New York shall prescribe courses of instruction in patriotism, citizenship, civic education and values, our shared history of diversity, the role of religious tolerance in this country, and human rights issues, with particular attention to the study of the inhumanity of genocide, slavery (including the freedom trail and underground railroad), the Holocaust, and the mass starvation in Ireland from 1845 to 1850, to be maintained and followed in all the

schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, over the age of eight years, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools over eight years of age shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like age in the public schools of the city or district in which such pupils reside.

2. The regents shall prescribe courses of instruction in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, to be maintained and followed in all of the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, in the eighth and higher grades, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools in grades or classes corresponding to the instruction in the eighth and higher grades of the public schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils in the public schools of the city or district in which such pupils reside.

3. The regents shall determine the subjects to be included in such courses of instruction in patriotism, citizenship, civic education and values, our shared history of diversity, the role of history of

diversity, the role of religious tolerance in this country, and human rights issues, with particular attention to the study of the inhumanity of genocide, slavery (including the freedom trail and underground railroad), the Holocaust, and the mass starvation in Ireland from 1845 to 1850, and in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the objects and purposes of this section. The commissioner shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a non-compliance with the rules of the regents adopted as herein provided.

4. The regents shall designate a week during each year and prescribe a uniform course of exercises in the public schools of the state suitable for pupils of various ages to instill into the minds of such pupils the purpose, meaning and importance of the bill of rights articles in the federal and state constitutions. Such exercises shall be in addition to any prescribed courses of study in the schools.

5. The regents shall make available to all elementary schools in the state suitable curriculum materials to aid in the instruction of pupils in grades kindergarten through six in the understanding and acceptance of children with disabilities as defined in section forty-four hundred one of this chapter.

§ 801-a. Instruction in civility, citizenship and character education. The regents shall ensure that the course of instruction in grades

kindergarten through twelve includes a component on civility, citizenship and character education. Such component shall instruct students on the principles of honesty, tolerance, personal responsibility, respect for others, with an emphasis on discouraging acts of harassment, bullying, discrimination, observance of laws and rules, courtesy, dignity and other traits which will enhance the quality of their experiences in, and contributions to, the community. Such component shall include instruction of safe, responsible use of the internet and electronic communications. The regents shall determine how to incorporate such component in existing curricula and the commissioner shall promulgate any regulations needed to carry out such determination of the regents. For the purposes of this section, "tolerance," "respect for others" and "dignity" shall include awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.

§ 802. Instruction relating to the flag; holidays. 1. It shall be the duty of the commissioner to prepare, for the use of the public schools of the state, a program providing for a salute to the flag and a daily pledge of allegiance to the flag, and instruction in its correct use and display which shall include, as a minimum, specific instruction regarding respect for the flag of the United States of America, its display and use as provided by federal statute and regulation and such other patriotic exercises as may be deemed by him to be expedient, under such regulations and instructions as may best meet the varied requirements of the different grades in such schools. However, such instruction shall include, as a minimum, the provisions of sections one hundred seventy through one hundred seventy-seven of title thirty-six of the United States Code.

2. a. It shall also be the duty of the commissioner to make special provision for the observance in the public schools of Lincoln's birthday, Washington's birthday, Memorial day and Flag day, and such other legal holidays of like character as may be hereafter designated by

law when the legislature makes an appropriation therefor.

b. It shall also be the duty of the commissioner to make special provision for the observance of a brief period of silence for September 11th Remembrance Day.

3. Nothing herein contained shall be construed to authorize military instruction or drill in the public schools during school hours, except that the board of education of any school district may offer during school hours a junior reserve officer training program in conjunction with the United States Department of Defense to those students in grades nine through twelve who are at least fourteen years of age provided that enrollment and participation in such program is voluntary on the part of the student and written consent of a parent or guardian is submitted by such student and further provided, that the conduct of instruction on or the presence within any school of any type of current or future weaponry as part of such program is prohibited.

§ 802-a. Instruction relating to general elections. Every school and teacher or instructor shall utilize a sample or facsimile ballot, provided by the appropriate board of elections pursuant to section 7-118 of the election law, when providing instruction in the electoral process relating to an ongoing general election, for which a sample or facsimile ballot has been created, or when holding mock elections.

§ 803. Instruction in physical education and kindred subjects. 1. All pupils above the age of eight years in all elementary and secondary schools, shall receive as part of the prescribed courses of instruction therein such physical education under the direction of the commissioner of education as the regents may determine. Such courses shall be designed to aid in the well-rounded education of pupils and in the development of character, citizenship, physical fitness, health and the worthy use of leisure. Pupils above such age attending the public schools shall be required to attend upon such prescribed courses of instruction.

2. The board of education or trustees of every school district regularly employing twenty or more teachers shall employ a teacher or teachers qualified and duly licensed under the regulations of the regents to give such instruction; in every other district of the state, they shall require such instruction to be given by the teacher or teachers regularly employed to give instruction in other subjects or by a teacher or teachers qualified and duly licensed under the regulations of the regents.

3. The boards of education or trustees of two or more contiguous districts in the same supervisory district, however, may join in the employment of a teacher qualified and duly licensed under the regulations of the regents to give such instruction; and the salary of such teacher and the expenses incurred on account of such instruction shall be apportioned by the district superintendent among such districts according to the assessed valuation thereof, and as so apportioned shall be a charge upon each of such districts.

4. Similar courses of instruction shall be prescribed and maintained in private schools in the state and all pupils in such schools over eight years of age shall attend upon such courses; and if such courses are not so established and maintained in any private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to children of like ages in the public school or schools of the city or district in which the child resides.

5. It shall be the duty of the regents to adopt rules determining the subjects to be included in courses of physical education provided for in this section, the period of instruction in each of such courses, the qualifications of teachers, and the attendance upon such courses of instruction.

6. The physical education hereinbefore provided for, may be given, when practicable, in any armory of the state where such armory is within convenient distance from the school, and at such times and in such manner as not to interfere with the regular military uses of such

armory. The commanding officer in charge of any such armory shall, upon application made by any board of education or trustees of the several cities and school districts within the state, permit access to any such armory, for the purposes herein mentioned.

§ 803-a. Courses of study in prevention of child abduction. 1. All pupils in grades K-8 in all public schools in the state shall receive instruction designed to prevent the abduction of children. Such instruction shall be provided by or under the direct supervision of regular classroom teachers, provided, however, that such instruction may be provided by any other agency, public or private.

2. The commissioner, shall provide technical assistance to assist in the development of curricula for such courses of study which shall be age appropriate and developed according to the needs and abilities of pupils at successive grade levels in order to provide awareness skills, information, self-confidence and support to aid in the prevention of child abduction.

3. For purposes of developing such courses of study, the board of education or trustees of every school district may establish local advisory councils or utilize the school-based shared decision making and planning committee established pursuant to regulations of the commissioner to make recommendations concerning the content and implementation of such courses. School districts may alternatively utilize courses of instruction developed by consortia of school district, boards of cooperative educational services, other school districts or any other agency, public or private. Such advisory councils shall consist of, but not be limited to, parents, school trustees and board members, appropriate school personnel, business and community representatives, and law enforcement personnel having experience in the prevention of child abduction.

4. The board of education or trustees of every school district shall provide appropriate training and curriculum materials for the regular teachers who provide such instruction.

§ 803-b. Courses of study in prevention of child sexual exploitation and child sexual abuse. 1. All pupils in grades K-8 in all public schools in the state shall receive instruction designed to prevent child sexual exploitation and child sexual abuse. Such program shall be defined by the commissioner in regulations after consultation with the department of health and be designed to educate students, parents and school personnel about the prevention of child sexual exploitation and child sexual abuse in grades kindergarten through eight. Such program shall include, but not be limited to students and parents. Nothing in this section shall prevent the department from making model curriculum and resource materials available on the department's website.

2. The commissioner may provide technical assistance to assist in the development of curricula for such courses of study which shall be age appropriate and developed according to the needs and abilities of pupils at successive grade levels in order to provide awareness, skills, information, self-confidence and support to aid in the prevention of child sexual exploitation and child sexual abuse.

§ 804. Health education regarding mental health, alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers. 1. All schools shall ensure that their health education programs recognize the multiple dimensions of health by including mental health and the relation of physical and mental health so as to enhance student understanding, attitudes and behaviors that promote health, well-being and human dignity.

2. All schools shall include, as an integral part of health education, instruction so as to discourage the misuse and abuse of alcohol, tobacco and other drugs and promote attitudes and behavior that enhance health, well being, and human dignity.

3. Instruction regarding alcohol, tobacco, and other drugs shall be included in the health education provided for all elementary school

pupils and shall be taught by the regular classroom teachers or by teachers certified to teach health education. Such instruction shall be designed according to the needs and abilities of the pupils at successive grade levels with the purpose of developing desirable health behavior, attitudes, and knowledge as well as self-reliance and problem solving capacity.

4. Instruction regarding alcohol, tobacco, and other drugs, in addition to continued health guidance in the junior high school grades and the senior high schools, shall be an integral part of a required health education course at each of these levels in the secondary schools curriculum. Students shall be required to demonstrate knowledge in the subject area through the use of a test, graded project or report, or any other means prescribed by the school authorities regarding alcohol, drugs, and tobacco. Any such course shall be taught by teachers holding a certificate to teach health. Related courses in the secondary school curriculum shall be taught in a manner supportive of health education regarding alcohol, tobacco, and other drugs. In addition, instruction regarding the dangers of driving while under the influence of alcohol or drugs shall be an integral part of a required health education course in the senior high schools. Such instruction shall be provided in all senior high schools whether or not these schools also provide driver education courses.

5. Instruction regarding methods of prevention and detection of certain cancers, including but not limited to breast cancer, skin cancer, testicular cancer and other cancers where certain preventive measures have become generally accepted and certain detection methods have been adopted and recommended generally to the public. Such instruction shall be an integral part of a required health education course at the senior high school level, in addition to continued health guidance in senior high schools. Any such course shall be taught by teachers holding a certificate to teach health.

6. a. The commissioner may prescribe in regulations such health education courses which include instruction regarding alcohol, tobacco, and other drugs as the commissioner may deem necessary and desirable for

the welfare of pupils and the community. The contents may be varied to meet the needs of particular school districts, or portions thereof, and need not be uniform throughout the state, provided, however, that school districts shall utilize either the curriculum for health education instruction regarding alcohol, tobacco and other drugs prescribed by the commissioner or a course approved by the commissioner in accordance with criteria established by the commissioner. The commissioner is authorized to make recommendations to the board of regents beginning December first, two thousand fourteen and every three years thereafter relating to the modernization of such instruction required pursuant to subdivision one of this section, to include the most up to date age appropriate information available regarding the misuse and abuse of alcohol, tobacco and other drugs, including but not limited to heroin and opioids. Such instruction shall include, but not be limited to, information regarding drugs and other substances that are more prevalent among school aged youth. Such recommendations shall be the result of a collaboration between the department, the office of alcoholism and substance abuse services and the department of health. If the board of regents adopts such curriculum, the curriculum requirement shall take effect no later than the next school year after such curriculum has been adopted.

b. The commissioner shall make available an interpersonal violence prevention education package for grades kindergarten through twelve, which package may consist of student pamphlets, parent pamphlets, videotapes and other informative materials to be distributed to school districts, and shall encourage the use of such material as part of the health or other related curricula or programs.

c. The regents shall review the health curriculum requirements in existence on the effective date of this paragraph for the purpose of streamlining such curriculum and identifying any outdated components that may be eliminated or consolidated in order to ensure that students have sufficient time and instruction to develop skills to address issues of violence prevention and mental health. To the extent appropriate, the regents shall modify the existing curriculum to provide greater focus on the development of skills, by no later than middle school, that are

needed to recognize, cope with and address potentially violent incidents including an understanding of student roles in emergency situations and other related skills designed to reduce the threat of violence in schools.

7. School authorities shall provide the needed facilities, time, and place for the instruction set forth herein and shall provide learning aids and curriculum resource materials which contribute to effective teaching methods and learning in health education regarding alcohol, tobacco, and other drugs.

8. All pre-service training programs in the state for elementary teachers shall include adequate preparation regarding the instruction in alcohol, tobacco, and other drugs set forth herein, and no teacher shall be licensed except upon satisfactory demonstration of the competencies included in the institutional proposals approved by the department.

9. Nothing contained in this section shall be deemed to diminish or impair the duties of the commissioner with respect to the continuing program for critical health problems established by chapter seven hundred eighty-seven of the laws of nineteen hundred sixty-seven as amended. The commissioner shall coordinate actions taken under authority of this section with the provisions of said chapter as they relate to health education in schools, inservice training and training programs, and curriculum or syllabus development regarding the deleterious effects resulting from the use, misuse, and abuse of alcohol, tobacco, and other drugs.

§ 804-a. Comprehensive school health education demonstration program. 1. Within the amounts appropriated, the commissioner is hereby authorized to establish a demonstration program and to distribute state funds to local school districts, boards of cooperative educational services and in certain instances community school districts, for the development, implementation, evaluation, validation, demonstration and replication of exemplary comprehensive health education programs to assist the public schools in developing curricula, training staff, and

addressing local health education needs of students, parents, and staff.

2. School districts or BOCES may contract with appropriate agencies or organizations to participate in such program. Such program shall be limited to health education at the elementary level and shall be designed on a multi-year basis. Such program shall include but not be limited to the following components:

a. Developer grants for comprehensive school health education programs.

(i) Such grants shall include the development, implementation, and evaluation of a comprehensive health education program including such activities as:

(A) coordination of health instruction with other available programs in the school and the community related to health education;

(B) provision of inservice training and materials for elementary level school teachers in comprehensive health education;

(C) development and implementation of evaluation procedures to measure students' knowledge, skills, behaviors, and attitudes prior to and after project implementation; and

(D) development and implementation of a mechanism for project maintenance and long-range programming.

(ii) Upon successful completion of the above activities and the availability of funds, such grant recipients will assist other local educational agencies with replication.

b. Health education regional training centers. Regional training centers for the purpose of developing materials and providing training programs to meet the needs of teachers statewide in the implementation of comprehensive school health education programs at the elementary level will be established.

c. Statewide advocacy for comprehensive health education. Development and implementation of a statewide advocacy program to create an awareness on the part of school administrators of the need to develop strategies for implementing comprehensive school health education programs at the elementary level.

d. Replication of validated health education programs. Grants will be awarded to local school districts or boards of cooperative educational services for the replication of nationally or state-validated exemplary health education programs.

§ 804-b. Education regarding child development. 1. All schools shall be authorized to include, as an integral part of home economics or health education, instruction regarding child development and parental skills and responsibility.

2. Instruction regarding child development and parental skills and responsibility may be included in the home economics or health education provided for all secondary school pupils and shall be taught by teachers certified to teach home economics or health education. Related courses in the secondary school curriculum may be taught in a manner supportive of home economics education or health education regarding child development and parental skills and responsibility.

3. The commissioner shall promulgate rules and regulations to establish a curriculum for instruction regarding child development and parental skills and responsibility for the welfare of pupils and the community to be available in school districts. The contents may be varied to meet the needs of particular school districts, or portions thereof, and need not be uniform throughout the state; such curriculum may include instruction relating to the consequences and prevention of shaken baby syndrome, which may include the viewing of a video presentation for students in secondary schools.

4. School authorities shall be authorized to provide the needed facilities, time, and place for the instruction set forth herein and to provide learning aids and curriculum resource materials which contribute to effective teaching methods and learning in home economics education or health education regarding child development and parental skills and responsibility.

§ 804-c. Cardiopulmonary resuscitation instruction. 1. Instructions regarding cardiopulmonary resuscitation may be offered for voluntary admission as a part of the health education curriculum in all senior high schools. In addition to the requirement that all teachers of health education shall be certified to teach health, persons instructing pupils in cardiopulmonary resuscitation shall possess valid certification by an agency offering such certification in the performance of cardiopulmonary resuscitation and in its instruction.

2. The commissioner may prescribe regulations governing such health education courses which shall include instruction in cardiopulmonary resuscitation. Such regulations shall in no event prescribe a course of study in cardiopulmonary resuscitation which sets forth standards for instruction of a lesser quality than the requirements of the programs adopted by the American Heart Association or the American Red Cross.

3. School authorities that choose to offer such course shall provide the needed facilities, time and place for the instruction set forth herein and shall provide learning aids and curriculum resource materials to support such course of study.

§ 804-d. Automated external defibrillator instruction. Instructions regarding the correct use of an automated external defibrillator shall be included as a part of the health education curriculum in all senior high schools when cardiopulmonary resuscitation instruction is being provided as authorized by section eight hundred four-c of this article. In addition to the requirement that all teachers of health education shall be certified to teach health, persons instructing pupils in the correct use of automated external defibrillators shall possess valid certification by a nationally recognized organization or the state emergency medical services council offering certification in the operation of an automated external defibrillator and in its instruction.

*** § 805. Asian American, Native Hawaiians and Pacific Islander history**

advisory committee; appointment; powers and duties. 1. The commissioner shall establish an Asian American, Native Hawaiians and Pacific Islander (AANHPI) history advisory committee.

2. (a) The committee shall be comprised of four members, to be appointed as follows:

(i) one member appointed by the governor;

(ii) one member appointed by the temporary president of the senate;

(iii) one member appointed by the speaker of the assembly; and

(iv) one member appointed by the commissioner.

(b) All members appointed to the committee shall be experts in Asian American, Native Hawaiians and/or Pacific Islander studies and/or have a background in educational instruction and/or educational administration.

(c) All members of the committee shall be appointed within ninety days of the effective date of this section.

3. Vacancies in the membership of the committee shall be filled in the same manner provided for original appointments.

4. The committee shall meet no less than four times per year.

5. The committee shall provide recommendations on the following:

(a) high-quality K-12 curricular and instructional resources on AANHPI history; and

(b) strategies for strengthening and deepening public K-12 education programs in the areas of AANHPI history, including analysis of the survey referenced in section two of the chapter of the laws of two thousand twenty-five that added this section.

6. The committee shall submit their recommendations to the commissioner no later than two years after the effective date of this section and be disbanded thereafter.

7. Committee members shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

8. To effectuate the purposes of this section, the committee may request from any department, board, bureau, commission or other agency of the state, and the same are authorized to provide, such cooperation and assistance, services and data as will enable the committee to properly carry out its functions pursuant to this section.

* NB Repealed December 12, 2028

§ 806. Courses of instruction in highway safety and traffic regulation; school safety patrols. 1. The regents of The University of the State of New York shall prescribe courses of instruction in highway safety and traffic regulation which shall include bicycle safety, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like grade in the public schools in the city or district in which such pupils reside.

2. The regents shall determine the subjects to be included in such courses of instruction in highway safety and traffic regulation including bicycle safety, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the teaching of the courses of instruction prescribed by this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or

city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a noncompliance with the rules of the regents adopted as herein provided.

3. Any board of education or school district board is empowered to organize in the school over which it has control a school safety patrol and, with the written consent of the parents, to appoint pupils as members thereof for the purpose of influencing and encouraging the safe use of highways and highway crossings and bicycles by the pupils of the school. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic nor shall any safety patrol member be stationed in that portion of the highway intended for the use of vehicular traffic. Such patrol shall function only under the direction and control of the principal or teacher in charge of such school. No liability shall attach either to the school district or any individual, trustee, board member, superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of a school safety patrol organized, maintained and operated under authority of this section.

§ 806-a. Driver education. 1. Notwithstanding any other provision of law, all school districts providing instruction in driver education shall include in such instruction: (a) a driver safety component with an emphasis on the effects of alcohol and drug use, (b) instruction in motorcycle safety awareness. The commissioner, upon approval by the commissioner of motor vehicles, shall establish a curriculum for the alcohol and drug education component which shall include but not be limited to: instruction describing the hazards of driving while impaired or intoxicated; the penalties for alcohol related motor vehicle violations including sanctions set forth in the penal law that apply to homicides and assaults arising out of the operation of a motor vehicle while intoxicated and those sanctions set forth in the vehicle and traffic law relating to driving while intoxicated; and the medical, biological and physiological effects of the consumption of alcohol and their impact on the operation of a motor vehicle.

2. The commissioner, upon approval of the commissioner of motor vehicles, shall establish by regulation a certification process by driver education courses of the amount of time a holder of a class DJ or class MJ learner's permit has spent operating a motor vehicle while under the immediate supervision of a driver education teacher. A certificate issued pursuant to this subdivision shall be deemed to be proof of all or a portion of the supervised driving experience required under certification pursuant to paragraph (d) of subdivision two of section five hundred two of the vehicle and traffic law.

§ 807. Fire and emergency drills. 1. It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state, other than colleges or universities, to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to respond appropriately in the shortest possible time and without confusion or panic. Such drills shall be held at least twelve times in each school year, eight of which required drills shall be held between September first and December thirty-first of each such year. Eight of all such drills shall be evacuation drills, four of which shall be through use of the fire escapes on buildings where fire escapes are provided or through the use of identified secondary means of egress. Four of all such required drills shall be lock-down drills. Drills shall be conducted at different times of the school day. Pupils shall be instructed in the procedure to be followed in the event that a fire occurs during the lunch period or assembly, provided however, that such additional instruction may be waived where a drill is held during the regular school lunch period or assembly. Four additional drills shall be held in each school year during the hours after sunset and before sunrise in school buildings in which students are provided with sleeping accommodations. At least two additional drills shall be held during summer school in buildings where summer school is conducted, and one of such drills shall be held during the first week of summer school.

1-a. In the case of after-school programs, events or performances

which are conducted within a school building and which include persons who do not regularly attend classes in such school building, the principal or other person in charge of the building shall require the teacher or person in charge of such after-school program, event or performance to notify persons in attendance at the beginning of each such program, event or performance, of the procedures to be followed in the event of an emergency so that they may be able to respond in a timely, orderly manner.

2. It shall be the duty of the board of education or school board or other body having control of the schools in any district or city to cause a copy of this section to be printed in the manual or handbook prepared for the guidance of teachers, where such manual or handbook is in use or may hereafter come into use.

3. It shall be the duty of the person in charge of every public or private college or university within the state, to instruct and train the students by means of drills, so that they may in a sudden emergency be able to leave the college or university building in the shortest possible time and without confusion or panic. Such drills shall be held at least three times in each year, one of which required drills shall be held between September first and December first of each such year. In buildings where summer sessions are conducted, one of such required drills shall be held during the first week of such summer session. At least one of such required drills shall be through use of the fire escapes on buildings where fire escapes are provided. At least one additional drill shall be held in each year during the hours after sunset and before sunrise in college or university buildings in which students are provided with sleeping accommodations.

4. Neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provisions of this section shall be a misdemeanor punishable at the discretion of the court by a fine not exceeding fifty dollars; such fine to be paid to the pension fund of the local fire department where there is such a fund.

§ 807-a. Fire inspections. 1. It shall be the duty of the school authorities in general charge of the operation of any public or private school to cause the buildings of such school containing classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be inspected at least annually for fire hazards which might endanger the lives of students, teachers and employees therein.

2. The annual fire inspection shall be made prior to the first day of December of every school year and the report thereof shall be filed by the school authorities in the places required by subdivision five of this section no later than the sixteenth day of December of every such year.

3. a. The school authorities shall cause any fire inspection pursuant to this section to be made by one of the following methods, or any combination of such methods:

(1) Requesting inspection by the fire department of any city, town, village or fire district in which the building is located.

(2) Requesting inspection by a fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law, if such building is located within the area described in the certificate of incorporation of any such corporation.

(3) Requesting inspection by the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located, or by any deputy county fire coordinator or deputy of such other officer so performing the powers and duties of a county fire coordinator designated to make the inspection by the county fire coordinator or such other officer so performing the powers and duties of a county fire coordinator, if the building is located outside a city, town, village, or fire district, which has its own fire department and outside the area described in the certificate of incorporation of any fire corporation which is subject to the provisions of section fourteen hundred two of the not-for-profit corporation law.

(4) Requesting inspection by a fire inspector, who holds a valid

certification.

b. If any fire department, certified fire inspector or fire corporation described in subparagraphs one, two, and four of paragraph a of this subdivision shall fail or refuse to make a fire inspection promptly after having been requested to do so by the school authorities, the request shall be denied in writing to the school authorities with an explanation of why such request was denied. In no event may an authority who is otherwise required by law to conduct fire inspections in such municipality or a county fire coordinator refuse a request by a school authority for such inspection.

c. Regardless of the method or methods used to accomplish the inspection required by this section, the authority making the inspection shall file the report thereof with the school authorities no later than the first day of December.

4. The state fire administrator shall prescribe the form of the fire inspection report and the commissioner shall furnish a supply of such form to school authorities annually, either by mail or electronically. In prescribing such form the state fire administrator shall consider standards for fire safety set forth in the state building construction code, the state building conservation and fire prevention code, the regulations of the commissioner and other safety standards.

5. a. The report of any fire inspection shall be filed in the office of the school authorities and with the commissioner. All such reports filed in any public office shall be kept as public records for at least three years after which period they may be destroyed.

b. Within twenty days after the report is filed with the school authorities, the school authorities shall cause public notice of the filing of such report to be given in substantially the following form: "Notice is hereby given that the annual inspection for (year) of the school building (or of the and school buildings) of (name of school district or private school) for fire hazards which might endanger the lives of students,

teachers and employees therein, has been completed and the report thereof is available at the office of (school district or private school) at for inspection by all interested persons". If the inspection was not made for the school authorities by the fire department or fire company responsible for fire protection of the building, such authorities shall cause a copy of such notice to be mailed or electronically transmitted to the chief of such fire department or company.

c. The school authorities of public schools shall cause such notice to be published on the school's website or at least once in the official newspaper, or if there is no official newspaper, in a newspaper having general circulation in the school district, and if there is no newspaper having general circulation in the district, shall cause such notice to be posted in ten conspicuous places in the district. Proof of publication or posting of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the office of the district.

d. The school authorities of private schools shall cause such notice to be published on the school's website or at least once in a newspaper having general circulation in the postal area in which the school building is located, and if there is no newspaper having general circulation in such postal area, shall cause such notice to be posted in ten conspicuous places in such postal area. Proof of posting or publication of such notice and of the mailing of a copy of such notice to the fire chief shall be filed in the school office.

e. If the report shows any alleged deficiencies, the school authorities shall provide the details of such deficiencies and the proposed actions to be taken to correct such deficiencies to the local government that administers and enforces the uniform fire prevention and building code for the municipality in which the building is located.

6. a. It shall be the duty of the commissioner to ascertain annually whether the inspections of school buildings required by this section have been made and the reports of the inspection have been filed in

their respective offices. The commissioner shall review the reports of inspection filed pursuant to this section and may make recommendations to the school authorities with respect to any problems relating to school fire safety noted in such reports. The commissioner shall require a re-inspection of school buildings where a report of inspection identified violations until it is demonstrated to the satisfaction of the commissioner that said violations have been corrected. In the event that a public school fails to correct violations following a re-inspection, the commissioner may deny an annual certificate of occupancy to such school building. The commissioner may inspect or cause to be inspected at any reasonable time for fire prevention and fire protection purposes the school buildings required to be inspected by this section.

b. In the event a private school has failed to file an annual fire safety report with the department within ninety days of the sixteenth of December, the commissioner shall inspect or request an appropriate local authority, described in subdivision seven of this section, to inspect the school. If a private school either refuses access for an inspection pursuant to this paragraph, or does not correct violations identified in such report in a timely manner, the commissioner shall immediately notify, in writing, the local government who issues the certificate of occupancy for the school of their failure to file a fire safety report.

7. a. Every public or private school required to be inspected as hereinabove provided may be inspected for fire prevention and fire protection purposes at any reasonable time by:

(1) the chief of the fire department of the city, town, village or fire district in which the school is located,

(2) the chief of a fire corporation having its headquarters outside a village or fire district, if the school is located in the area described in the certificate of incorporation of such company,

(3) the chief of the fire department or fire company affording fire protection to a fire district, fire protection district, or fire alarm district pursuant to a contract, if the school is located in any such district,

(4) the member of any fire department or fire company listed in

subparagraph one, two or three of this paragraph assigned by the chief thereof the duty of inspecting school buildings,

(5) the fire inspector, who holds a valid certification, of any city, town, village or fire district in which the building is located.

b. In no event shall the school authorities of any public or private school, required to be inspected as hereinabove provided, refuse access at any reasonable time to any person described in subparagraphs one, two, three, four or five of paragraph a of this subdivision, who appears for the purpose of conducting an inspection for fire prevention or fire protection purposes; provided, however, that the administrator or the designee of the administrator of the school to be inspected shall be given the opportunity to be present during the inspection.

8. The term "school authorities", as used in this section, means, in relation to public schools, the trustees, or board of education, or corresponding officers, whether one or more, and by whatever name known of a city school district, or other school district however created, or, in relation to private schools, the board of trustees, board of directors, or other governing board in general charge of the operation of any such school.

9. The term "private school", as used in this section, means:

a. Any nursery school or kindergarten attended by six or more pupils three years of age or older which may apply for registration by the New York state education department pursuant to part one hundred twenty-five of title eight of the official compilation of codes, rules and regulations of the state of New York; provided, however, that this section shall not apply to day care facilities possessing a valid permit as required by section three hundred ninety of the social services law; or

b. Any establishment, other than a public school, attended by twenty-five or more pupils for the purpose of receiving the instruction of academic grade at the elementary or secondary level required by part one of article sixty-five of this chapter.

10. This section shall not apply to the school authorities in the cities of New York, Buffalo, Rochester, Syracuse and Yonkers or to colleges and universities.

§ 807-b. College fire inspections. 1. It shall be the duty of the college authorities in general charge of the operation of any public or independent college to cause the buildings under the jurisdiction of such college containing classroom, dormitory, fraternities, sororities, laboratory, physical education, dining or recreational facilities for student use to be inspected at least annually for fire hazards which might endanger the lives of students, teachers and employees therein. Inspections of all public and independent college buildings, with the exception of those within a city having a population of one million or more, shall be conducted by the state office of fire prevention and control or a designee of the state fire administrator. An inspection report shall be produced by the inspecting agency for each building inspected.

2. The annual fire inspection for public and independent colleges shall be made when the college is in session.

3. The office of fire prevention and control is authorized to adopt rules and regulations establishing minimum standards for the content and frequency of such inspections in order to ensure compliance with applicable fire safety standards. In the event violations of applicable codes, rules and regulations pertaining to fire safety are found during inspections, the office of fire prevention and control is authorized to take appropriate actions to ensure that violations are promptly remedied.

4. The state fire administrator shall prescribe the format of the fire inspection report. In prescribing such format the state fire administrator shall consider standards for fire safety set forth in the uniform fire prevention and building code and other applicable fire safety standards.

5. Within ninety days of completing such inspection, the office of fire prevention and control or its designee shall file a copy of the report with the office of the college authorities and with the commissioner. All such reports so filed shall be kept as records for at least three years after which period they may be destroyed. A copy of such report shall also be filed with the chief, or other comparable officer, of any fire department or fire corporation which has the regular duty of fighting fire in the building inspected.

6. The office of fire prevention and control or its designee shall make recommendations to the college authorities with respect to any problems relating to building fire safety noted in such reports. The commissioner may inspect or cause to be inspected at any reasonable time for fire prevention and fire protection purposes the buildings required to be inspected by this section. The commissioner may impose a fine of up to five hundred dollars per day upon any public or independent college which fails to remedy, to the satisfaction of the office of fire prevention and control, any violation noted in a report within thirty days of receiving a copy of such report.

7. Every public or independent college building required to be inspected by the office of fire prevention and control or its designee may also be examined for fire protection purposes at any reasonable time by

a. the chief of the fire department of the city, town, village or fire district in which the college building is located,

b. the chief of a fire corporation having its headquarters outside a village or fire district, if the college building is located in the area described in the certificate of incorporation of such company,

c. the chief of the fire department or fire company affording fire protection to a fire district, fire protection district, or fire alarm district pursuant to a contract, if the college building is located in any such district,

d. the member of any fire department or fire company listed in paragraphs a, b or c of this subdivision assigned by the chief.

8. Any person, or any public or other corporation for which any such persons acts, shall not be liable for any error, omission or lack of thoroughness in the making of the inspection and report required or permitted by this section.

9. The term "college authorities", as used in this section, means the board of trustees, board of directors, or other governing board in general charge of the operation of any such college.

10. The term "public college" shall mean and include "state-operated institutions", "statutory or contract colleges" and "community colleges" as defined in section three hundred fifty of this chapter.

11. The term "independent college" shall mean colleges other than those included within subdivision ten of this section.

§ 807-c. Transmission of fire alarm to fire department. 1. The school authorities designated in subdivision eight of section eight hundred seven-a of this article in charge of the operation of any public school or of any private school designated in subdivision nine of such section, located in an area within which a fire department or fire company is responsible for fire protection and within which there is no electrically or electronically operated fire alarm reporting system provided for public use may cause the internal fire alarm, fire detection, or fire extinguishing system of each building in which is contained classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be interconnected with the fire alarm reporting location or system which is provided for such fire department or fire company to receive alarms from the public so that upon activation of such internal fire alarm, fire detection, or fire extinguishing system a signal will be automatically transmitted to such fire alarm reporting location or system.

2. School authorities and the governing body having jurisdiction of any fire department or fire company are hereby authorized, by agreement between them, to apportion the costs of installing and maintaining any such interconnection, and such costs are hereby deemed appropriate expenditures from the funds of such school authorities and governing bodies.

§ 807-d. Locating source of fires in schools. 1. In all public and private school buildings having a central annunciator panel or fire alarm cabinet which displays a visual signal identifying any heat detector, smoke detector, or manually operated fire alarm box within the building which has been activated, there shall be provided as a part of or immediately adjacent to such panel or cabinet a chart or plan showing the specific location within the building of each such device.

2. In the case of school buildings and additions to existing school buildings, the construction of which is commenced after September first, nineteen hundred seventy-three, any such panel or cabinet and such chart or plan within such building or addition shall be so located that the same may be read without entering the building.

§ 808. Instruction in fire and arson prevention. 1. The commissioner is hereby directed to provide and prescribe a course of instruction in fire and arson prevention, injury prevention and life safety education relating to the protection against injury or death and protection of property against loss or damage as a result of criminally initiated or other preventable fire, for use in the schools of the state, as prescribed by this section. Such course of instruction shall include materials to educate children on the dangers of falsely reporting a criminal incident, an impending explosion or fire emergency involving danger to life or property, an impending catastrophe, or a life safety emergency.

2. The board of education, trustees, principal or other person in

charge of every public, private and parochial school in the state shall arrange for giving such course of instruction in every school under its or his control or direction. Such instruction shall be given to all of the pupils in every such school for a period of not less than forty-five minutes in each month during which such school is in session.

§ 809. Instruction in the humane treatment of animals. 1. The officer, board or commission authorized or required to prescribe courses of instruction shall cause instruction to be given in every elementary school under state control or supported wholly or partly by public money of the state, in the humane treatment and protection of animals and the importance of the part they play in the economy of nature as well as the necessity of controlling the proliferation of animals which are subsequently abandoned and caused to suffer extreme cruelty. Such instruction shall be for such period of time during each school year as the board of regents may prescribe and may be joined with work in literature, reading, language, nature study or ethnology. Such weekly instruction may be divided into two or more periods. A school district shall not be entitled to participate in the public school money on account of any school or the attendance at any school subject to the provisions of this section, if the instruction required hereby is not given therein.

2. Study and care of live animals. Any school which cares for or uses animals for study shall ensure that each animal in such school be afforded the following: appropriate quarters; sufficient space for the normal behavior and postural requirements of the species; proper ventilation, lighting, and temperature control; adequate food and clean drinking water; and quarters which shall be cleaned on a regular basis and located in an area where undue stress and disturbance are minimized.

3. Application. The provisions of this section shall not be construed to prohibit or constrain vocational instruction in the normal practice of animal husbandry, or prohibit or constrain instruction in environmental education activities as established by the department of environmental conservation.

4. Dissection of animals. Any student expressing a moral or religious objection to the performance or witnessing of the dissection of an animal, either wholly or in part, shall be provided the opportunity to undertake and complete an alternative project that shall be approved by such student's teacher; provided, however, that such objection is substantiated in writing by the student's parent or legal guardian. Students who perform alternative projects who do not perform or witness the dissection of animals shall not be penalized. The board of education or trustees of a school district shall develop a policy to give reasonable notice to all students enrolled in a course that includes the dissection of an animal and students' parents or legal guardians about their rights under this subdivision. Such notice shall be made available upon request at the school and distributed to parents and students enrolled in a course that includes dissection at least once at the beginning of the school year.

5. Treatment of live vertebrate animals. a. Except as provided for in this subdivision, no school district, school principal, administrator, or teacher shall require or permit the performance of a lesson or experimental study on a live vertebrate animal in any such school or during any activity conducted under the auspices of such school whether or not the activity takes place on the premises of such school where such lesson or experimental study employs: (i) micro-organisms which cause disease in humans or animals, (ii) ionizing radiation, (iii) known cancer producing agents, (iv) chemicals at toxic levels, (v) drugs producing pain or deformity, (vi) severe extremes of temperature, (vii) electric or other shock, (viii) excessive noise, (ix) noxious fumes, (x) exercise to exhaustion, (xi) overcrowding, (xii) paralysis by muscle relaxants or other means, (xiii) deprivation or excess of food, water or other essential nutrients, (xiv) surgery or other invasive procedures, (xv) other extreme stimuli, or (xvi) termination of life.

b. Notwithstanding any inconsistent provision of this section, the commissioner may, upon the submission of a written program plan, issue to such school a written waiver of such restrictions for students subject to the following provisions: (i) the student shall be in grade

ten, eleven, or twelve; and (ii) the student shall be under the supervision of one or more teachers certified in science; and (iii) the student shall be pursuing an accelerated course of study in the sciences as defined by the commissioner in preparation for taking a state or national advanced placement examination. The commissioner shall issue a waiver of such restrictions for any teacher certified in science instructing such student. The written program plan shall include, but not be limited to: (i) the educational basis for requesting a waiver; (ii) the objective of the lesson or experiment; (iii) the methods and techniques to be used; and (iv) any other information required by the commissioner.

6. Report. On or before the first day of January next succeeding the effective date of this amended section, the commissioner shall annually submit a report to the governor and the legislature which shall include, but not be limited to, the number of written program plan proposals submitted by schools and the number of such proposals subsequently approved by the commissioner. In those cases where a program plan proposal has been approved by the commissioner, such plan shall be appended to and become a part of the commissioner's annual report.

§ 809-a. Instruction in the safe use of firearms and in the game laws. The officer, board, or commission authorized or required to prescribe courses of instructions in any school under state control, may authorize instructions to be given in the safe and proper use of firearms allowed by law to be used in the taking of wild game, and may also authorize instructions to be given in the study of game laws and of proper hunting and conservation practices. Such courses of instruction shall be approved by both the education department and the department of environmental conservation.

§ 810. Conservation day. 1. The last Friday in April each year is hereby made and declared to be known as Conservation day, and observed in accordance with the provisions of this chapter, except that for the year nineteen hundred seventy-eight, Conservation day shall be May

third.

2. It shall be the duty of the authorities of every public school in this state to assemble the pupils in their charge on that day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct (1) such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results, and (2) such lectures, pictures or tours, as shall tend to increase the interest and knowledge of such pupils in the fish and wild life, soil and water of the state.

3. The commissioner of education may prescribe from time to time a course of exercises and instruction in the subjects hereinbefore mentioned, which shall be adopted and observed by the public school authorities on Conservation day. Upon receipt of copies of such course sufficient in number to supply all the schools under their supervision, the school authorities aforesaid shall promptly provide each of the schools under their charge with a copy, and cause it to be observed.

§ 811. Procurement, use and possession of hypodermic syringes and needles by school personnel for educational purposes. 1. Notwithstanding the provisions of section 220.45 of the penal law, it shall be lawful for authorized persons under the jurisdiction of the public school authorities in a public school; or of the state education department; or of the governing board of any other educational institution, the curriculum of which is registered by the department, to purchase, acquire, have under control, possess and use hypodermic syringes and needles for instructional or other educational purposes provided such school authorities in the case of a school district, the appropriate superior officer in the case of the department, or such governing board in the case of other institutions, has filed with the commissioner of education and with the state department of health a certificate of need for such hypodermic needles which shall set forth the following:

a. The legal designation and address of the school district, if a public school or if another school or institution, the name and address thereof, and the exact location where such hypodermic syringes and needles will be used and stored.

b. The name and address of the chief administrative officer of the school or institution.

c. The use proposed to be made of such hypodermic needles.

d. The names of persons employed in the school, the department, or other institution authorized to have custody and/or use of such hypodermic needles.

e. The safeguards to be taken to prevent such instruments from falling into the hands of unauthorized persons.

f. The disposition which will be made of unwanted or broken syringes and needles. In the case of the department such certificate shall be made and filed by the assistant commissioner under whose supervision the work involving the use of such hypodermic syringes or needles is done, and a duplicate thereof shall be filed with the state department of health.

2. Nothing contained in this section shall be construed to require the filing of such names by medical institutions, including but not limited to, public health centers, industrial clinics, diagnostic, treatment or research centers, rehabilitation facilities, nursing homes, medical schools or colleges, tuberculosis, mental, chronic disease and other types of hospitals, clinical laboratories, outpatient departments, nurses training facilities and central service facilities operated in conjunction with medical institutions.

3. The commissioner, after consultation with the commissioner of health, shall make regulations for the administration of this section.

§ 812. Health training program for secondary school students. 1. The commissioner, in cooperation with the board of regents, is authorized and directed to establish and develop a program of credit for health training for those secondary school students evidencing an interest to pursue a health care services career. Such program may be instituted by any school district seeking to provide its secondary school students with an opportunity to participate in a health care facility or agency training program wherein its secondary school students shall receive academic credit for work related training received at health care facilities or agencies.

2. The board of regents shall establish criteria to be used by school districts participating in such program for the selection of eligible secondary school students seeking placement in a health training program subject to availability of placement openings.

§ 813. School lunch period; scheduling. Each school shall schedule a reasonable time for each full day pupil attending pre-kindergarten through grade twelve to consume lunch.

§ 814. Courses of study in internet safety. 1. Any school district in the state may provide, to pupils in grades kindergarten through twelve, instruction designed to promote the proper and safe use of the internet.

2. The commissioner shall provide technical assistance to assist in the development of curricula for such courses of study which shall be age appropriate and developed according to the needs and abilities of pupils at successive grade levels in order to provide awareness, skills, information and support to aid in the safe usage of the internet.

3. The commissioner shall develop age-appropriate resources and technical assistance for schools to provide to students in grades three through twelve and their parents or legal guardians concerning the safe and responsible use of the internet. The resources shall include, but not be limited to, information regarding how child predators may use the

internet to lure and exploit children, protecting personal information, internet scams and cyber-bullying.

§ 815. State seal of biliteracy. 1. (a) The state seal of biliteracy is established to recognize high school graduates who have attained a high level of proficiency in listening, speaking, reading, and writing in one or more languages in addition to English. The state seal of biliteracy shall be awarded by the commissioner. School district participation in this program is voluntary.

(b) The purposes of the state seal of biliteracy are as follows:

(1) To encourage pupils to study languages.

(2) To certify attainment of biliteracy.

(3) To provide employers with a method of identifying people with language and biliteracy skills.

(4) To provide universities with an additional method to recognize applicants seeking admission.

(5) To prepare pupils with twenty-first century skills.

(6) To recognize the value of foreign language and native language instruction in public schools. For the purpose of this section foreign language means any language other than English (LOTE) including all modern languages, Latin, American Sign Language, Native American languages and native languages.

(7) To strengthen intergroup relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community.

2. (a) The state seal of biliteracy certifies attainment of a high level of proficiency by a graduating high school pupil in one or more languages, in addition to English.

(b) The board of regents shall promulgate such regulations of the commissioner as may be necessary to establish the criteria that students must achieve to earn a state seal of biliteracy, which may include, but is not limited to attainment of units of credit in English language arts and languages other than English, passage of state assessments in English language arts and language other than English, and passage of such additional assessments of foreign language proficiency as may be approved by the commissioner for this purpose.

(c) For purposes of this section, foreign language means any language other than English (LOTE) including all modern languages, Latin, American Sign Language, Native American languages and native languages.

3. The commissioner shall do both of the following:

(a) Prepare and deliver to participating school districts an appropriate insignia to be affixed to the diploma and transcript of the pupil indicating that the pupil has been awarded a state seal of biliteracy by the commissioner.

(b) Provide other information he or she deems necessary for school districts to successfully participate in the program.

4. A school district that participates in the program under this section shall do both of the following:

(a) Maintain appropriate records in order to identify pupils who have earned a state seal of biliteracy.

(b) Affix the appropriate insignia to the diploma and transcript of each pupil who earns a state seal of biliteracy.

5. No fee shall be charged to a pupil pursuant to this section.

§ 816. Local library and school partnerships. 1. Legislative intent. In order to promote and encourage children to read and learn outside the classroom, this law seeks to encourage local libraries and schools to work together to promote the availability of library services and resources.

2. Definitions. For the purposes of this section, the following terms shall be defined as follows:

a. "School district" shall mean any public school district in the state of New York that contains one or more schools with any combination of grades from and including kindergarten through grade twelve.

b. "Public library" shall mean any public or association library as defined in section two hundred fifty-three of this title.

3. Upon the request of a public library that is located within the boundaries of a school district, the district shall disseminate informational materials provided by the library regarding the public library and applications for public library cards to students enrolled in the school district. Such materials shall be distributed to any or all of the following, as requested by the public library:

a. annually to every student of such school district upon his or her entry into kindergarten, grade six and grade nine, except that a library and school may agree to alternate or additional grades;

b. to every student upon his or her enrollment as a new student; and

c. available at all times in the school library in each school within the school district for students and parents who wish to obtain such materials.

4. The director of each participating public library shall consult annually with the school district in order to coordinate the provision of materials containing information regarding the library, instructions on how students may obtain a library card and an application for a library card.

5. Each public library that is located in the school district shall provide sufficient copies of such materials to the school district for distribution as described in subdivision three of this section so that each school may satisfy the requirements of this section.

6. In the event there is no public library located within the boundaries of a school district, such school district shall not be required to comply with this section.

7. The commissioner shall have the authority to establish rules and regulations to implement the provisions of this section.

8. Nothing in this act shall require a school district to expend

additional funds in order to comply with the provisions of this section.

9. This section shall not apply to a school district or a library in a city of one million or more where such district or library are subject to a local law which was adopted prior to the enactment of this section and which provides for the distribution of library materials in public schools.

*** § 817. Expanding access to advanced courses to improve educational equity.** 1. Each school district and charter school shall annually provide notification to parents and students of the benefits and the opportunities within the district or charter school of participating in advanced courses.

2. Such notification shall include:

a. the benefits of participating in advanced courses;

b. a description of the advanced courses offered by the school district or charter school in middle and high school and how to prepare for and enroll in them;

c. a description of the advanced courses to be offered by the school district or charter school in the following school year; and

d. a description of the academic and non-academic support the school district or charter school provides to help students succeed in advanced courses, as well as any financial assistance available to reduce or eliminate any costs associated with participation in advanced courses, including but not limited to related fees, supplies, and assessments.

3. Notification shall be provided electronically or by mail and be posted on the website of the school district or charter school.

* NB There are 2 § 817's

*** § 817. Student government.** The board of education or trustees of every school district serving high school students in grades nine through twelve with no districtwide or school building peer selected student government shall establish at least one student government organization within such district or school building with the goal of ensuring all eligible students have the opportunity to participate in such student government.

* NB There are 2 § 817's

§ 818. Evidence-based and scientifically based reading instruction. 1. (a) On or before January first, two thousand twenty-five, the commissioner shall provide school districts with the instructional best practices for the teaching of reading to students in prekindergarten through grade three. Instructional best practices for the teaching of reading shall be evidence-based and scientifically based, focusing on reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, comprehension, including background knowledge, oral language and writing, oral skill development, and align with the department's culturally responsive-sustaining framework. Such instructional best practices shall be periodically updated by the commissioner where appropriate.

(b) Every school district shall annually review their curriculum and instructional practices in the subject of reading for students in prekindergarten through grade three to ensure that they align with the reading instructional best practices provided by the commissioner, and that all early reading instructional practices and interventions are part of an aligned plan designed to improve student reading outcomes in prekindergarten through grade three.

2. For the purpose of this section, "evidence-based and scientifically based", "phonemic awareness", "comprehension", "reading fluency", "vocabulary development", "culturally responsive-sustaining framework", and such other terms necessary to implement this section shall be as defined by the commissioner in regulations.

3. On or before September first, two thousand twenty-five, every

school district shall verify to the commissioner that their curriculum and instructional practices in the subject of reading in prekindergarten through grade three align with all of the elements of the instructional best practices provided by the commissioner pursuant to this section.

§ 819. Evidence-based mathematics instruction. 1. (a) On or before January first, two thousand twenty-seven, the commissioner shall provide school districts with instructional best practices for numeracy, as defined by the commissioner, and the teaching of mathematics to students in kindergarten through grade five. Instructional best practices for numeracy and the teaching of mathematics shall be evidence-based. Such instructional best practices shall be periodically updated by the commissioner.

(b) Every school district shall annually review their curriculum and instructional practices in the subject of mathematics for students in kindergarten through grade five to ensure that they align with the mathematics instructional best practices provided by the commissioner, and that all early mathematics instructional practices and interventions are part of an aligned plan designed to improve student mathematics outcomes in kindergarten through grade five.

2. On or before September first, two thousand twenty-seven, each school district shall verify to the commissioner that its curriculum and instructional practices in the subject of mathematics in kindergarten through grade five align with all of the elements of the instructional best practices provided by the commissioner pursuant to this section.

ARTICLE 19

MEDICAL AND HEALTH SERVICE

Section 901. School health services to be provided.
902. Employment of health professionals.
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902-b. Treatment by licensed school personnel of students diagnosed with allergies.

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917. On-site cardiac automated external defibrillator.
917-a. On-site cardiac automated external defibrillator in nonpublic schools.
918. School district nutrition advisory committees.
919. On-site nebulizers.
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921. Training of unlicensed school personnel to administer certain medications.
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922. Opioid overdose prevention.
923. Sudden cardiac arrest.
924. Ingredient and nutritional information requirements.
926. Water safety information.

§ 901. School health services to be provided. 1. School health services, as defined in subdivision two of this section, shall be provided by each school district for all students attending the public schools in this state, except in the city school district of the city of New York, as provided in this article. School health services shall include the services of a registered professional nurse, if one is employed, and shall also include such services as may be rendered as provided in this article in examining students for the existence of disease or disability and in testing the eyes and ears of such students.

2. School health services for the purposes of this article shall mean the several procedures, including, but not limited to, medical examinations, dental inspection and/or screening, scoliosis screening, vision screening and audiometer tests, designed to determine the health status of the child; to inform parents or other persons in parental relation to the child, pupils and teachers of the individual child's health condition subject to federal and state confidentiality laws; to guide parents, children and teachers in procedures for preventing and correcting defects and diseases; to instruct the school personnel in procedures to take in case of accident or illness; to survey and make necessary recommendations concerning the health and safety aspects of school facilities and the provision of health information.

§ 902. Employment of health professionals. 1. As used in this article "health professionals" means persons duly licensed or otherwise authorized to practice a health profession pursuant to applicable law, including, but not limited to, physicians, registered professional nurses, nurse practitioners, physicians assistants, optometrists, dentists, dental hygienists, dietitians and nutritionists, and audiologists.

2. a. The board of education, and the trustee or board of trustees of each school district, shall employ, at a compensation to be agreed upon by the parties, a qualified physician, or a nurse practitioner to the extent authorized by the nurse practice act and consistent with

subdivision three of section six thousand nine hundred two of this chapter, to perform the duties of the director of school health services, including any duties conferred on the school physician or school medical inspector under any provision of law, to perform and coordinate the provision of health services in the public schools and to provide health appraisals of students attending the public schools in the city or district. The physicians or nurse practitioners so employed shall be duly licensed pursuant to applicable law.

b. Any such board or trustees may employ one or more school nurses, who shall be registered professional nurses, as well as other health professionals, as may be required. Such registered professional nurses and other health professionals shall aid the director of school health services of the district and shall perform such duties, including health instruction for the benefit of the public schools as may be prescribed by such board or trustees, in compliance with each such health professional's practice act.

3. Health professionals may be employed by the trustees or boards of education of two or more school districts, and the compensation of such health professionals, and the expenses incurred in providing school health services for students as provided in this article, shall be borne jointly by such districts, and be apportioned among them in any manner agreed to by such districts in a sharing agreement entered pursuant to section one hundred nineteen-o of the general municipal law. The trustees or boards of education of two or more school districts in a supervisory district may enter into an agreement, or agreements as may be required, with a board of cooperative educational services for the provision of the services of one or more registered professional nurses, and other health professionals to perform health services, including health instruction in such districts.

§ 902-a. Treatment of students diagnosed with diabetes by school personnel. 1. Licensed nurses, nurse practitioners, physician assistants, or physicians employed by school districts or boards of cooperative educational services are authorized to calculate prescribed

insulin dosages, administer prescribed insulin, program the prescribed insulin pump, refill the reservoir in the insulin pump, change the infusion site, inject prescribed glucagon, teach an unlicensed person to administer glucagon to an individual, and perform other authorized services pursuant to the scope of practice of the licensed individual under title VIII of this chapter, to pupils who have received written permission by a physician or other licensed health care provider, and written parental consent to carry and use insulin and glucagon pursuant to section nine hundred sixteen-b of this article, during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter. Nothing in this section shall authorize unlicensed persons to perform these services except as otherwise permitted by section nine hundred twenty-one of this article.

2. A school district, board of cooperative educational services and/or their agents or employees shall incur no legal or financial liability as a result of any harm or injury sustained by a pupil or other person caused by reasonable and good faith compliance with this section.

§ 902-b. Treatment by licensed school personnel of students diagnosed with allergies. 1. (a) Licensed nurses, nurse practitioners, physician assistants, or physicians employed by schools are authorized to administer prescribed epinephrine pursuant to the scope of practice of the licensed individual under title VIII of this chapter, to pupils diagnosed by a physician or other duly authorized health care provider with an allergy who have the written permission of a physician or other duly authorized health care provider for the administration of emergency epinephrine and written parental consent to carry and use an epinephrine device pursuant to section nine hundred sixteen-a of this article, during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter.

(b) For the purposes of this subdivision, the term "epinephrine device" shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

2. A school district, board of cooperative educational services and/or their agents or employees shall incur no legal or financial liability as a result of any harm or injury sustained by a pupil or other person caused by reasonable and good faith compliance with this section.

§ 903. Students to furnish health certificates; and dental health certificates. 1. A health certificate shall be furnished by each student in the public schools upon his or her entrance in such schools and upon his or her entry into the grades prescribed by the commissioner in regulations, provided that such regulations shall require such certificates at least twice during the elementary grades and twice in the secondary grades. An examination and health history of any child may be required by the local school authorities at any time in their discretion to promote the educational interests of such child. Each certificate shall be signed by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized by law to practice in this state, and consistent with subdivision three of section six thousand nine hundred two of this chapter, or by a duly licensed physician, physician assistant, or nurse practitioner, who is authorized to practice in the jurisdiction in which the examination was given, provided that the commissioner has determined that such jurisdiction has standards of licensure and practice comparable to those of New York. Each such certificate shall describe the condition of the student when the examination was made, which shall not be more than twelve months prior to the commencement of the school year in which the examination is required, and shall state whether such student is in a fit condition of health to permit his or her attendance at the public schools. The examination may include a diabetes risk analysis. Each such certificate shall also state the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. In all school districts such physician, physician assistant or nurse

practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such a test and the certificate shall state the results.

2. a. A dental health certificate shall be requested from each student. Each student is requested to furnish a dental health certificate at the same time that health certificates are required. An assessment and dental health history of any child may be requested by the local school authorities at any time in their discretion to promote the educational interests of such child. Each certificate shall be signed by a duly licensed dentist, or a registered dental hygienist who is authorized by law to practice in this state, and consistent with any applicable written practice agreement, or by a duly licensed dentist or registered dental hygienist who is authorized to practice in the jurisdiction in which the assessment was given, provided that the commissioner has determined that such jurisdiction has standards of licensure and practice comparable to those of New York. Each such certificate shall describe the dental health condition of the student when the assessment was made, which shall not be more than twelve months prior to the commencement of the school year in which the assessment is requested, and shall state whether such student is in fit condition of dental health to permit his or her attendance at the public schools.

b. A notice of request for dental health certificates shall be distributed at the same time that parents or person in parental relationship to students are notified of health examination requirements and shall state that a list of dental practices, dentists and registered dental hygienists to which children may be referred for dental services on a free or reduced cost basis is available upon request at the child's school. The department shall, in collaboration with the department of health, compile and maintain a list of dental practices, dentists and registered dental hygienists to which children may be referred for dental services on a free or reduced cost basis. Such list shall be made available to all public schools and be made available to parents or person in parental relationship upon request. The department shall promulgate regulations to ensure the gathering and dissemination of the proper information to interested parties.

3. a. Within thirty days after the student's entrance in such schools or grades, the health certificate shall be submitted to the principal or his or her designee and shall be filed in the student's cumulative health record. If such student does not present a health certificate as required in this section, unless he or she has been accommodated on religious grounds, the principal or the principal's designee shall cause a notice to be sent to the parents or person in parental relationship to such student that if the required health certificate is not furnished within thirty days from the date of such notice, an examination will be made of such student, as provided in this article. Each school and school district chosen as part of an appropriate sampling methodology shall participate in surveys directed by the commissioner of health pursuant to the public health law in relation to students' BMI and weight status categories as reported on the school health certificate and which shall be subject to audit by the commissioner of health. Such surveys shall contain the information required pursuant to subdivision one of this section in relation to students' BMI and weight status categories in aggregate. Parents or other persons in parental relation to a student may refuse to have the student's BMI and weight status category included in such survey. Each school and school district shall provide the commissioner of health with any information, records and reports he or she may require for the purpose of such audit. The BMI and weight status survey and audit as described in this subdivision shall be conducted consistent with confidentiality requirements imposed by federal law.

b. Within thirty days after the student's entrance in such schools or grades, the dental health certificate, if obtained, shall be filed in the student's cumulative health record.

4. Notwithstanding the provisions of subdivisions one, two and three of this section, no examinations for a health certificate or health history shall be required or dental certificate requested, and no screening examinations for sickle cell anemia shall be required where a student or the parent or person in parental relation to such student objects thereto on the grounds that such examinations or health history

conflict with their genuine and sincere religious beliefs.

§ 904. Examinations by health appraisal. 1. Each principal of a public school, or his or her designee, shall report to the director of school health services having jurisdiction over such school, the names of all students who have not furnished health certificates as provided in section nine hundred three of this article, or who are children with disabilities, as defined by article eighty-nine of this chapter, and the director of school health services shall cause such students to be separately and carefully examined and tested to ascertain whether any student has defective sight or hearing, or any other physical disability which may tend to prevent him or her from receiving the full benefit of school work, or from requiring a modification of such work to prevent injury to the student or from receiving the best educational results. Each examination shall also include a calculation of the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. In all school districts, such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such tests and the certificate shall state the results. If it should be ascertained, upon such test or examination, that any of such students have defective sight or hearing, or other physical disability, including sickle cell anemia, as above described, the principal or his or her designee shall notify the parents of, or other persons in parental relation to, the child as to the existence of such disability. If the parents or other persons in parental relation are unable or unwilling to provide the necessary relief and treatment for such students, such fact shall be reported by the principal or his or her designee to the director of school health services, whose duty it shall be to provide relief for such students. Each school and school district chosen as part of an appropriate sampling methodology shall participate in surveys directed by the commissioner of health pursuant

to the public health law in relation to students' BMI and weight status categories as determined by the examination conducted pursuant to this section and which shall be subject to audit by the commissioner of health. Such surveys shall contain the information required pursuant to this subdivision in relation to students' BMI and weight status categories in aggregate. Parents or other persons in parental relation to a student may refuse to have the student's BMI and weight status category included in such survey. Each school and school district shall provide the commissioner of health with any information, records and reports he or she may require for the purpose of such audit. The BMI and weight status survey and audit as described in this section shall be conducted consistent with confidentiality requirements imposed by federal law. Data collection for such surveys shall commence on a voluntary basis at the beginning of the two thousand seven academic school year, and by all schools chosen as part of the sampling methodology at the beginning of the two thousand eight academic school year. The department shall also utilize the collected data to develop a report of child obesity and obesity related diseases.

2. Notwithstanding the provisions of subdivision one of this section, no examinations shall be required pursuant to this section where a student or the parent or person in parental relation to such student objects thereto on the grounds that such examinations conflict with their genuine and sincere religious beliefs.

§ 905. Record of screening examinations for vision, hearing and scoliosis. 1. The director of school health services of each school district in this state that is required to provide school health services, or the health department or agency otherwise responsible to provide such services, shall conduct screening examinations of vision, hearing, and scoliosis of all students at such times and as defined in the regulations of the commissioner, and at any time deemed necessary.

2. Notwithstanding any other provisions of any general, special or local law, the school authorities charged with the duty of making such screening examinations of students for the presence of scoliosis

pursuant to this section shall not suffer any liability to any person as a result of making such screening examination, which liability would not have existed by any provision of law, statutory or otherwise, in the absence of this section. The positive results of any such screening examinations of students for the presence of scoliosis shall be in writing and the parent of, or person in parental relation to, any child in whom the presence of scoliosis is found shall be advised of such results by the school authorities within ninety days after the finding of the presence of scoliosis is made.

3. The provisions of this section relative to examination for scoliosis shall be waived by the commissioner upon the filing, in accordance with rules and regulations to be established and promulgated by the commissioner, of a resolution, duly adopted by a board of education, stating that the school district does not have the capability to comply with this section relative to the examination for scoliosis and that such compliance would place a financial cost upon the school district, provided, however, that such resolution may not be adopted prior to the holding of a public hearing on such proposed resolution. Such rules and regulations to be established and promulgated by the commissioner in accordance with this section shall include, but not be limited to, the date for filing such resolution by a board of education and to the dates for filing subsequent resolutions.

4. Vision screening examinations of students in the schools of this state made pursuant to subdivision one of this section, or made pursuant to the by-laws, regulations or practices of the board of education of the city school district of the city of New York, shall be subject to the provisions of this subdivision, and where inconsistent herewith, the provisions of this subdivision shall prevail. In addition to any vision screening examinations otherwise required by the provisions or practices cited in this subdivision, all students who enroll in a school of this state shall be tested for color perception, distance acuity and near vision within six months of admission to the school, or by such other date as may be prescribed in the regulations of the commissioner. The results of any such vision screening examinations, whether made pursuant to this subdivision or pursuant to the provisions or practices cited in

this subdivision, shall be in writing and shall be made available to the student's parent or person in parental relation and to any teacher of the student within the school while the student is enrolled in the school, and shall be kept in a permanent file of the school for at least as long as the minimum retention period for such records, as prescribed by the commissioner pursuant to article fifty-seven-A of the arts and cultural affairs law.

5. Notwithstanding any provision of this section to the contrary, no screening examinations for vision, hearing, or scoliosis condition shall be required where a student or the parent or person in parental relation to such student objects thereto on the grounds that such examinations conflict with their genuine and sincere religious beliefs.

§ 906. Existence of communicable diseases; return after illness. 1. Whenever, upon investigation and evaluation by the director of school health services or other health professionals acting upon direction or referral of such director for care and treatment, a student in the public schools shows symptoms of any communicable or infectious disease reportable under the public health law that imposes a significant risk of infection of others in the school, he or she shall be excluded from the school and sent home immediately, in a safe and proper conveyance. The director of school health services shall immediately notify a local public health agency of any disease reportable under the public health law.

2. Following absence on account of illness or from unknown cause, the director of school health services may examine each student returning to a school without a certificate from a local public health officer, a duly licensed physician, physician assistant, or nurse practitioner.

3. The director of school health services, or other health professionals acting upon direction or referral of such director, may make such evaluations of teachers and any other school employees, school buildings and premises as, in their discretion, they may deem necessary to protect the health of the students and staff.

§ 907. Use of sunscreen. The board of education or trustees of each school district and board of cooperative educational services, and the governing body of each private elementary, middle and secondary school, shall allow students to carry and use topical sunscreen products approved by the federal Food and Drug Administration for over-the-counter use for the purpose of avoiding overexposure to the sun and not for medical treatment of an injury or illness, with the written permission of the parent or guardian of the student. A record of such permission shall be maintained by the school. A student who is unable to physically apply sunscreen may be assisted by unlicensed personnel when directed to do so by the student, if permitted by a parent or guardian and authorized by the school.

§ 908. Prohibition against meal shaming. All public school districts, charter schools and non-public schools in the state that participate in the national school lunch program or school breakfast program in which there is a school at which all pupils are not eligible to be served breakfast and lunch under the community eligibility provision or provision two of the federal national school lunch act, 42 U.S.C. Sec. 1751 et seq., shall develop a plan to ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed or treated differently than a pupil whose parent or guardian does not have unpaid school meal fees. The plan shall be submitted to the commissioner by July first, two thousand eighteen, or sixty days from the effective date of this section after enactment in conformance with regulations of the commissioner. After submission of such plan, the school or school district shall adopt and post the plan on its website. The plan shall include, but not be limited to, the following elements:

a. A statement that the school or school district shall provide the student with the student's meal of choice for that school day of the available reimbursable meal choices for such school day, if the student requests one, unless the student's parent or guardian has specifically provided written permission to the school to withhold a meal, provided

that the school or school district shall only be required to provide access to reimbursable meals, not a la carte items, adult meals, or other similar items;

b. An explanation of how staff will be trained to ensure that the school or school district's procedures are carried out correctly and how the affected parents and guardians will be provided with assistance in establishing eligibility for free or reduced-price meals for their children;

c. Procedures requiring the school or school district to notify the student's parent or guardian that the student's meal card or account balance is exhausted and unpaid meal charges are due. The notification procedures may include a repayment schedule, but the school or school district may not charge any interest or fees in connection with any meals charged;

d. A communication procedure designed to support eligible families enrolling in the national free and reduced price meal program. Such communication procedures shall also include a process for determining eligibility when a student owes money for five or more meals, wherein the school or school district shall:

i. make every attempt to determine if a student is directly certified to be eligible for free meals;

ii. make at least two attempts, not including the application or instructions included in a school enrollment packet, to reach the student's parent or guardian and have the parent or guardian fill out a meal application; and

iii. require a school or school district to contact the parent or guardian to offer assistance with a meal application, determine if there are other issues within the household that have caused the child to have insufficient funds to purchase a school meal and offer any other assistance that is appropriate;

e. A clear explanation of procedures designed to decrease student distress or embarrassment, provided that, no school or school district shall:

i. publicly identify or stigmatize a student who cannot pay for a meal or who owes a meal debt by any means including, but not limited to, requiring that a student wear a wristband or hand stamp;

ii. require a student who cannot pay for a meal or who owes a meal debt to do chores or other work to pay for meals;

iii. require that a student throw away a meal after it has been served because of the student's inability to pay for the meal or because money is owed for earlier meals;

iv. take any action directed at a pupil to collect unpaid school meal fees. A school or school district may attempt to collect unpaid school meal fees from a student's parent or guardian, but shall not use a debt collector, as defined in section eight hundred three of the federal consumer credit protection act, 15 U.S.C. Sec. 1692a or file a lawsuit against such student's parent or guardian; or

v. discuss any outstanding meal debt in the presence of other students;

f. A clear explanation of the procedure to handle unpaid meal charges, provided that nothing in this section is intended to allow for the unlimited accrual of debt;

g. Procedures to enroll in the free and reduced price lunch program, provided that such procedures shall include that, at the beginning of each school year, a school or school district shall provide a free, printed meal application in every school enrollment packet, or if the school or school district chooses to use an electronic meal application, provide in school enrollment packets an explanation of the electronic meal application process and instructions for how parents or guardians may request a paper application at no cost;

h. If a school or school district becomes aware that a student who has not submitted a meal application is eligible for free or reduced-fee meals, the school or school district shall complete and file an application for the student pursuant to title seven, section 245.6(d) of the code of federal regulations; and

i. School liaisons required for homeless, foster, and migrant students shall coordinate with the nutrition department to make sure such students receive free school meals, in accordance with federal law.

§ 909. School hygiene districts. 1. The board of supervisors of any county, with the approval of the commissioner of education, shall have power to establish in such county a school hygiene district which shall include the supervisory district or districts in such county, as defined in this chapter. The board of education of any union free school district of four thousand five hundred or more population, which employs a superintendent of schools, or of any city having a population of less than fifty thousand, within such county, may at any time adopt a resolution requesting that such union free school district or city be included within such school hygiene district, and after the approval of such request by the district committee on school hygiene, herein-below mentioned, and by the commissioner of education, and upon the subsequent filing by the clerk of such board of education of a certified copy of such resolution and of a certified copy of such approvals with the clerk of the board of supervisors, such union free school district or city shall be included within such school hygiene district.

2. When such a school hygiene district is established, as hereinabove provided, the board of supervisors shall appropriate funds for the salary and necessary expenses of a district director of school hygiene. Funds may also be appropriated for assistants to the director of school hygiene. Within thirty days after such appropriation is made the chairman of the board of supervisors shall call a meeting, to be held at a date as early as practicable, of the district superintendents and school superintendents in such school hygiene district together with the

chairman of the board of supervisors, at which meeting such persons shall organize themselves into a district committee on school hygiene and shall elect a chairman thereof. In any school hygiene district which includes part or all of a county health district, as defined in the public health law, the district health officer of such county health district shall be a member of such committee. The district director of school hygiene and assistants shall be appointed by and work under the direction of such district committee on school hygiene. They shall meet the qualifications established by the commissioner of education and be certificated as supervisors of teachers. Any person appointed as such district director of school hygiene shall be a physician duly licensed and registered to practice in this state and shall have practiced as a physician, or been engaged in public health work, for at least two years.

3. It shall be the duty of the district director of school hygiene to advise, assist, and exercise general supervision over, medical inspectors, dentists and school nurses in the public schools in such school hygiene district; to keep informed as to their work and require such reports from them as he may deem necessary; to see that suitable recommendations based on the findings of the medical inspectors in their examinations of pupils are brought to the attention of their teachers and of those in parental relation to such pupils; to aid, and keep informed as to the work of, oral hygienists, nutrition workers, and other school employees engaged in health work in such schools; to inspect, and report to the proper authorities on, the sanitary conditions of school buildings, and in other ways to promote the physical welfare and health education of pupils. Whenever the board of supervisors, or, in a county constituting, in whole or in part, a county health district, the district health officer thereof, shall, under any provisions of law now in force or hereafter enacted, assign any public health nurse to the duties of a school nurse in any school or schools within a school hygiene district, she may be assigned to perform such duties under the direct control of the district director of school hygiene of such school hygiene district. Such district director of school hygiene shall be subject to supervision by the state medical inspector of schools.

4. If it be ascertained upon any test or examination held by a medical inspector under the provisions of section nine hundred four of this article in any of the school districts within a school hygiene district that any of the pupils are afflicted with defective sight or hearing or other physical disability and the parents have been duly notified as to the existence of such defects and physical disability and are unable to provide the necessary relief and treatment for such pupils and such fact is reported by said medical inspector to the district director of school hygiene, such district director shall have power and it shall be his duty to provide relief for such pupils within the amount appropriated for such purpose by the board of supervisors.

5. The board of supervisors, after determining the amount of the appropriation necessary for the salary and expenses of such district director of school hygiene and assistants, shall levy one-half of such amount by tax on the towns, union free school districts and cities, if any, included within such school hygiene district, and shall apportion such amount, so levied, among such towns, union free school districts and cities, according to the assessed valuation of the taxable property therein. Whenever a board of supervisors shall make such an appropriation and levy such a tax, the commissioner of education shall apportion to each such town, union free school district and city, an amount equal to that so levied upon each such respective town, union free school district or city. The board of supervisors shall likewise, after determining the amount of the appropriation necessary for expenses incurred for the relief of pupils under subdivision four of this section, levy the total amount by tax upon the towns, union free school districts and cities, if any, included within such school hygiene district, and shall apportion such amount so levied among such towns, union free school districts and cities according to the assessed valuation of the taxable property therein. The sums collected from the taxes so levied, and the amount apportioned by the commissioner of education, shall be paid to the county treasurer of such county, who shall expend such moneys for the purposes hereinabove provided and in the same manner as other county charges are paid.

§ 910. Choice of method of treatment. Whenever affected by the requirements of this article, the school employee so affected, and, in the case of a child, the parent of, or person in parental relation to, such child, shall have the right to determine the form or manner of treatment or remedial care to be prescribed or applied, but the treatment or remedial care must be in accordance with and as allowed under the provisions of article one hundred thirty-one of this chapter.

§ 911. Enforcement. 1. It shall be the duty of the commissioner to enforce the provisions of this article, and the commissioner may adopt rules and regulations not inconsistent herewith, after consultation with the state commissioner of health, for the purpose of carrying into full force and effect the objects and intent of this article.

2. The commissioner may, in his or her discretion, withhold the public money from a district which willfully refuses or neglects to comply with this article and the rules and regulations made under this article.

§ 912. Health and welfare services to all children. The voters and/or trustees or board of education of every school district shall, upon request of the authorities of a school other than public, provide resident children who attend such school with any or all of the health and welfare services and facilities which are made available by such voters and/or trustees or board of education to or for children attending the public schools of the district. Such services may include, but are not limited to all services performed by a physician, physician assistant, dentist, dental hygienist, registered professional nurse, nurse practitioner, school psychologist, school social worker or school speech therapist, and may also include dental prophylaxis, vision and hearing screening examinations, the taking of medical histories and the administration of health screening tests, the maintenance of cumulative health records and the administration of emergency care programs for ill or injured students. Any such services or facilities shall be so provided notwithstanding any provision of any charter or other provision

of law inconsistent herewith. Where children residing in one school district attend a school other than public located in another school district, the school authorities of the district of residence shall contract with the school authorities of the district where such nonpublic school is located, for the provision of such health and welfare services and facilities to such children by the school district where such nonpublic school is located, for a consideration to be agreed upon between the school authorities of such districts, subject to the approval of the qualified voters of the district of residence when required under the provisions of this chapter. Every such contract shall be in writing and in the form prescribed by the commissioner, and before such contract is executed the same shall be submitted for approval to the superintendent of schools having jurisdiction over such district of residence and such contract shall not become effective until approved by such superintendent.

§ 912-a. Urine analysis; drug detection. 1. The school authorities of each school district within the state may cause all children attending grades seven through twelve, inclusive, in the public and private schools located within such districts, to be separately and carefully examined in order to ascertain whether any such children are making use of dangerous drugs.

2. Such examination may be made only upon the written request or consent of a parent of, or person in parental relation to, a child. Such examination shall be conducted without notice to the child and shall include the supervised taking of a urine sample which shall be analyzed for such drugs and in accordance with such standards as shall be acceptable to the New York state office of alcoholism and substance abuse services, or its successor agency. The results of such examination shall be promptly forwarded to the school authorities. If it should be ascertained, upon such test or examination, that any child is making use of dangerous drugs, the school authorities shall report same to the social services department for the social services district wherein such school is located and to the parent of, or person in parental relation to, such child together with a statement to such parent or person in

parental relation as to available programs and facilities to combat such dangerous drug usage. The local social services department shall be empowered, in an appropriate case, to take such action and offer such protective social services as are prescribed by title six of article six of the social services law.

3. Except as required in this section, information resulting from an examination conducted pursuant to this section shall be kept confidential and shall not be used for law enforcement purposes but may be utilized only for statistical, epidemiological or research purposes.

4. Any record or information compiled from such examination which identifies an individual student as a user of dangerous drugs shall be maintained separate and apart from such student's other educational records and in appropriate confidence and shall be destroyed upon such student's graduation or final severance from the secondary educational school system in this state.

Notwithstanding any provision of this section to the contrary, no such examination shall be required where a student objects thereto on the grounds that such examinations conflict with their genuine and sincere religious beliefs.

§ 912-b. Speech and language improvement services. 1. The board of education or trustees of each school district and the city school district of the city of New York may provide speech and language improvement services to students in grades kindergarten through six with speech impairments of a severity that does not adversely affect the student's educational performance but does present a barrier to communication.

2. Any student, who is determined to be in need of such speech and language improvement services, shall receive such upon the recommendation of the building administrator.

3. A student, whose speech impairment adversely affects the student's

educational performance shall be referred to the committee on special education for further evaluation and recommendation for special education services and programs, pursuant to article eighty-nine of this chapter.

§ 913. Medical examinations of teachers and other employees. In order to safeguard the health of children attending the public schools, the board of education or trustees of any school district or a board of cooperative educational services shall be empowered to require any person employed by the board of education or trustees or board of cooperative educational services to submit to a medical examination by a physician or other health care provider of his or her choice or the director of school health services of the board of education or trustees or board of cooperative educational services, in order to determine the physical or mental capacity of such person to perform his or her duties. The person required to submit to such medical examination shall be entitled to be accompanied by a physician or other person of his or her choice. The determination based upon such examination as to the physical or mental capacity of such person to perform his or her duties shall be reported to the board of education or trustees or board of cooperative educational services and may be referred to and considered for the evaluation of service of the person examined or for disability retirement.

§ 914. Immunization of children. 1. Each school shall require of every child entering or attending such school proof of immunization in accordance with the provisions of section twenty-one hundred sixty-four of the public health law.

2. Each school district shall assist and cooperate with the municipality in the development of a plan required by section six hundred thirteen of the public health law.

3. Each school district shall participate in the surveys directed by the state commissioner of health pursuant to section six hundred

thirteen of the public health law of the immunization level of the children entering and attending school within such district, and which shall be subject to audit by the state commissioner of health. Each school and school district shall provide the state commissioner of health with any records and reports required for the purpose of such audit. In no event shall the state commissioner of health disclose a student's identity.

§ 915. Prohibiting the sale of certain sweetened foods. From the beginning of the school day until the end of the last scheduled meal period, no sweetened soda water, no chewing gum, no candy including hard candy, jellies, gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn, and no water ices except those which contain fruit or fruit juices, shall be sold in any public school within the state.

§ 915-a. Universal free school meals. 1. The department shall require all school districts, charter schools and non-public schools in the state that participate in the national school lunch program or school breakfast program as provided in the Richard B. Russell National School Lunch Act and the Child Nutrition Act, as amended, to serve breakfast and lunch at no cost to the student. School districts, charter schools and non-public schools shall maximize federal reimbursement for school breakfast and lunch programs by adopting Provision 2, the federal Community Eligibility Provision, or any other provision under such Act, the National School Lunch Act or the National Child Nutrition Act that, in the opinion of the department, maximizes federal funding for meals served in such programs. Provided that school food authorities that do not qualify as a single entity to participate in the community eligibility provision shall be required to group schools within the school food authority, to the extent possible, for purposes of maximizing participation in the community eligibility provision, and provided further that school food authorities shall reapply annually for the community eligibility provision program in the event that doing so would result in a higher percentage of meals being reimbursed at the

federal reimbursement rate for a free meal.

2. Notwithstanding any provision of law, rule or regulation to the contrary, for the two thousand twenty-five--two thousand twenty-six school year and each school year thereafter, for each breakfast and lunch meal served, the department shall reimburse the school food authority the difference between (a) the combined state and federal reimbursement rate for a reduced-price or paid meal, respectively, for the current school year and (b) the combined state and federal reimbursement rate for a free meal for the current school year, provided that the total reimbursement rate for each meal served shall equal the combined state and federal reimbursement rate for a free meal for the current school year.

3. The department, in consultation with the office of temporary and disability assistance, shall promulgate any rule or regulation needed for school districts, charter schools and non-public schools to promote the supplemental nutrition assistance program to a student or person in parental relation to a student by providing either application assistance or a direct referral to an outreach partner identified to the department by the office of temporary and disability assistance to maximize the number of students directly certified for free school meals.

4. In addition to fulfilling any other applicable state and federal requirements, the department shall provide technical assistance to assist school districts, charter schools, and non-public schools in the transition to universal school meals to ensure successful program operations and to maximize federal funding, including but not limited to the following:

(a) Assisting school food authorities with one or more schools qualifying for the community eligibility provision in meeting any state and federal requirements necessary in order to maximize reimbursement through the community eligibility provision, including assisting such school food authorities in maximizing participation in the community eligibility provision.

(b) If a school food authority is ineligible to participate in and

receive reimbursement through the community eligibility provision, assisting the school food authority in achieving and maximizing eligibility and, if that is not feasible, assisting the school food authority in determining the viability of using Provision 2 or other special federal provisions available to schools to maximize federal reimbursement.

5. School districts, charter schools, and non-public schools shall maximize the number of students eligible for free meals by conducting the Direct Certification Matching Process at a minimum of three times per year, designating children as "Other Source Categorically Eligible", as defined by federal regulations, or, for schools not participating in the Community Eligibility Provision or Provision 2, by annually collecting the free and reduced-price meal application.

§ 916. Pupils with asthma or another respiratory disease requiring rescue inhaler treatment. 1. The board of education or trustees of each school district and board of cooperative educational services shall allow pupils who have been diagnosed by a physician or other duly authorized health care provider with an asthmatic condition or another respiratory disease to carry and use a prescribed inhaler and self-administer inhaled rescue medications to alleviate respiratory symptoms or to prevent the onset of exercise induced asthmatic symptoms during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter, with the written permission of a physician or other duly authorized health care provider, and written parental consent. The written permission shall include an attestation by the physician or the health care provider confirming the following: (a) the pupil is diagnosed with asthma or another respiratory disease for which inhaled rescue medications are prescribed to alleviate respiratory symptoms or to prevent the onset of exercise induced asthmatic symptoms; and (b) that the pupil has demonstrated that he or she can self-administer the prescribed inhaled rescue medication effectively. The written permission shall also include the name of the prescribed inhaled rescue medication, the dose, the times when the medication is to

be taken, the circumstances which may warrant the use of the medication and the length of time for which the inhaler is prescribed. A record of such consent and permission shall be maintained in the student's cumulative health record. In addition, upon the written request of a parent or person in parental relation, the board of education or trustees of a school district and board of cooperative educational services shall allow such pupils to maintain an extra such inhaler in the care and custody of a licensed nurse, nurse practitioner, physician assistant, or physician employed by such district or board of cooperative educational services, and shall be readily accessible to such pupil. Nothing in this section shall require a school district or board of cooperative educational services to retain a licensed nurse, nurse practitioner, physician assistant, or physician solely for the purpose of taking custody of a spare inhaler for the treatment of asthma or a respiratory disease requiring rescue medication treatment, or require that a licensed nurse, nurse practitioner, physician assistant, or physician be available at all times in a school building for the purpose of taking custody of the inhaler. In addition, the medication provided by the pupil's parents or persons in parental relation shall be made available to the pupil as needed in accordance with the school district's or board of cooperative educational services' policy and the orders prescribed in the written permission of the physician or other authorized health care provider.

2. A school district, board of cooperative educational services and/or their agents or employees shall incur no legal or financial liability as a result of any harm or injury sustained by a pupil or other person caused by reasonable and good faith compliance with this section.

§ 916-a. Pupils with allergies. 1. (a) The board of education or trustees of each school district and board of cooperative educational services shall allow pupils who have been diagnosed by a physician or other duly authorized health care provider with an allergy to carry and use a prescribed epinephrine device for the emergency treatment of allergic reactions during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions

one and two of section eleven of this chapter, with the written permission of a physician or other duly authorized health provider, and written parental consent. The written permission shall include an attestation by the physician or the health care provider confirming the following: (i) the pupil's diagnosis of an allergy for which an epinephrine device is needed; and (ii) that the pupil has demonstrated that such pupil can self-administer the prescribed epinephrine device effectively. The written permission shall also include the circumstances which may warrant the use of the epinephrine device. A record of such consent and permission shall be maintained in the student's cumulative health record. In addition, upon the written request of a parent or person in parental relation, the board of education or trustees of a school district and board of cooperative educational services shall allow such pupils to maintain an extra epinephrine device for the emergency treatment of allergies in the care and custody of a licensed nurse, nurse practitioner, physician assistant, or physician employed by such district or board of cooperative educational services, and shall be readily accessible to such pupil. Nothing in this section shall require a school district or board of cooperative educational services to retain a licensed nurse, nurse practitioner, physician assistant, or physician solely for the purpose of taking custody of a spare epinephrine device for the emergency treatment of allergic reactions, or require that a licensed nurse, nurse practitioner, physician assistant, or physician be available at all times in a school building for taking custody of the epinephrine device. In addition, the epinephrine device provided by the pupil's parents or persons in parental relation will be made available to the pupil as needed in accordance with the school district's or board of cooperative educational services' policy and the orders prescribed in the written permission of the physician or other authorized health care provider.

(b) For the purposes of this subdivision, the term "epinephrine device" shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

2. A school district, board of cooperative educational services and/or their agents or employees shall incur no legal or financial liability as a result of any harm or injury sustained by a pupil or other person

caused by reasonable and good faith compliance with this section.

§ 916-b. Pupils with diabetes. 1. The board of education or trustees of each school district and board of cooperative educational services shall allow pupils who have been diagnosed with diabetes to carry glucagon and carry and use insulin through appropriate medication delivery devices and equipment and/or to carry and use equipment and supplies necessary to check blood glucose levels and ketone levels, as prescribed by a physician or other duly authorized healthcare provider, during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter, with parental consent and the written permission of a physician or other duly authorized health care provider. The written permission shall include an attestation by the physician or the health care provider confirming the following: (a) the pupil's diagnosis of diabetes makes the delivery of insulin and glucagon through appropriate medication delivery devices during the school day on school property or at any school function necessary and/or makes the use of equipment and supplies to check blood glucose levels and ketone levels necessary; and (b) that the pupil has demonstrated that he or she can self-administer the prescribed insulin effectively and can self check glucose or ketone levels and can independently follow the treatment orders prescribed by the physician or other authorized health care provider in the written permission. The written permission shall identify prescribed blood glucose tests, ketone tests, insulin and glucagon to be used by the pupil at school and/or during school functions. If insulin or glucagon is prescribed, the written permission shall include the name of the type of insulin, the dose or dose range, the times when the medication is to be taken, the type of insulin delivery system and any other information prescribed by the commissioner in regulation, after consultation with the commissioner of health. A record of such consent and permission shall be maintained in the student's cumulative health record. In addition, upon the written request of a parent or person in parental relation, the board of education or trustees of a school district and board of cooperative educational services shall allow such pupils to maintain extra insulin

and an insulin delivery system, glucagon, blood glucose meters and related supplies used to treat such pupil's diabetes in the care and custody of a licensed nurse, nurse practitioner, physician assistant, or physician employed by such district or board of cooperative educational services, and shall be readily accessible to such pupil. Nothing in this section shall require a school district or board of cooperative educational services to retain a licensed nurse, nurse practitioner, physician assistant, or physician solely for the purpose of taking custody of extra insulin and an insulin delivery system, glucagon, blood glucose meters and related supplies used to treat such pupil's diabetes, or require that a licensed nurse, nurse practitioner, physician assistant, or physician be available at all times in a school building for the purpose of taking custody of extra insulin and an insulin delivery system, glucagon, blood glucose meters and related supplies. In addition, the medication and devices, equipment and supplies provided by the pupil's parents or persons in parental relation shall be made available to the pupil as needed in accordance with the school district's or board of cooperative educational services' policy and the orders prescribed in the written permission of the physician or other authorized health care provider. Pupils with diabetes may also carry any food necessary to treat hypoglycemia pursuant to the school district policy, provided, however, such school district policy shall not unreasonably interfere with a pupil's ability to treat hypoglycemia.

2. A school district, board of cooperative educational services and/or their agents or employees shall incur no legal or financial liability as a result of any harm or injury sustained by a pupil or other person caused by reasonable and good faith compliance with this section.

§ 917. On-site cardiac automated external defibrillator. 1. School districts, boards of cooperative educational services, county vocational education and extension boards and charter schools shall provide and maintain on-site in each instructional school facility automated external defibrillator (AED) equipment, as defined in paragraph (a) of subdivision one of section three thousand-b of the public health law, in quantities and types deemed by the commissioner in consultation with the

commissioner of health to be adequate to ensure ready and appropriate access for use during emergencies. Such automated external defibrillators shall be clearly marked, accessible, and maintained consistent with guidelines set by the American Heart Association, or other nationally recognized guidelines focused on emergency cardiovascular care.

2. Whenever public school facilities pursuant to subdivision one of this section are used for school sponsored or school approved curricular or extracurricular events or activities and whenever a school-sponsored athletic contest is held at any location, the public school officials and administrators responsible for such school facility or athletic contest shall ensure the presence of at least one staff person who is trained, pursuant to paragraph (a) of subdivision three of section three thousand-b of the public health law, in the operation and use of an AED. Where a school-sponsored competitive athletic event is held at a site other than a public school facility, the public school officials shall assure that automated external defibrillator equipment is provided on-site.

3. Public school facilities and staff pursuant to subdivisions one and two of this section shall be deemed a "public access defibrillation provider" as defined in paragraph (b) of subdivision one of section three thousand-b of the public health law and shall be subject to the requirements and limitations of such section.

4. Pursuant to section three thousand-a and three thousand-b of the public health law, any public access defibrillation provider, or any employee or other agent of the provider who, in accordance with the provisions of this section, voluntarily and without expectation of monetary compensation renders emergency medical or first aid treatment using an AED which has been made available pursuant to this section, to a person who is unconscious, ill or injured, shall be liable only pursuant to section three thousand-a of the public health law.

§ 917-a. On-site cardiac automated external defibrillator in nonpublic

schools. 1. Nonpublic schools shall provide and maintain on-site in each instructional school facility automated external defibrillator (AED) equipment, as defined in paragraph (a) of subdivision one of section three thousand-b of the public health law, in quantities and types deemed by the commissioner in consultation with the commissioner of health to be adequate to ensure ready and appropriate access for use during emergencies. Nonpublic schools shall cause such AED to be maintained and tested according to such applicable standards of the manufacturer and any appropriate government agency.

2. Whenever nonpublic school facilities pursuant to subdivision one of this section are used for school-sponsored or school-approved curricular or extracurricular events or activities and whenever a school-sponsored athletic contest is held at any location, the nonpublic school officials and administrators responsible for such school facility or athletic contest shall ensure the presence of at least one staff person who is trained, pursuant to subdivision three of this section in the operation and use of an AED. Where a school-sponsored competitive athletic event is held at a site other than a nonpublic school facility, the nonpublic school officials shall ensure that AED equipment is provided on-site.

3. No person may operate an AED in a nonpublic school facility unless the person has successfully completed a training course in the operation of an AED consistent with the standards approved by the department of health under section three thousand-b of the public health law or the state emergency medical services council. However, this section shall not prohibit operation of an AED:

(a) by a health care practitioner licensed or certified under title eight of this chapter or a person certified under article thirty of the public health law acting within their lawful scope of practice;

(b) by a person acting pursuant to a lawful prescription; or

(c) by a person who operates the AED other than as part of or incidental to their employment or regular duties, who is acting in good faith, with reasonable care, and without expectation of monetary compensation, to provide first aid that includes operation of an AED; nor shall this section limit any good samaritan protections provided in section three thousand-a of the public health law.

4. Every use of an AED on a patient in a nonpublic school shall be immediately reported to the appropriate local emergency medical services system or public safety answering point.

5. Nonpublic schools shall register the existence, location and type of any AED they possess with the department of health.

6. A nonpublic school shall post a sign or notice at the main entrance to the facility or building in which the automated external defibrillator is stored, indicating the location where any such automated external defibrillator is stored or maintained in such building or facility on a regular basis.

7. (a) Operation of an AED pursuant to this section in a nonpublic school shall be considered first aid or emergency treatment for the purpose of any statute relating to liability; and

(b) Operation of an AED pursuant to this section in a nonpublic school shall not constitute the unlawful practice of a profession under title eight of this chapter.

§ 918. School district nutrition advisory committees. 1. a. Every school district is hereby authorized and encouraged to establish a child nutrition advisory committee.

b. The district advisory committee is encouraged to meet at least quarterly.

c. The committee is encouraged to include, but not be limited to, a representative of the school board, the food preparation staff, the physical education departments, the school nurse or health staff, a registered dietitian, if available, the faculty of the district, the parent teacher associations in the district, the students enrolled in the district, and the parents or guardians of students enrolled in the district.

d. If, due to special circumstances of a district, it is impossible or impracticable for all groups recommended to have members on the committee to be represented, the district may approve a committee that, to the greatest extent possible, represents the interests of the aforementioned groups.

2. The district is encouraged to give, in such newsletter, if any, that precedes the commencement of school in the fall, written notice to all parents or guardians of enrolled students of the existence of a school district nutrition advisory committee and supply information as to how such interested parents or guardians may participate on such committee.

3. The district is encouraged, to the extent practicable, to give notice to all parents or guardians and students through its regular newsletters or other regular forms of written communication as to the scheduled dates of all meetings of the advisory committee.

4. The committee is encouraged to study and make recommendations on all facets of the current nutritional policies of the district including, but not limited to, the goals of the district to promote wellness and proper nutrition, vending machine sales; menu criteria; educational curriculum teaching healthy nutrition; promote the achievement and maintenance of healthy weight; educational information provided to parents or guardians regarding healthy nutrition and the health risks associated with obesity, asthma, chronic bronchitis and other chronic respiratory disease; opportunities offered to parents or guardians on how to encourage healthier eating habits to students; and the education provided to teachers and other staff as to the importance of healthy nutrition and the health risks associated with a student's weight. In addition the committee shall consider recommendations and practices of other districts and nutrition studies.

5. The committee is encouraged to report periodically to the district regarding practices that will educate teachers, parents or guardians and children about healthy nutrition and raise awareness of the dangers of obesity, asthma, chronic bronchitis and other chronic respiratory

diseases. The committee is encouraged also to provide any parent teacher associations in the district with such findings and recommendations.

6. Each June, the committee shall report to the board of the local school district regarding the status of the implementation of the district's programs to improve students' nutritional awareness and healthy diet.

*** § 919. On-site nebulizers.** 1. The board of education or trustees of the school district responsible for providing health services in a school, or the board of cooperative educational services in the case of programs under its jurisdiction, shall make a nebulizer available on-site in every public and private school building in which full or part time nurse services are provided. Nebulizers in such school buildings shall be made available to allow reasonable access to all public and private school students with a patient specific order, who require inhaled medications administered by a nebulizer, provided, however, that nebulizers shall be administered by a school nurse or physician pursuant to the student's patient specific order. Every nebulizer shall be maintained in working order by the school district or board of cooperative educational services that provides school health services to the school building where the nebulizer is located.

2. The commissioner shall be authorized to promulgate regulations for the implementation of this section.

* NB Not effective pursuant to confirmation from DOB stating no funding has been provided for nebulizers (see ch. 672/2007). Confirmation received 1/24/2012.

§ 920. Public schools; infestation of bedbugs (Cimex lectularius). 1. In a city school district having a population of one million or more inhabitants, the principal of each public school shall provide immediate notification to parents, persons in parental relation or guardians of potentially affected students attending the school, disclosing a finding relating to the infestation of bedbugs (Cimex lectularius) in such

school; provided, however, that if pursuant to regulations of the commissioner it is determined that any infestation is contained within a discrete area, the principal may limit such notification to parents, persons in parental relationship or guardians of all potentially affected students within such area, and shall advise the parents' association of the scope of such notification.

2. Along with the notification required pursuant to subdivision one of this section, the principal of such public school shall also include information regarding proper procedures to prevent further infestations at the school and to prevent the transfer of bedbugs from the school to the residences of students. Such information shall be developed by the board of education in consultation with other city agencies and shall be available in various languages as deemed necessary.

3. The principal shall ensure that the bedbug infestation at the school is properly addressed in the most effective and safe manner.

§ 921. Training of unlicensed school personnel to administer certain medications. 1. (a) The board of education or trustees of each school district and board of cooperative educational services and nonpublic schools are authorized, but not obligated to have licensed registered professional nurses, nurse practitioners, physician assistants, and physicians train unlicensed school personnel to administer prescribed glucagon or epinephrine devices in emergency situations, where an appropriately licensed health professional is not available, to pupils who have the written permission of a physician or other duly authorized health care provider for the administration of glucagon or an emergency epinephrine device, along with written parental consent, during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter. Training must be provided by a physician or other duly authorized licensed health care professional in a competent manner and must be completed in a form and manner prescribed by the commissioner in regulation.

(b) For the purposes of this subdivision, the term "epinephrine

device" shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

2. A school district, board of cooperative educational services, nonpublic schools and/or their agents or employees shall incur no legal or financial liability as a result of any harm or injury sustained by a pupil or other person caused by reasonable and good faith compliance with this section.

§ 921-a. On-site epinephrine device. 1. School districts, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state may provide and maintain on-site in each instructional school facility epinephrine devices in quantities and types deemed by the commissioner, in consultation with the commissioner of health, to be adequate to ensure ready and appropriate access for use during emergencies to any student or staff having anaphylactic symptoms whether or not there is a previous history of severe allergic reaction.

2. School districts, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state, any person employed by any such entity, or employed by a contractor of such an entity while performing services for the entity may administer epinephrine devices in the event of an emergency pursuant to the requirements of section three thousand-c of the public health law.

3. School districts, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state that are authorized to provide and maintain epinephrine devices on-site pursuant to this section shall provide all teachers with written informational material on the use of an epinephrine device that has been created and approved by the commissioner of health.

4. For the purposes of this section, the term "epinephrine device"

shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 922. Opioid overdose prevention. 1. School districts, public libraries, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state may provide and maintain on-site in each instructional school facility or library, opioid antagonists, as defined in section three thousand three hundred nine of the public health law, in quantities and types deemed by the commissioner, in consultation with the commissioner of health, to be adequate to ensure ready and appropriate access for use during emergencies to any student, individual on library premises or staff suspected of having opioid overdose whether or not there is a previous history of opioid abuse.

2. School districts, public libraries, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state may elect to participate as an opioid antagonist recipient and any person employed by any such entity that has elected to participate may administer an opioid antagonist in the event of an emergency, provided that such person shall have been trained by a program approved under section three thousand three hundred nine of the public health law. Any school district, public library, board of cooperative educational services, county vocational education and extension board, charter school, and non-public elementary and secondary school that has employees trained in accordance with this section shall comply with the requirements of section three thousand three hundred nine of the public health law including, but not limited to, appropriate clinical oversight, record keeping and reporting. No person shall be required to participate in the program and any participation by an individual shall be voluntary.

§ 923. Sudden cardiac arrest. a. The commissioner shall review the

information developed by the commissioner of health required by subdivision thirty-one of section two hundred six of the public health law to assist in the education and awareness of the signs and symptoms of pending or increased risk of sudden cardiac arrest. Such information shall be posted on the department's website. In addition, each school shall be required to include such information developed by the department of health, in conjunction with the department, in any permission form or parent or person in parental relation consent form or similar document that may be required for a student's participation in interscholastic athletics and shall also include such information, or reference how to obtain such information from the department and the department of health's websites, on the school's website, if one exists.

b. The commissioner shall promulgate rules and regulations requiring that any student displaying signs or symptoms of pending or increased risk of sudden cardiac arrest shall be immediately removed from athletic activities and shall not resume athletic activity until such student has been evaluated by and received written and signed authorization from a licensed physician or a certified nurse practitioner. Such authorization shall be kept on file in the pupil's permanent health record.

§ 924. Ingredient and nutritional information requirements. a. All contracts entered into for the two thousand twenty-three--two thousand twenty-four school year, and thereafter, to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall include provisions requiring such private food service management company to disclose ingredients lists and nutritional information to school districts for all meals that such company provides. The private food service management company shall be required to consolidate nutritional information for any meal that is comprised of separate individual ingredients. School districts and boards of cooperative educational services shall have no responsibility to provide nutritional information except pursuant to subdivision b of this section.

b. All ingredients lists and nutritional information provided to

school districts shall be published and publicly shared on such school district's website.

§ 926. Water safety information. 1. At the beginning of the two thousand twenty-six--two thousand twenty-seven school year, each school district shall provide, to the parent or guardian of each student enrolled in such school district, information on drowning prevention, water safety, and safe and healthy swimming. Each school year thereafter such information shall be provided to the parent or guardian of a student upon enrollment in the school district. If the student is eighteen years of age or older, such information shall be provided to the student. Such information may be provided electronically or in paper form. Translation of such information into any of the twelve most common non-English languages spoken by limited-English proficient individuals in the state, based on the data in the most recent American community survey published by the United States census bureau, shall be provided upon request by a parent or guardian.

2. The commissioner of health shall produce and update, as deemed necessary, such information in consultation with the commissioner. The commissioner shall provide such information to each school district. Each school district shall publish such information on its website in a clearly visible and accessible location.

ARTICLE 21

VOCATIONAL REHABILITATION

Section 1001. Short title.
1002. Definitions.
1003. Application for vocational rehabilitation.
1004. Powers and duties of the education department.
1004-a. Sheltered workshops for individuals with developmental disabilities, mental illness or a severe physical handicap.
1004-b. Integrated employment opportunities for individuals with severe disabilities.

1005. Gifts and donations.
1006. Acceptance of law of the United States.
1007. Vocational rehabilitation records.
1008. Use of appropriations.
1009. Powers and duties of department of social services relating to vocational rehabilitation of blind persons.

§ 1001. Short title. This article shall be known and may be cited as "The Vocational Rehabilitation Law."

§ 1002. Definitions. As used in this article:

1. "Handicapped person" means any person who in the judgment of the department is under a physical or mental disability which constitutes a substantial handicap to employment but which is of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in gainful employment, and also any person under a physical or mental disability which constitutes a substantial handicap to employment and for whom vocational rehabilitation services are necessary to ascertain his rehabilitation potential.

2. "Person who is under a physical or mental disability" means an individual who has a physical or mental condition which in the judgment of the department limits, contributes to limiting, or, if not corrected, will result in limiting his activities or functioning.

3. "Substantial handicap to employment" means that a physical or mental disability (in the light of attendant medical, psychological, vocational, educational, cultural, social or environmental factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for a gainful occupation consistent with his capacities and abilities.

4. "Gainful occupation" includes any employment for which a

compensation is paid either in goods and/or in services; practice of a profession; self-employment; homemaking, farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; and home industries or other gainful homebound work.

5. "Vocational rehabilitation services" means:

a. Any goods and services necessary to render a handicapped person fit to engage in a gainful occupation and includes:

(1.) Evaluation, including diagnostic and related services;

(2.) Counseling and Guidance;

(3.) Training;

(4.) Placement;

(5.) Reader service where necessary for individuals who are visually handicapped and interpreter services in the case of individuals who are deaf;

(6.) Attendants and amanuenses where required;

(7.) Occupational and business licenses;

(8.) Books, training supplies and fees;

(9.) Transportation;

(10.) Physical restoration services;

(11.) Maintenance payments to cover the handicapped person's expenses essential to achievement of his vocational rehabilitation objective;

(12.) Tools, equipment, initial stocks and supplies;

(13.) Training allowances which may be paid to individuals receiving training and related services in public and other non-profit workshops and rehabilitation facilities to the extent that funds may be made available for this purpose;

(14.) Other goods and services, not enumerated in this subdivision, necessary to render a handicapped person fit to engage in a gainful occupation.

b. The establishment of public and other nonprofit rehabilitation facilities for handicapped persons; the establishment of public and other nonprofit workshops for the severely handicapped; and the staffing of public and other nonprofit workshops for the severely handicapped so that workshops may be established, extended, improved or continued.

6. "Physical restoration services" mean those medical and medically related services which are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition which is stable or slowly progressive and which constitutes a substantial handicap to employment, and includes (but is not limited to):

a. corrective surgery or therapeutic treatment;

b. necessary hospitalization in connection with surgery or treatment specified in (a);

c. prosthetic devices essential to obtaining or retaining employment; and

d. other necessary medical or medically related services.

7. "Rehabilitation facility" means a facility, operated for the principal purpose of assisting in the rehabilitation of handicapped persons and

a. provides one or more than one of the following types of services:

1. prevocational or conditioning therapy;

2. adjustment training;

3. testing, fitting or training in the use of prosthetic devices;

4. physical or occupational therapy;

5. evaluation, treatment or control of special disabilities; or

b. through which is provided an integrated program of medical, psychological, social and vocational evaluation and services under appropriate professional supervision, provided that the major portion of such evaluation and services is furnished within the facility, and that

all medical and related health services are prescribed by and are under the supervision of persons licensed to practice medicine in the state.

8. "Workshop" means a place where any manufacture or handiwork is carried on and which is operated for the principle purpose of providing gainful employment to severely handicapped persons (a) as an interim step in the rehabilitation process for those who cannot be absorbed in the competitive labor market; or (b) during such time as employment opportunities for them in the competitive labor market do not exist.

9. "Establishment of a workshop" or "rehabilitation facility" means:

a. In the case of a workshop, the expansion, remodeling, or alteration of existing buildings, necessary to adapt such buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops; and

b. In the case of a rehabilitation facility, the expansion, remodeling, or alteration of existing buildings, and initial equipment of such buildings, necessary to adapt such buildings to rehabilitation facility purposes or to increase their effectiveness for such purposes and initial staffing thereof for a period not exceeding one year.

10. With respect to the construction of workshops and rehabilitation facilities, the following definitions shall apply:

a. "Construction" includes construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such new, newly acquired, expanded, remodeled, altered or renovated buildings;

b. The "cost" of construction may include the cost of architects' fees and acquisition of land in connection with construction, but does not include the cost of offsite improvements.

c. A "project for construction of a workshop" may include provisions

for residential accommodations to be used by and in conjunction with the rehabilitation of categories of handicapped individuals as may be hereafter designated.

11. "Supported employment" means paid competitive work performed by individuals with severe disabilities who require intensive support services to obtain such employment and extended support to sustain such employment, and which is performed in an integrated setting which provides regular interactions with individuals who do not have disabilities, other than paid caregivers.

12. "Supported employment services" means support services needed by individuals with severe disabilities to obtain and sustain supported employment. Such term shall also include transitional employment services for individuals with severe and persistent mental illness, as defined by the commissioner in consultation with the commissioner of the office of mental health.

13. "Paid competitive work", as used in the definition of supported employment pursuant to subdivision eleven of this section means work that is performed on a full-time or part-time basis, with a minimum expectation of averaging at least twenty hours per week as an employment goal, except that such requirement may be waived for good cause by the commissioner, and for which an individual is compensated in accordance with the federal fair labor standards act and the state department of labor wage and hour regulations.

14. "Individuals with severe disabilities" means persons for whom competitive employment has either not traditionally occurred or has been interrupted or intermittent as a result of having a permanent and substantially disabling physical, sensory, or mental condition.

§ 1003. Application for vocational rehabilitation. a. Any handicapped person available for vocational rehabilitation services may apply to the department for advice and assistance regarding his vocational rehabilitation.

b. The state may, to the extent that funds are made available pursuant to the federal social security act, furnish vocational rehabilitation services to applicants for and beneficiaries of disability benefits under the social security act as provided in the act and any rules or regulations adopted pursuant thereto.

§ 1004. Powers and duties of the education department.

The education department shall have the responsibility of and is hereby authorized:

1. To adopt and promulgate such rules and regulations and take such action as may be necessary to carry out the provisions of this article.

2. To provide vocational rehabilitation services directly or through public or private instrumentalities for handicapped persons (excepting blind persons and, with respect to physical restoration services, those persons who are entitled to such services pursuant to the workers' compensation law and the volunteer firefighters' benefit law) whose vocational rehabilitation the department determines after full investigation may be satisfactorily achieved. In the course of its investigation of an individual applicant's vocational rehabilitation potential the department may conduct an extended evaluation program including utilization of such vocational rehabilitation services as it deems necessary.

3. To enter into reciprocal agreements with other states to provide for the vocational rehabilitation of handicapped persons.

4. To engage in and contract for the making of studies, investigations, demonstrations, research and reports, and the provision of training and instruction (including the establishment and maintenance of fellowships and traineeships with such stipends and allowances as may be deemed necessary) the assessment of existing facilities and services and the evaluation of present and future requirements, including plans

for the purposes enumerated above in matters relating to vocational rehabilitation.

5. To arrange and pay part of the cost of projects leading to the construction of workshops and rehabilitation facilities and the extension and improvement or the establishment of vocational rehabilitation services for handicapped persons, including the furnishing of equipment or the furnishing of funds for the purchase of equipment and supplies, personnel and other necessary and proper expenses in the construction, establishment, improvement, continuation or extension of rehabilitation facilities and workshops operated by public or nonprofit organizations and agencies.

6. To cooperate in the operation of this article with the state agency or agencies administering the state's public assistance program, workmen's compensation program, the departments of health, mental hygiene, the federal agencies charged with the administration of the federal social security act and the federal fair labor standards act or other appropriate federal legislation and with other public and private agencies providing services related to vocational rehabilitation, and with the state system of public employment offices in the state, making maximum feasible utilization of the job placement and employment counseling services and other services and facilities of such offices, and to issue such certifications as are required or indicated thereby.

7. Within its discretion, to consider financial need of handicapped individuals for the purposes of determining the extent of their respective participation in the costs of vocational rehabilitation services and to promulgate rules and regulations establishing financial need as a condition to the availability of any of the services specified in paragraph a of subdivision five of section one thousand two of this chapter except that no economic need test will be applied as a condition for furnishing the following vocational rehabilitation services: (a) evaluation, including diagnostic and related services; (b) counseling and guidance; and (c) placement.

8. To supervise and monitor service centers for independent living

pursuant to article twenty-three-A of this chapter.

9. To contract with not-for-profit organizations for the provision of supported employment services, as defined in subdivision twelve of section ten hundred two of this article, to individuals having severe disabilities defined in subdivision fourteen of section one thousand two of this article in integrated work settings. The commissioner shall ensure that funds provided pursuant to this subdivision are not used for the provision of services that are the responsibility of other state agencies pursuant to the plan developed pursuant to subdivision two of section one thousand four-b of this article. Services shall be provided at a cost not to exceed that which is necessary and reasonable, and shall include short-term intensive and extended support mechanisms within an integrated work setting. The commissioner shall require service providers to develop appropriate policies and procedures for directing their supported employment programs, and to provide such reports as the commissioner deems to be appropriate.

§ 1004-a. Sheltered workshops for individuals with developmental disabilities, mental illness or a severe physical handicap. 1. Declaration of purpose. The conditions associated with a developmental disability, mental illness and severe physical handicap are such that many young people, after laborious training in the schools and otherwise, reach the point in their lives where they can and should, under proper and continued guidance, engage in sheltered employment. The effects of such employment are salutary in many ways. The affected individual is helped to become a contributing member of society. The state is saved the expense of his or her institutionalization in already overcrowded state schools and facilities. The family retains closer contact with him or her and is spared the anxieties naturally attaching to separation and institutionalization. All of these factors have also been shown to reflect tangible benefit upon individuals with developmental disabilities, mental illness or a severe physical handicap in improving his or her overall condition. The purpose of this measure is to specifically encourage the development, improvement and expansion of such sheltered employment facilities by non-profit agencies, so that

the salutary effects mentioned can be expediently accomplished.

2. Special provisions relating to individuals with a developmental disabilities, mental illness or a severe physical handicap in extended sheltered employment in workshops. Notwithstanding any other provision of this article, when it shall appear to the satisfaction of the department that an individual with a developmental disability, mental illness or a severe physical handicap over the chronological age of seventeen years can reasonably be expected to benefit from, or in his or her best interests reasonably requires extended sheltered employment in a workshop as defined in subdivision eight of section ten hundred two of this article, furnished by an approved non-profit organization, the department is authorized to contract with such organization for the furnishing of such sheltered employment to such individual with a developmental disability, mental illness or a severe physical handicap; and the department is further authorized to expend for such purpose a sum or sums not less than one thousand five hundred dollars per annum for each such individual with a developmental disability, mental illness or a severe physical handicap, for or towards the cost of providing such sheltered employment for each such individual with a developmental disability, mental illness or a severe physical handicap.

The department shall pay at least quarterly during the state fiscal year such sums as are authorized to such organizations for such sheltered employment immediately upon the completion of evaluation and personal adjustment services under the sponsorship of the department.

3. The department shall maintain a register of such nonprofit organizations which, after inspection of the facilities for sheltered employment provided by them, it deems qualified to meet the needs of such individuals with developmental disabilities, mental illness or a severe physical handicap. Such inspection shall also determine the eligibility of such organization to receive the funds hereinbefore specified.

4. The department is authorized to contract with such nonprofit organizations for the provision of vocational rehabilitation services

which lead to sheltered employment.

5. The department shall assure that individuals in long-term sheltered employment operated by not-for-profit agencies are periodically reviewed to determine the feasibility of their employment, or training for employment, in integrated work settings and that maximum efforts toward such employment occur, whenever it is determined to be feasible.

6. The commissioner is authorized to promulgate such reasonable rules and regulations as he may deem necessary or proper to carry out the provisions of this section.

§ 1004-b. Integrated employment opportunities for individuals with severe disabilities. 1. The department shall have the responsibility to stimulate the development of programs intended to furnish opportunities for integrated employment including but not limited to, supported employment and paid competitive work, to individuals with severe disabilities, and to coordinate with state agencies responsible for furnishing necessary services to individuals with severe disabilities related to such opportunities.

2. State integrated employment implementation plan. a. The commissioner, in consultation with and with the agreement of the commissioners of mental health, the office for people with developmental disabilities and social services shall develop a state interagency plan for the implementation of integrated employment opportunities for individuals with severe disabilities, including supported employment. Such plan shall be designed so as to ensure that the state's integrated employment efforts, including the supported employment program, are planned, developed and implemented comprehensively, with roles and responsibilities of the respective agencies well-defined. Such plan shall reflect the department's primary responsibility for the development of integrated employment opportunities for individuals with severe disabilities, including short-term and intensive supported employment services, as well as appropriate responsibilities for long term extended support services. Such plan shall specify the role and

responsibilities of each such agency in assuring that:

(i) services are provided fully and equitably;

(ii) an array of services is established and appropriate procedures are developed to allow persons with severe disabilities timely access to appropriate support services;

(iii) compatible definitions, program evaluation and accounting standards and reporting documents are implemented;

(iv) services and eligibility requirements are integrated and coordinated between agencies, including the manner in which appropriate responsibilities for funding and administering both short-term intensive and long-term extended support services for supported employment are to be implemented;

(v) funding sources are clearly defined and amounts are adequate to support persons with short-term intensive and long-term extended support needs;

(vi) all necessary steps are taken to maximize the success and cost effectiveness of such programs and the potential of persons served by such programs;

(vii) continuity of support services is not broken for individuals placed in an integrated employment setting in the event such placement is interrupted; and

(viii) eligibility standards are consistent regarding the placement of individuals in integrated work settings, including supported employment and other competitive work placements.

b. In addition, the plan shall address the manner in which continued support for current programs will be maintained; and establishment grants will be provided. Such establishment grants shall include, but not be limited to, special projects which enhance the provision of supported employment and new integrated employment program initiatives which would target individuals who have severe disabilities who have aged-out or have otherwise exited the school system. In addition, such grants may be used to provide additional resources to existing programs for the purposes of increasing the numbers of persons served who have been determined by the commissioner to have been unserved or underserved. Such grants may also be used for new programs for these populations.

c. The commissioner, in consultation with the commissioners of the office of mental health, the office for people with developmental disabilities and the department of social services, shall develop an audit protocol to verify the actual costs of providing such programs.

3. Reporting. a. It shall be the primary responsibility of the commissioner to provide annual reports on the progress of achieving the components of the implementation plan as contained in subdivision two of this section. In addition, such reports shall include:

(i) a current description of individuals served, and services and technical assistance provided;

(ii) employment status of persons transitioned from sheltered workshops, special education programs, day treatment centers, and day services programs into integrated employment programs, including supported employment programs and other competitive work placements;

(iii) incidence of persons in reverse transition between integrated employment programs, including supported employment programs and paid competitive work, and sheltered workshops, day treatment programs and day services programs; and

(iv) number of persons for whom employment in an integrated work setting has been requested and who are waiting for placement.

The commissioners of the office of mental health, the office for people with developmental disabilities, and the department of social services shall provide any information required to assist the commissioner in making such report.

b. The implementation plan shall be transmitted to the state's board of regents, the governor, the temporary president of the senate, the speaker of the assembly and the senate committee on finance, the assembly committee on ways and means, the senate committee on education and the assembly committee on education on or before October first, nineteen hundred ninety-three with a report on the status of the implementation plan transmitted on or before October first of each succeeding year.

§ 1005. Gifts and donations. The department is authorized to receive, accept and use gifts and donations for the purpose of this article which may be offered, conditionally or unconditionally, notwithstanding section eleven of the state finance law or any other provision of law. All money received as gifts or donations shall be paid to the commissioner of taxation and finance, who together with the state comptroller is hereby constituted and appointed the joint custodian thereof and shall constitute a special fund to be used under the direction of the department for the purpose of this article. A full report of all such gifts and donations, together with the names of the donors, the amounts contributed by each and all disbursements therefrom shall be submitted annually to the legislature as part of the report of the department.

§ 1006. Acceptance of law of the United States. The state of New York, through its legislative authority:

1. Accepts the provisions of any law of the United States making appropriation to be apportioned among the states for vocational rehabilitation of disabled persons, and accepts the provisions of any law of the United States making appropriation for apportionment or grants among the states for services for disabled persons.

2. Empowers and directs the board of regents of the university, hereby designated the New York state board for vocational education, to cooperate with such agency as the federal government shall designate to carry out the purposes of such law.

3. Appoints the commissioner of taxation and finance and the state comptroller as joint custodians of all money given to the state by the United States under the authority of such law, and such money shall be paid out in the manner provided by such act for the purposes therein specified.

§ 1007. Vocational rehabilitation records. 1. It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of any list of, or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the record, papers, files, communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties without the consent of each such applicant or recipient. Such records, papers, files and communications shall be regarded as confidential information and privileged within the meaning of section forty-five hundred four of the civil practice law and rules.

2. Wage reporting information obtained by the office of vocational and educational services for individuals with disabilities of the department from the state department of taxation and finance pursuant to the tax law shall be considered confidential and shall not be disclosed to persons or agencies other than those considered entitled to such information when such disclosure is necessary for the proper administration of the department's vocational rehabilitation program.

§ 1008. Use of appropriations. Any appropriation made to carry out the provisions of this article, in addition to any moneys allotted to the state for a similar purpose by the government of the United States may be used for the payment of salaries, travel, maintenance and operation, and other administrative expenses including the purchase of necessary office furniture, supplies, et cetera, the necessary costs for persons being evaluated for or undergoing vocational rehabilitation including tuition, fees, books and other training supplies, maintenance and traveling expenses, occupational examinations and license fees, medical, psychiatric and psychological examinations and other diagnostic and related services, tools and equipment, initial stocks and supplies, surgical fees, hospitalization, therapeutic treatment and prosthetic appliances, the establishment and construction of public and other nonprofit rehabilitation facilities to provide services for handicapped

individuals and the establishment and construction of public and other nonprofit workshops for the severely handicapped, including the furnishing of equipment or the providing of grants of funds to such public and other nonprofit rehabilitation facilities and workshops to be utilized for the acquisition of equipment, supplies, personnel and other necessary and proper items to be utilized in such facilities.

§ 1009. Powers and duties of department of social services relating to vocational rehabilitation of blind persons. 1. The board of social services, the department of social services and the New York state commission for the visually handicapped shall retain, and shall continue to exercise, all the powers and duties relating to blind persons conferred on them by the provisions of any other law.

2. The department of social services is empowered to perform any and all acts that may be required to be performed by it by any law of the United States in order to obtain funds through the New York state board for vocational education, or otherwise, from any federal department or agency, for use in the vocational rehabilitation of blind persons; such department is further empowered to use and expend such funds for the purpose herein mentioned in accordance with the provisions of any law of the United States making such funds available to the state.

3. (a) Notwithstanding any inconsistent provision of this article, funds made available to the state by the United States to be used for vocational rehabilitation of blind persons shall be accepted and used by the state for such purposes provided the department of social services shall determine to accept and to use the same in accordance with the provisions of any law of the United States.

(b) Provided the federal government shall make funds available, the department of social services and its commission for the visually handicapped are empowered to accept gifts for the extension and improvement of non-profit facilities and workshops for the training and rehabilitation of blind persons, and to match the value of such gifts made to such department or commission for such purposes by or on behalf of such non-profit facilities or workshops. The department may utilize

such federal funds and gifts for such purposes and may make appropriate agreements therefor with suitable non-profit agencies serving the blind.

ARTICLE 23

CAREER EDUCATION IN COUNTIES

PART I

VOCATIONAL EDUCATION AND EXTENSION BOARDS

Section 1101. Establishment of county vocational education and extension boards.
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1103. Courses of study and qualifications of teachers.
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1105. Exemption of certain districts.
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PART II

COUNTY COMMISSION FOR SPECIAL EDUCATION IN WESTCHESTER COUNTY

Section 1110. Establishment of a special education district.
1111. Powers and duties of county commission for special education.
1112. Courses of study and qualifications of teachers.
1113. State aid.
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PART I

VOCATIONAL EDUCATION AND EXTENSION BOARDS

§ 1101. Establishment of county vocational education and extension boards.

1. The board of supervisors or other governing elective body of any county may adopt a resolution by a majority vote of the members of the board establishing a county vocational education and extension board for the purpose of giving instruction in agriculture and home economics and such other special subjects as may be approved by the commissioner of education.

2. Upon the adoption of the resolution as provided in the preceding subdivision the board of supervisors or other governing elective body shall appoint a board which shall be known as "The Vocational Education and Extension Board of the County of ..... " (insert here the name of the county). Such board shall consist of nine members who shall serve for a period of nine years each except that members first appointed shall be appointed for such terms that the term of one member will expire each year, and their successors shall thereafter each be appointed for a full term of nine years respectively. At least three members of this board shall be appointed upon recommendations made by the farm and home bureau associations of the county and at least three members upon recommendations made by the district superintendents of the county. Vacancies occurring in such office shall be filled by the board of supervisors or other governing elective body for the unexpired term.

3. The fiscal year of the vocational education and extension board of each county shall begin on July first and end on June thirtieth.

4. A county vocational education and extension board established pursuant to this section is hereby created a body corporate. All property which is now vested in, or shall hereafter be transferred to, a county vocational education and extension board shall be held by it as a corporation.

§ 1102. Powers and duties of vocational education and extension boards. A vocational education and extension board shall, subject to the provisions of part one of this article, have the following powers and duties:

1. It may make or cause to be made a survey to determine the career education and extension needs of the county.

2. It may make and establish and from time to time alter and amend rules and regulations for the transaction of its business and for the administration of the work under its charge.

3. It shall have full power and authority to employ supervisors and teachers and all other persons necessary to carry on career education and extension work and to determine the salaries to be paid. Members of the teaching and supervisory staff shall be appointed by a majority vote of the vocational education and extension board upon recommendation of the director for a probationary period not to exceed three years except that no recommendation shall require for the appointment of a director of career education. Services of members of the teaching and supervisory staff so employed may be discontinued at any time during the probationary period, upon the recommendation of the director, by majority action of such board. On or before the expiration of the probationary period such board, upon recommendation of the director, may appoint on tenure those persons who have been found competent, efficient and satisfactory. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of this chapter: (a) insubordination, immoral character or conduct unbecoming a teacher; (b) inefficiency, incompetency, physical or mental disability or neglect of duty.

4. It shall make an annual report in writing to the regents of The University of the State of New York and to the board of supervisors or other governing elective body on or before the first day of October. It shall also make such other reports as may be required by the commissioner of education or by the board of supervisors or other governing elective body.

5. It may appoint any advisory committees deemed necessary.

6. It shall cooperate with existing public agencies in conducting career education and extension work in the county.

7. It shall have such other powers and shall perform such other duties as may be necessary to carry into effect the purposes of part one of this article.

8. It may request the board of supervisors to contribute the use of or lease land, buildings and other facilities to it, and to contribute to the cost of operating and maintaining the program of the county vocational education and extension board, and a board of supervisors shall have power to make appropriations toward such cost and to contribute the use of or lease land, buildings, and other facilities to it.

9. It shall appoint one of its members as president, one of its members or another qualified school district voter in the county as clerk and another qualified school district voter in the county as treasurer. All moneys accruing or appropriated to the board shall be paid to the treasurer of the board. The clerk and treasurer may be paid such compensation as may be fixed by the board. The treasurer shall furnish a surety bond of a surety company authorized to do business in the state of New York. The form and amount of such bond shall be approved by the board and the cost thereof shall be a charge against the funds of said board.

10. It shall designate a bank or banks for the deposit of money. Such designation shall be made of a bank within the county unless no bank exists in the county. It shall notify the treasurer of all bank designations and require him to deposit all money in such designated banks. Accruing funds, balances, resources and assets shall become the property of any succeeding agency or, in the event of termination of the program of shared services, such accruing funds, balances, resources and assets shall be prorated among the districts having been served during the last year of operation and the county in proportion to the amount which each paid to the vocational education and extension board.

11. All accounting procedures shall be in accordance with regulations that apply to union free school districts.

12. It shall have the authority to make contracts with the school authorities of school districts within the county, or without the county where such contract will result in no additional expense being incurred by such county, for services to be rendered by it to such school districts, and such school authorities shall have the authority to enter into such contracts. Payments shall be made by the school districts at least as often as quarterly. Any amount so paid to the board by a school district shall not be included in computing the apportionment of state aid to such district.

13. It may transport pupils under twenty-one years of age to and from schools and classes maintained by such vocational education and extension board for instruction in career education. In providing such transportation, the board may transport pupils residing outside the county who are attending such schools and classes maintained by such board pursuant to subdivision twelve of this section.

14. It may purchase and maintain a motor vehicle or vehicles to be used for the transportation of school children under twenty-one years of age to schools and classes maintained by the county vocational education and extension board. Such motor vehicle or vehicles may be leased to a school district when not needed for such transportation. When such motor vehicle shall be leased as provided in this subdivision, public liability and property damage insurance, fire insurance and compensation insurance of drivers shall be provided in the amount stated in section thirty-six hundred twenty-seven of this chapter and collision insurance shall be provided in the amount of value of the vehicle to protect the lessor. No part of the cost and expenses resulting from operation, maintenance and repair of such vehicles during the leasing thereof shall be included in determining the amount of any form of state aid received by such county vocational education and extension board.

15. It may lease land, buildings, and other facilities as may be necessary to carry into effect the purposes of part one of this article.

§ 1103. Courses of study and qualifications of teachers. The courses of instruction to accomplish the purposes of part one of this article are to be approved by the commissioner of education. Such courses when conducted in elementary or secondary schools are to be approved by the superintendent in whose jurisdiction such instruction is given. The qualifications of the teachers, directors, assistants and supervisors employed by a vocational education and extension board must conform to the regulations of the regents of the university and the commissioner of education.

§ 1104. State aid. 1. The commissioner of education in the annual apportionment of public moneys shall apportion therefrom to each county maintaining approved vocational education and extension work, a quota amounting to one-half of the salary paid each teacher, director, assistant, and supervisor, but not to exceed ten thousand five hundred dollars on account of the employment of such teacher, director, assistant or supervisor.

2. Notwithstanding the provisions of subdivision one of this section or chapters fifty-three and three hundred ninety-one of the laws of nineteen hundred eighty-nine or any other provision of law to the contrary, aid payable to county vocational education and extension boards in the spring of nineteen hundred ninety shall be reduced by an amount equal to the amount that would have been paid pursuant to section five hundred twenty-one of this chapter to the New York state teachers' retirement system on behalf of such board.

§ 1105. Exemption of certain districts. Upon the recommendation of the county vocational education and extension board, the board of supervisors or other governing elective body of any county may exempt any city or union free school district from the raising of moneys for the purpose of paying the cost of operating and maintaining the program of the county vocational education and extension board.

§ 1106. Transportation. 1. In a county which has a vocational education and extension board which does not furnish transportation to pupils pursuant to subdivision thirteen of section eleven hundred two of this chapter the cost of the transportation of pupils under twenty-one years of age to schools and classes maintained by such county vocational education and extension board shall be a charge upon the district in which such pupils reside, or are attending as non-resident pupils. Such transportation shall be considered as other transportation of school pupils in accordance with the provisions of part two of article seventy-three of the education law and the district of residence, or the district in which non-resident pupils are attending, shall be entitled to a transportation quota.

2. In a county which has a vocational education and extension board which furnishes transportation to pupils pursuant to subdivision thirteen of section eleven hundred two of this chapter, such vocational education and extension board shall receive a transportation quota which shall be one-half of the cost of the transportation of pupils under twenty-one years of age to schools and classes maintained by such vocational education and extension board.

§ 1107. County bonds for land and buildings. A county vocational education and extension board established by a board of supervisors pursuant to the provisions of part one of this article shall be deemed to be a department of the county for the purposes of this section, and the board of supervisors of such county may acquire land, construct buildings and other facilities for the use of the vocational education and extension board of the county and shall have the power to expend moneys for and make appropriations to pay the cost thereof and to finance the cost thereof pursuant to the local finance law.

PART II

COUNTY COMMISSION FOR SPECIAL EDUCATION IN WESTCHESTER COUNTY

§ 1110. Establishment of a special education district.

1. The board of supervisors or other governing elective body of Westchester county shall have power to adopt a resolution by a majority vote of the members of such board to establish within the county a special education district which shall include all the territory within the county. A city school district in such county having a population of fifty thousand or more inhabitants shall be excluded from such special education district provided the board of education of such city shall adopt a resolution requesting that such city school district be so excluded and file such resolution with the board of supervisors or other governing elective body within sixty days after the establishment of such special education district. With the approval of the county commission for special education to be appointed as hereinafter provided, a city school district so excluded may later become a part of such special education district upon the written application by the board of education of such city school district.

2. Upon the establishment of such special education district the board of supervisors or other governing elective body shall appoint a board which shall be known as the county commission for special education. Such commission shall consist of five members who shall serve for a period of five years each, except that members first appointed shall be appointed for such terms that the term of one member will expire each year, and their successors shall thereafter each be appointed for a full term of five years, respectively. Vacancies occurring in such office shall be filled by the board of supervisors or other governing elective body for the unexpired term.

3. Members of such commission shall serve without compensation except their actual and necessary travelling expenses incurred in the performance of their official duties.

§ 1111. Powers and duties of county commission for special education.

The county commission for special education shall have power:

1. To make or cause to be made a survey to determine the special educational needs of the district.

2. To establish schools or classes for physically handicapped children and to provide other necessary educational services, including transportation and home teaching.

3. To establish and maintain vocational schools and classes for the purpose of providing instruction in agricultural, industrial, commercial, technical and home making subjects.

4. To provide vocational and educational guidance service.

5. To establish such other special educational services as may meet the approval of the commissioner of education.

6. To employ a director of special education, who shall be the executive officer and secretary of the commission, and upon the recommendation of such director to employ directors, supervisors and teachers and all other persons necessary to carry on such special education projects as it may establish, and to determine the salaries to be paid.

7. To purchase, lease, rent, improve or sell land, and build, repair, improve, lease, rent, buy and sell buildings.

8. To acquire real property by condemnation for the purposes of such special education district. Such condemnation proceedings shall be instituted and conducted by such commission in the name of the district, under the provisions of the statutes relating to the condemnation of real property.

9. To purchase all necessary furniture, implements, books, materials, equipment and supplies.

10. To make contracts with cities, villages, school districts or other agencies for carrying out the purposes of part two of this article.

11. To appoint advisory committees.

12. To make and establish, and from time to time alter and amend, rules and regulations for the transaction of its business and for the administration of the work under its charge.

13. It shall be the duty of the commission to make an itemized estimate of the money needed for the ensuing year for the purposes of part two of this article and file the same with the clerk of the board of supervisors or other governing elective body at least sixty days before the annual meeting of such board.

14. It shall be the duty of the commission to make an annual report in writing to the regents of The University of the State of New York and to the board of supervisors or other governing elective body on or before the first day of October in each year. It shall also be its duty to make such other reports as may be required by the commissioner of education and by such board or body.

15. It shall have such other powers and shall perform such other duties as may be necessary to carry into effect the purposes of part two of this article.

16. It shall not incur liabilities against county funds in excess of the amounts appropriated by the board of supervisors or other governing elective body.

§ 1112. Courses of study and qualifications of teachers. The courses of instruction to accomplish the purposes of part two of this article are to be approved by the commissioner of education. The qualifications of the teachers, directors, assistants and supervisors employed by the county commission for special education must conform to the regulations of the regents of the university and the commissioner of education.

§ 1113. State aid. The commissioner of education in the annual apportionment of public moneys shall apportion therefrom to such county the quotas provided in section eleven hundred four of this chapter.

§ 1114. Appropriations by board of supervisors. The board of supervisors or other governing elective body may make appropriations and levy taxes upon all the taxable property included within the boundaries of the special education district to carry out the purposes of part two of this article, and such taxes shall be assessed, levied and collected at the same time and in the same manner as county taxes are assessed, levied and collected within the boundaries of such special education district.

§ 1115. Indebtedness of special education district. For the purpose of giving effect to the provisions of part two of this article the board of supervisors or other governing elective body of such county may issue obligations of the county pursuant to the provisions of the local finance law, which obligations shall be a charge upon the special education district. Whenever at the time of its enlargement the special education district shall have an outstanding bonded indebtedness, such outstanding indebtedness shall become a charge against the enlarged district.

§ 1116. County treasurer to act as treasurer of the county commission for special education. All moneys collected from taxes levied in accordance with the provisions of part two of this article and all moneys apportioned by the commissioner of education, and any and all moneys received from any and all sources whatsoever for carrying out the provisions of part two of this article, shall be paid to the county treasurer. Such funds shall be disbursed by such county treasurer upon audit by the special education commission.

ARTICLE 23-A

SERVICE CENTERS FOR INDEPENDENT LIVING

Section 1120. Declaration of intent.
1121. Service centers for independent living; purpose and duties.
1122. Education department; responsibilities.
1123. Regulations.
1124. Distribution of funds.

§ 1120. Declaration of intent. Persons with disabilities comprise a large percentage of New York's total population. The legislature hereby finds and declares that action is necessary to assist these individuals to integrate and live more independently in the community. Since their inception, service centers for independent living have enhanced the ability of persons with disabilities to pursue an independent and active lifestyle within their community. In order to achieve this, it is necessary for the state to provide funding to maintain existing service centers designed to promote independent living and to encourage the establishment of new centers. In addition, the office of vocational rehabilitation should have the responsibility and authority for the encouragement of the planning, development, funding, evaluation and monitoring of such service centers.

§ 1121. Service centers for independent living; purpose and duties. 1. A service center for independent living shall be a community based non-residential program designed to promote independent living for persons with disabilities.

(a) Such center shall:

(i) be a private not-for-profit corporation, pursuant to subdivision five of paragraph a of section one hundred two of the not-for-profit corporation law; provided, however, that persons with disabilities comprise at least fifty-one percent of the membership of the board of directors;

(ii) be staffed by persons experienced in assisting persons with

disabilities;

(iii) provide services designed to meet the needs of persons with disabilities, including such services as assisting persons with disabilities to obtain housing, employment referral, transportation referral, attendant care, independent living skills, peer counseling, advocacy services, job training, health care, homemaker services, and other such services as approved by the commissioner;

(iv) train personnel for the purpose of attendant care in assisting and serving persons with disabilities; and

(v) serve persons with disabilities.

(b) Such center may also, but need not limit itself to, provide disability awareness programs, peer counseling, role modeling and any other appropriate services within elementary and secondary schools.

2. Such service centers shall not be established or operated as a residential or housing facility.

3. Such service centers shall make maximum use of existing resources available to persons with disabilities and shall not duplicate any existing services or programs, to the extent that such services or programs are available through other state sources to meet the needs of persons with disabilities. Such centers shall however provide necessary information and referral to assist a person with a disability in obtaining such services and coordinate where possible the delivery of such services to persons with disabilities.

4. Such service centers shall be in compliance with all applicable local laws and ordinances.

§ 1122. Education department; responsibilities. The department shall assist individuals and organizations in the planning and establishment of such service centers. The department shall ensure program accountability and shall monitor and evaluate such centers.

§ 1123. Regulations. The commissioner shall promulgate rules and

regulations necessary for the implementation of this article.

§ 1124. Distribution of funds. 1. Service centers for independent living shall be funded out of appropriations available for such purposes to the extent of the entire approved budget of such centers.

2. Budgets submitted by service centers shall be approved in accordance with regulations of the commissioner, subject to approval of the director of the budget.

3. Service centers shall be located in the cities of Albany, Buffalo, Rochester, Syracuse, Utica, White Plains, Binghamton, Kingston, Poughkeepsie, Jamestown, Yonkers, the counties of Queens, Kings, Nassau, Bronx, Richmond, New York and Suffolk.

4. Additional service centers shall be located in the cities of Niagara Falls, Olean, Troy, Amsterdam, Newburgh, Corning, Ithaca, Cortland, Auburn, Watertown, Plattsburgh, Batavia, Massena and Glens Falls, the counties of Delaware and Rockland, the county of Orange, in either the city of Middletown or Port Jervis or in the town of Deerpark, Greenville, Mount Hope, Warwick or Wawayanda or in the village of Goshen, in the county of New York to serve the Harlem community, and in the counties of Putnam, Sullivan and Herkimer.

ARTICLE 23-B

CHILD ABUSE IN AN EDUCATIONAL SETTING

Section 1125. Definitions.

1126. Duties of employees specifically enumerated in this section upon receipt of an allegation of child abuse in an educational setting.

1127. Confidentiality of records.

1128. Duties of school administrators and superintendents upon receipt of a written report alleging child abuse in an educational setting.

1128-a. Additional duties of school administrators and

superintendents.
1129. Penalties for failure to comply.
1130. Notification by district attorney.
1131. Actions upon criminal conviction of a licensed or certified school employee.
1132. Duties of the commissioner; child abuse in an educational setting.
1133. Unreported resignation against public policy.
1134. Reporting to the vulnerable persons' central register and the statewide central register of child abuse and maltreatment.

§ 1125. Definitions. For the purposes of this article the following terms shall have the following meanings:

1. "Child abuse" shall mean any of the following acts committed in an educational setting by an employee or volunteer against a child: (a) intentionally or recklessly inflicting physical injury, serious physical injury or death, or (b) intentionally or recklessly engaging in conduct which creates a substantial risk of such physical injury, serious physical injury or death, or (c) any child sexual abuse as defined in this section, or (d) the commission or attempted commission against a child of the crime of disseminating indecent materials to minors pursuant to article two hundred thirty-five of the penal law, or (e) using corporal punishment as defined by the commissioner.

2. "Child" shall mean a person under the age of twenty-one years enrolled in a school.

3. "Employee" shall mean any person: (i) who is receiving compensation from a school or (ii) whose duties involve direct student contact and (a) who is receiving compensation from any person or entity that contracts with a school to provide transportation services to children, or (b) who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, and

consistent with the provisions of such title for the provision of services to such school, its students or employees, directly or through contract.

4. "Volunteer" shall mean any person, other than an employee, who has direct student contact and: (i) provides services to a school, or (ii) provides services to any person or entity that contracts with a school to provide transportation services to children.

5. "Educational setting" shall mean the building and grounds of a school, the vehicles provided directly or by contract by the school for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off school grounds, all co-curricular and extra-curricular activity sites, and any other location where direct contact between an employee or volunteer and a child has allegedly occurred.

6. "Administrator" or "school administrator" shall mean a principal, or the equivalent title, in a school, or other chief school officer.

7. "Law enforcement authorities" shall mean a municipal police department, sheriff's department, the division of state police or any officer thereof. Notwithstanding any other provision of law, law enforcement authorities shall not include any child protective service or any society for the prevention of cruelty to children as such terms are defined in section four hundred twenty-three of the social services law.

8. "Parent" shall mean either or both of a child's parents or other persons legally responsible for the child.

9. "Child sexual abuse" shall mean conduct prohibited by article one hundred thirty or two hundred sixty-three of the penal law.

10. "School" shall include a school district, public school, charter school, nonpublic school, board of cooperative educational services, special act school district as defined in section four thousand one of

this chapter, approved preschool special education program pursuant to section forty-four hundred ten of this chapter, approved private residential or non-residential school for the education of students with disabilities including private schools established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, or state-operated or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of this chapter.

§ 1126. Duties of employees specifically enumerated in this section upon receipt of an allegation of child abuse in an educational setting. 1. In any case where an oral or written allegation is made to a teacher, school nurse, school guidance counselor, school psychologist, school social worker, school administrator, school board member or other school personnel required to hold a teaching or administrative license or certificate, as well as a licensed and registered physical therapist, licensed and registered occupational therapist, licensed and registered speech-language pathologist, teacher aide or school resource officer, that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such person shall upon receipt of such allegation:

(a) promptly complete a written report of such allegation including the full name of the child alleged to be abused; the name of the child's parent; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. Such written report shall be upon a form as prescribed in section eleven hundred thirty-two of this article.

(b) except where the school administrator is the person receiving such oral or written allegation, promptly personally deliver a copy of such written report to the school administrator of the school in which the child abuse allegedly occurred.

1-a. (i) In any case where an oral or written allegation is made to a school bus driver employed by a school or a person or entity that contracts with a school to provide transportation services to children

that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such driver shall upon receipt of such allegation, promptly report or cause a report to be made to his or her supervisor employed by such school or contracting person or entity.

(ii) In any case where an oral or written report or allegation is made to a supervisor who is employed by a school or a person or entity that contracts with a school to provide transportation services to children from a person employed by the school or the contracted person or entity, that a child in such school has been subjected to child abuse by an employee or volunteer in an educational setting, such supervisor shall upon receipt of such allegation promptly complete a written report of such allegation including the full name of the child alleged to be abused; the name of the child's parent or guardian; the identity of the person making the allegation and their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. Such written report shall be upon a form as prescribed in section eleven hundred thirty-two of this article, and shall be personally delivered to the school district superintendent employed by the school district where the child abuse occurred or, for a school other than a school district or public school, the school administrator employed by the school where the child abuse occurred.

2. In any case where it is alleged that a child was abused by an employee or volunteer of a school other than a school within the school district of the child's attendance, the report of such allegations shall be promptly forwarded to the superintendent of schools of the school district of the child's attendance and the school district where the abuse allegedly occurred, whereupon both school superintendents shall comply with sections eleven hundred twenty-eight and eleven hundred twenty-eight-a of this article. If such case involves a school that is not a school district or public school, the appropriate school administrator or administrators, in addition to any appropriate superintendent of schools, shall be notified whereupon all such individuals shall comply with sections eleven hundred twenty-eight and eleven hundred twenty-eight-a of this article.

3. Any employee, volunteer, or supervisor who is employed by a person or entity that contracts with a school to provide transportation services to children who reasonably and in good faith makes a report of allegations of child abuse in an educational setting to a person and in a manner described in this section shall have immunity from civil liability which might otherwise result by reason of such actions.

4. In any case where the employee against whom the allegation is made is the superintendent or the administrator, the report of such allegations shall be made to another administrator designated by the school.

§ 1127. Confidentiality of records. Reports and other written material submitted pursuant to this article, and photographs taken concerning such reports in the possession of any person authorized to receive such information, pursuant to this article, shall be confidential and shall not be redisclosed except to law enforcement authorities involved in an investigation of child abuse in an educational setting or as expressly authorized by law or pursuant to a court-ordered subpoena. A school administrator or a school superintendent shall exercise reasonable care in preventing such unauthorized disclosure. Willful disclosure of a written record required to be kept confidential pursuant to this section to a person not authorized to receive or review such record is a class A misdemeanor.

§ 1128. Duties of school administrators and superintendents upon receipt of a written report alleging child abuse in an educational setting. Upon receipt of a written report described in paragraph (a) of subdivision one or subdivision one-a of section eleven hundred twenty-six of this article alleging that a child has been abused in an educational setting, a school administrator or superintendent shall where there is a reasonable suspicion to believe that an act of child abuse has occurred:

1. Where the subject child has made the allegation: (a) promptly

notify the parent of such child that an allegation of child abuse in an educational setting has been made regarding such child and promptly provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

2. Where a parent of the child has made the allegation: (a) promptly provide the parent of such child with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (c) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

3. Where a person other than the subject child or the parent of a subject child has made the allegation: (a) promptly notify the parent of the subject child that an allegation of child abuse in an educational setting has been made regarding his or her child and promptly provide the parent with a written statement prepared pursuant to regulations of the commissioner setting forth parental rights, responsibilities and procedures under this article; (b) ascertain from the person making such report the source and basis for such allegation; (c) where a school administrator receives a written report, promptly provide a copy of such report to the superintendent; and (d) promptly forward such report to appropriate law enforcement authorities. In no event shall reporting to law enforcement be delayed by reason of an inability to contact the superintendent.

4. Any school administrator or superintendent who reasonably and in good faith makes a report of allegations of child abuse in an

educational setting or reasonably and in good faith transmits such a report to a person or agency as required by this article and in a manner described in section eleven hundred twenty-six of this article and this section shall have immunity from civil liability which might otherwise result by reason of such actions.

§ 1128-a. Additional duties of school administrators and superintendents.

1. Where a superintendent of schools or, in a school other than a school district or public school, the school administrator forwards to law enforcement a report as described in paragraph (a) of subdivision one or subdivision one-a of section eleven hundred twenty-six of this article, he or she shall refer such report to the commissioner where the employee or volunteer alleged to have committed an act of child abuse as defined in this article holds a certification or license issued by the department.

2. A report which is made pursuant to this article and does not, after investigation, result in a criminal conviction shall be expunged from any record which may be kept by a school or school district with respect to the subject of such a report after a period of five years from the date of the making of such report or at such earlier time as such school, or school district, as the case may be, determines.

§ 1129. Penalties for failure to comply. 1. Willful failure of an employee to prepare and submit a written report of an allegation of child abuse as required by this article shall be a class A misdemeanor.

2. (a) Willful failure of a school administrator or superintendent to submit a written report of child abuse to an appropriate law enforcement authority, as required by this article, shall be a class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subdivision, any failure to submit a written report of child abuse to an appropriate law enforcement authority as required by this article, shall be punishable by a civil

penalty not to exceed five thousand dollars upon an administrative determination by the commissioner.

§ 1130. Notification by district attorney. Where a criminal investigation of an allegation of child abuse by an employee or volunteer is undertaken in response to a report forwarded by a school administrator or superintendent to law enforcement authorities pursuant to section eleven hundred twenty-eight of this article, and where law enforcement authorities have provided such report to the district attorney and have requested assistance, as soon as practicable, it shall be the responsibility of the district attorney to notify the superintendent of schools of the district where the acts of child abuse allegedly occurred and of the school district where the child is attending, if different, of an indictment or the filing of an accusatory instrument against the employee or volunteer against whom an allegation of child abuse in an educational setting was made. The district attorney shall notify the superintendent of schools of the district where the acts of child abuse allegedly occurred and of the school district, if different, where the child is attending of the disposition of the criminal case against such employee or volunteer or the suspension or termination of the criminal investigation of such employee or volunteer. The aforementioned notifications to the superintendent of schools shall be made to the appropriate school administrator where the acts of child abuse allegedly occurred in a school other than a school district or public school.

§ 1131. Actions upon criminal conviction of a licensed or certified school employee. 1. In the event that a licensed or certified school employee against whom an allegation of child abuse in an educational setting has been made, is convicted of any crime involving child abuse in an educational setting, the district attorney shall provide notice thereof to the commissioner and the superintendent of schools of the district or, in a school other than a school district or public school, the school administrator where the acts of child abuse occurred and to the school where the child is attending, if different.

2. Upon receiving notice of a conviction from a district attorney pursuant to subdivision one of this section, the commissioner shall, without delay, proceed to determine whether the individual possesses good moral character, in accordance with the regulations of the commissioner governing such a determination.

3. Nothing in this article shall be construed as creating any authority to take an adverse action against an employee or volunteer by virtue of a report pursuant to this article which has not been substantiated.

4. An employee or volunteer who has adverse action taken against him or her by virtue of or in connection with any report made pursuant to this article shall be entitled to receive a copy of such report and respond to the allegations of child abuse made therein. Any employee or volunteer shall, in addition, be entitled to seek disclosure of such report pursuant to article six of the public officers law.

§ 1132. Duties of the commissioner; child abuse in an educational setting. 1. The commissioner shall prepare a form for the recording and transmitting of allegations of child abuse in an educational setting. Such form shall include: (i) all definitions set out in section eleven hundred twenty-five of this article; and (ii) adequate space for the inclusion of any other information which the person making or filing the report believes would be helpful in describing or explaining the circumstances surrounding an allegation of child abuse in an educational setting in accordance with the provisions of this article.

2. The commissioner shall promulgate rules and regulations for training necessary for the implementation of this article provided all employees specifically described in section eleven hundred twenty-six of this article shall be required to complete training pursuant to such rules and regulations. Such training shall include, at a minimum, information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out

in sections four hundred thirteen, four hundred fourteen, four hundred fifteen, four hundred sixteen, four hundred seventeen, four hundred eighteen, four hundred nineteen and four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report.

3. All persons employed on or after July first, two thousand nineteen by a school, other than a school district or public school, in titles equivalent to a teacher or administrator as defined in the regulations of the commissioner, and any school bus driver employed by a school or any person or entity that contracts with a school to provide transportation services to children shall be required to complete two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider that has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each employee in such titles shall provide the school administrator of the school with documentation showing that he or she completed the required training. In addition, each school bus driver shall provide such school or contracting person or entity with documentation showing that he or she completed the required training. The department shall be authorized to request such records on a periodic basis and may publish a list of any persons or schools who are not in compliance with this subdivision on its website.

4. The coursework or training required by this section shall not apply to those persons already required to undergo coursework or training regarding the identification and reporting of child abuse and

maltreatment pursuant to sections three thousand three and three thousand four of this chapter.

§ 1133. Unreported resignation against public policy. 1. A school administrator or superintendent shall not make any agreement to withhold from law enforcement authorities, the superintendent or the commissioner, where appropriate, the fact that an allegation of child abuse in an educational setting on the part of any employee or volunteer as required by this article in return for the resignation or voluntary suspension from his or her position of such person, against whom the allegation is made.

2. Each violation of subdivision one of this section shall constitute a class E felony, and shall also be punishable by a civil penalty not to exceed twenty thousand dollars.

3. Any superintendent of schools or school administrator who reasonably and in good faith reports to law enforcement officials information regarding allegations of child abuse or a resignation as required by this article shall have immunity from any liability, civil or criminal, which might otherwise result by reason of such actions.

§ 1134. Reporting to the vulnerable persons' central register and the statewide central register of child abuse and maltreatment. Where a person employed by a school is required to report an incident of child abuse in an educational setting to the vulnerable persons' central register pursuant to article eleven of the social services law or the statewide central register of child abuse and maltreatment pursuant to article six of the social services law and he or she reports such incident thereto, such person shall have been deemed to have complied with the reporting requirements of this article.

ARTICLE 24
NEW YORK STATE RURAL EDUCATION PROGRAM ACT

Section 1201. Short title.
1202. Legislative findings and intent.
1203. Definitions.
1204. New York state center for rural schools established.
1205. Rural education advisory committee established.
1206. Contract authority.
1207. Functions, powers and duties of other state agencies.

§ 1201. Short title. This article shall be known and may be cited as the "New York state rural education program act".

§ 1202. Legislative findings and intent. The legislature hereby finds, determines and declares that:

1. Rural education is a critical factor and dominant force in stimulating and maintaining socioeconomic development, economic viability, social activity and cultural enrichment in rural regions of New York state. Rural schools fill an integral role as centers of the community and as a bridge for youth to connect with the broader society in fulfilling their dreams and ambitions;

2. Rural areas account for more than half of the school systems, boards of cooperative education services and colleges in the state;

3. Rural areas have unique conditions and circumstances which require special consideration in the development and assessment of state policy, including: (a) that rural areas contain many of the low-wealth, low-spending school districts in the state; (b) that average incomes of rural residents are lower than statewide norms; and (c) that per pupil expenditures in rural schools are more than fifteen percent below the statewide average;

4. Weaknesses exist in rural education inasmuch as rural schools have difficulty attracting and retaining highly trained teachers and administrators, teachers are spread thinly over several subject areas;

5. A limited knowledge base on small rural educational organizations and lack of a systematic research agenda for rural schools limit the potential for development of cohesive state policy for educational services in rural New York;

6. The establishment of a program on rural education would enhance the capacity of policy makers within state government: (a) to better understand the inefficiencies and needs of the state's rural education systems; (b) to assess the impact of existing and proposed government mandates on rural areas; (c) to promote innovation, flexibility and investment to ensure that rural residents have equitable access to and receive quality educational services and opportunities; and (d) to promote the long-term goal of improving the economic and social well-being of rural communities as a direct result of improving rural school performance.

§ 1203. Definitions. For the purposes of this article:

1. "Center" shall mean the New York state center for rural schools;

2. "Committee" shall mean the rural education advisory committee, established pursuant to the provisions of this article; and

3. "Rural area" shall mean any county with less than two hundred thousand population, or any town which has a population of less than one hundred fifty persons per square mile.

§ 1204. New York state center for rural schools established. 1. Subject to the availability of funds appropriated, allocated or otherwise supplied from any other public or private source, the New York state center for rural schools is hereby established in order to provide a state-level focus and forum for conducting and disseminating specific research and for developing policy recommendations targeted toward the improvement of the effectiveness and efficiency of educational services

delivery and opportunities in rural New York. Such center shall be established within the college of agriculture and life sciences at Cornell University, and function cooperatively with the rural education advisory committee established pursuant to the provisions of this article.

2. The center, in cooperation with the committee, shall:

(a) Promote awareness of special educational needs and conditions in rural areas;

(b) Promote assessment and analysis of such factors and variables impacting the quality of rural education as:

(i) Existing statutory and regulatory measures;

(ii) Current levels of federal, state and local support, in relation to the financial capacity of school districts to maintain required educational services;

(iii) Academic and occupational-training opportunities and program offerings, including those which may serve the physically challenged;

(iv) Access to state of the art technology in instruction, including telecommunications equipment and microcomputers;

(v) Academic and occupational training performance testing and standards;

(vi) Staffing, including salary levels, recruitment and retention incentives, and advanced training prospects;

(vii) Career guidance, counseling and placement services;

(viii) Capacity of school districts to engage in strategic and long-range planning;

(ix) Physical condition of existing facilities, inventories and infrastructure;

(x) Transportation, including services rendered pursuant to chapter five hundred ninety-eight of the laws of nineteen hundred eighty-nine; chapter eight hundred ninety-five of the laws of nineteen hundred eighty-six as amended;

(xi) Geographic sparsity and isolation, particularly in terms of travel distances for pupils and access to community resources;

(xii) Availability and integration of community support services; and

(xiii) Alternatives to reorganization for necessarily small school districts;

(c) Maintain an informational repository/clearinghouse of data and research results including innovative and cost-effective approaches in rural education, and disseminate research findings, information, materials and best practices;

(d) Encourage cost-effective, integrated services that address special needs and conditions in rural areas through joint efforts among private and public institutions and agencies, including but not limited to colleges, community action agencies, social services agencies, health agencies, employment and training agencies;

(e) Promote training and technical assistance for rural school district officials and employees in the use of cost-effective instructional and administrative practices;

(f) Foster demonstration projects and development of alternative models to enhance the delivery of academic and occupational-training services and programs specific to rural areas;

(g) Identify opportunities to advance equity in access and quality of educational and job skills training for residents of rural areas, including such special target or "at risk" populations as:

(1) illiterate adults,

(2) single mothers,

(3) individuals in poverty,

(4) substance abusers, and

(5) youthful offenders;

(h) Have the authority to accept and receive any grants, awards or other funds or appropriations as may be made available to the center and committee to effect the purposes of this article.

§ 1205. Rural education advisory committee established. 1. Subject to the availability of funds appropriated, allocated or otherwise supplied from any other public or private source for the purposes of implementing the provisions of this article, a rural education advisory committee is hereby established. Such committee shall be comprised of nine members, to be appointed as follows: one by the temporary president of the senate, one by the speaker of the assembly, one by the governor, and one by the dean of the college of agriculture and life sciences at Cornell University. The remaining five members, one of whom shall be a certified

teacher who has experience teaching in a rural school district, shall be appointed by the commissioner. The commissioner, or his or her designee, shall serve as chairperson of the committee. Membership on the committee shall be:

(a) reflective of the diversity of the state's rural population and geographic areas, and;

(b) reflective of the diversity of practical knowledge and interests in the broad range of rural educational sectors, including but not limited to, primary, secondary and post-secondary educators and administrators who have experience in a rural school district, community human service providers, the business community, and the general public.

2. The chairperson may invite individuals to assist or to serve as technical advisors to the committee in the exercise of its powers and duties, as provided in this section.

3. The terms of office of the appointed members of the committee shall be for four years. Any vacancy occurring in the appointed membership of the committee shall be filled within one year by the same authority responsible for the initial appointment of such member.

4. The committee shall meet at least twice yearly, and at such additional times as may be determined by the chairperson.

5. Members of the committee shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

6. In the exercise of its powers and duties, the committee shall:

(a) Work with the center in developing priorities for targeted research regarding rural education in New York;

(b) Facilitate the development of policy recommendations which may enhance access to, as well as the quality and productivity of, educational programs and practices in rural areas;

(c) Participate in the review and authorization of demonstration projects and the development of alternative models for improved and potentially more cost-effective educational activities and programs;

(d) Promote community and school involvement and collaboration in the development and implementation of policies and activities undertaken pursuant to this article; and

(e) Prepare an annual report, as well as special focus reports which may result from specific research and other activities conducted in accordance with this article.

§ 1206. Contract authority. The center, after consultation with the committee, is hereby empowered to enter into any agreement or contract with any private or public agencies, corporations, or individuals necessary or convenient to carry out the provisions of this article.

§ 1207. Functions, powers and duties of other state agencies. Nothing contained in this article shall be deemed to derogate or detract in any way from the functions, powers or duties prescribed by law of any agency or department of the state or to interrupt or preclude the direct relationship of any such department or agency with local agencies, individuals or corporations for the carrying out of such functions, powers and duties.

TITLE II

SCHOOL DISTRICT ORGANIZATION

Article 31. School districts (§§ 1501--1527-c).

32. Filing of expenditure statements by candidates for membership on board of education (§§ 1528-1531).

33. Common school districts (§§ 1601-1619).

35. Union free school districts (§§ 1701-1726).

37. Central school districts (§§ 1801-1809).

39. Central high school districts (§§ 1901--1917-a).

40. Boards of cooperative educational services (§§ 1950-1952).

40-A. Shared personnel (§§ 1980-1981).

41. District meetings (§§ 2001-2045).

Part I-General provisions (§§ 2001-2038).

Part II-Contract system (§§ 2040-2045).

Part III-Professional services providers (§§ 2050-2054).
43. School district officers-town and county officials (§§ 2101-2143).
Part I-General provisions (§§ 2101-2119).
Part II-District clerk; treasurer; collector (§§ 2121-2130).
Part III-Town and county officials (§§ 2140-2143).
45. Supervisory districts (§§ 2201-2218).
51. City school districts of cities with less than one hundred twenty-five thousand inhabitants (§§ 2501-2530).
52. City school districts of cities with one hundred twenty-five thousand inhabitants or more (§§ 2550-2588).
52-A. New York city community school district system (§§ 2590--2590-s).
53. School elections in city school districts of cities with less than one hundred twenty-five thousand inhabitants (§§ 2601-2613).
55. Regulation by boards of education of conduct on school district property (§§ 2801-2814).
56. Charter schools (§§ 2850-2857).

ARTICLE 31

SCHOOL DISTRICTS

Section 1501. Existing school districts continued.
1501-a. Publication of minutes.
1501-b. Additional power of boards of education.
1501-c. Voting by residents of certain facilities.
1502. Passengers on school buses.
1502-a. Power to provide for observance of Memorial day; certain cases.
1503. Application of funds obtained from sale of school property.
1504. Formation of new district.
1505. Dissolution, reformation and construction of districts.
1505-a. Teachers' rights as a result of the dissolution of a school district.

1506. Filing of certain orders of district superintendent.
1507. Alteration by consent.
1508. Alteration without consent.
1509. Hearing of objections to order for alteration without consent.
1510. Consolidation of districts by vote of qualified electors.
1511. Request for meeting to consolidate districts; notices of meeting.
1512. Proceedings at meeting for consolidation; adoption of resolution; proceedings to be filed.
1513. Order creating consolidated district; effect.
1514. Property of districts consolidated.
1515. Dissolution or alteration of joint district.
1516. Special meeting of joint district to act regarding alteration or dissolution.
1517. Indebtedness of certain dissolved districts.
1518. Continuance of dissolved districts for payment of debts.
1519. Deposit of records of dissolved district.
1520. Sale of property of dissolved district and disposition of proceeds.
1521. Collection and distribution of moneys due dissolved district.
1522. Notice of meeting for establishment of union free school district.
1523. Proceedings at meeting and effect of affirmative vote.
1524. Consolidation with city school district.
1525. Alteration of boundaries of city school district.
1526. Enlarged city school districts.
1527. Payroll deductions for deposit to employee bank accounts.
1527-a. Prohibit symbols of hate.
1527-c. Shared superintendent program.

§ 1501. Existing school districts continued. 1. All school districts organized either by special laws or pursuant to the provisions of a

general law are hereby continued.

2. a. Common school districts and union free school districts so organized may be altered or dissolved as provided in this article.

b. Notwithstanding any other provision of this chapter or of any other general or special law to the contrary, all school districts which do not maintain a home school on March first, nineteen hundred sixty-six, and had not prior to October first, nineteen hundred sixty-five voted to reopen such home school and expended monies for construction or rehabilitation of such home school, provided that they are contiguous, either directly, or through other such districts, to a union free, central or city school district maintaining a twelve grade school system (not counting kindergarten) and with which such school districts are scheduled to be reorganized pursuant to the state plan for school district reorganization under section three hundred fourteen of this chapter, are hereby abolished as of July first, nineteen hundred sixty-nine, and are hereby made a part of such contiguous union free, central or city school district. The provisions of section fifteen hundred fourteen, fifteen hundred seventeen and fifteen hundred eighteen of this chapter shall apply in all such cases.

c. Notwithstanding the provisions of paragraph b of this subdivision, any such district desiring a change in such state plan may petition the commissioner for such change as provided in section three hundred fourteen of this chapter. The status of such district shall be maintained pending such proceeding, and if any other such district or districts is or are contiguous to a union free, central or city school district only through such petitioning district, then and in that event, the status of such other district or districts shall also be maintained pending such proceeding. The petitioning district and such other district or districts contiguous with a union free, central or city school district only through such petitioning district shall become a part of such other union free, central or city school district as the commissioner or the court may order; in such case the provisions of paragraph b of this subdivision shall become applicable, and the abolition of such school districts shall become effective as of July

first next following the final determination of the petition; if, in such case, any other school district or districts indirectly contiguous to such union free, central or city school district loses its contiguity therewith, the commissioner or the court, as the case may be, in the order, shall make an appropriate disposition of such district or districts.

3. Central school districts may be organized under and are subject to the provisions of article thirty-seven.

4. Central high school districts may be altered under and are subject to the provisions of article thirty-nine.

§ 1501-a. Publication of minutes. Any school district board of trustees, board of education or other corporate body may publish the minutes of its proceedings in the official newspaper or if no official newspaper has been designated, in any newspaper having general circulation in the school district.

§ 1501-b. Additional power of boards of education. 1. The board of education of any school district is hereby authorized and empowered to rent or lease for such consideration as may be determined by such board, a motor vehicle or vehicles owned by the respective school district during any time when such vehicle or vehicles are not needed for the transportation of such children, which are otherwise used for the transportation of the school children of such district to:

(a) any senior citizens center or organization that is recognized and funded by the office for the aging;

(b) any non-profit incorporated organization serving senior citizens;

(c) any non-profit incorporated organization serving the physically or mentally handicapped;

(d) any not-for-profit organization that provides recreation, youth services, or the operation of playgrounds or neighborhood recreation centers;

(e) any municipal corporation, as defined in the general construction

law;

(f) any not-for-profit organization providing transportation services in rural counties as defined in section seventy-three-c of the transportation law for children participating in the agricultural child care program authorized by the agriculture and markets law; and

(g) an operator of a coordinated public transportation service, as defined by section seventy-three-c of the transportation law, for the purpose of providing a portion of a coordinated public transportation service plan as authorized by article two-F of the transportation law.

(h) any not-for-profit organization, community based organization, or educational or employment and training agency which provides education or employment and training services for youths and adults in a rural county, as defined by section seventy-three-c of the transportation law.

(i) any fire company as defined in subdivision two of section three of the volunteer firefighters' benefit law, or an ambulance company as defined in subdivision two of section three of the volunteer ambulance workers' benefit law.

2. In the event a school district is wholly or partially located in a county which has appointed a services coordinator as defined in section seventy-three-c of the transportation law, the board of education of such school district is authorized and empowered to contract, for such consideration as it shall determine, to store, maintain and repair any motor vehicle of and provide driver training for the operator of any motor vehicle used to provide a portion of a coordinated public transportation service as authorized by article two-F of the transportation law and owned by any municipal corporation as defined by the general construction law or any not-for-profit incorporated organization providing a portion of a coordinated public transportation services plan as authorized by article two-F of the transportation law. The board of education of such school district shall not enter into such contract until it is determined that it presently has the capability and facilities necessary for provision of such services and that provision of such services will not adversely affect the ability of the district to provide educational services to the children of such school district.

3. The board of education of any school district is also authorized

and empowered to contract with an operator of a coordinated public transportation service for the purpose of providing any other portion of a coordinated public transportation services plan as authorized by article two-F of the transportation law, provided that such board of education of such school district has determined that it presently has the capability and facilities necessary for provision of such services and that provision of such services will not adversely affect the ability of the district to provide educational services to the school children of such district.

4. In any case where such motor vehicle is leased pursuant to subdivision one of this section or where any services are contracted for pursuant to subdivision two or three of this section, the consideration to be received for such lease or contract shall not be less than the full amount of the costs and expenses resulting from such lease or contract.

(a) For the purposes of this section, the full amount of the costs and expenses resulting from any lease of any vehicle pursuant to subdivision one of this section shall include but not be limited to the costs of operation, maintenance and repair of such vehicle, the current fair market value of the purchase price of the vehicle annualized for the vehicle's remaining useful life, the cost of public liability and property damage insurance, fire insurance and compensation insurance of drivers and the cost of collision insurance in the amount of the value of the vehicle to protect the lessor.

(b) For the purposes of this section, the full amount of the costs and expenses resulting from any contract for services pursuant to subdivision two or three of this section shall include but not be limited to that portion of the costs of any employees, equipment or facilities which can be attributed to the provision of such services.

§ 1501-c. Voting by residents of certain facilities. Notwithstanding any provision of this title to the contrary, the provisions of section 8-407 of the election law shall apply to all elections conducted pursuant to this title by a school district. The board of elections of the city or county in which a school district is located shall provide

for the implementation of the provisions of this section.

§ 1502. Passengers on school buses. 1. Boards of education of school districts located entirely or partially in any county with less than two hundred thousand population or any town which has a population of less than one hundred fifty persons per square mile are hereby authorized to permit the following persons to ride as passengers on school buses with pupils: residents who are enrolled in education or training programs, including, but not limited to, alternative education programs, vocational, apprenticeship and job training programs, and on-the-job training; children under the age of five traveling between home and day care or preschool programs; and employees of school districts or other educational or training institutions.

2. Notwithstanding any other provisions of law to the contrary, the board of education of any school district located entirely or partially in any county with less than two hundred thousand population or any town which has a population of less than one hundred fifty persons per square mile is hereby authorized and empowered, in order to protect the interests of pupils, to adopt rules and regulations under which any person would be permitted to ride as a passenger on any school bus that provides pupil transportation for such district during the hours such bus is transporting pupils to and from classes providing:

a. such person makes application to the school district, in accordance with the rules and regulations of the district, and such application is approved by the board of education;

b. there is regularly sufficient space on such school bus to permit all pupils to be seated while such bus is in operation;

c. any amount charged such person does not exceed the cost to the district for transporting a pupil the same distance.

3. Any rules and regulations adopted pursuant to the provisions of this section may, among other things, establish the maximum number of

persons other than pupils that may ride any bus.

4. Any person authorized in subdivision one of this section to ride as a passenger on school buses with pupils, may also ride on buses not owned by the school district but used for transportation of pupils pursuant to contract, provided the school district and the owner of the bus agree upon any amount to be charged such person. Such agreement may include an amount to be paid to the bus owner or school district.

5. In the event any person is authorized to ride on school buses pursuant to the provisions of this section, the school district shall maintain records indicating the number of such trips and any revenues collected therefrom. Any funds collected for such non-pupil transportation as authorized by this section shall be credited to an account so designated.

§ 1502-a. Power to provide for observance of Memorial day; certain cases. 1. In any year in which the celebration of the holiday known as "Memorial day" is to be otherwise observed as a public holiday pursuant to any other provision of the laws of this state on a day which is other than the day provided by federal law for such observance, the trustees or board of education may by resolution provide that in and for such school district, such observance shall be had on the day designated for federal purposes.

2. Upon the adoption of such resolution the day so designated for federal purposes shall for the purposes of such school district, its facilities, employees and students be a public holiday and subject to all other provisions of law relating to public holidays and the date otherwise provided by state law for the observance of Memorial day shall not be a public holiday for that year in or for such school district.

§ 1503. Application of funds obtained from sale of school property. All moneys obtained from the sale of any school property authorized under the provisions of this chapter shall be applied for the benefit of

the district as directed by the voters thereof in any annual or special meeting.

§ 1504. Formation of new district. 1. A district superintendent may organize a new school district out of the territory of one or more school districts which are wholly within the geographic area served by his board of cooperative educational services, whenever the educational interests of the community require it. If there is an outstanding bonded indebtedness chargeable against the district or districts out of the territory of which such new district is organized, the district superintendent shall apportion said indebtedness between such new district and the remaining portion of the district or districts out of which such new district is organized, according to the assessed valuation thereof, and the portion of the indebtedness so apportioned shall become a charge for principal and interest upon the respective districts as though the same had been incurred by said districts separately.

2. The district superintendents of two or more adjoining supervisory districts, when public interests require it, may form a joint school district out of the adjoining portions of their respective districts.

3. Any municipality situated wholly within one central or union free school district but whose boundaries are not coterminous with the boundaries of such school district may organize, pursuant to the provisions of this subdivision, a new union free school district consisting of the entire territory of such municipality whenever required by the educational interests of the community.

a. No such new school district may be organized unless: (i) the enrollment of the municipality seeking to organize such new school district equals at least two thousand children, and is no greater than sixty percent of the enrollment of the existing school district from which such new school district will be organized; (ii) such new school district would have an actual valuation per total wealth pupil unit at least equal to the statewide average; and (iii) the enrollment of the

existing school district from which such new school district will be organized equals at least two thousand children, excluding the residents of such municipality.

b. No such new school district shall be organized unless the creation of such new school district first shall have been approved by: (i) a majority vote of the residents of a municipality seeking to organize such new school district, provided that a vote of such residents shall not be required if creation of the new school district has been approved by a vote of at least two-thirds of the members of the local governing body of the municipality of such municipality (ii) a majority vote of the trustees or members of the boards of education of the existing school district from which such new school district will be organized; and (iii) a majority vote of the residents of such existing school district, except that the residents of the municipality seeking to organize the new school district shall not be entitled to participate in such vote. Notwithstanding any provision of law to the contrary, a vote of the residents of an existing school district shall not be required if the creation of the new school district has been approved by a vote of at least two-thirds of the trustees or members of the board of education of such existing school district.

c. If a vote of the residents of a municipality is required, it shall be the duty of the chief executive officer of the municipality seeking to organize a new school district, pursuant to a resolution duly adopted by the governing body of such municipality that the educational interests of the community require the creation of a new school district, to give public notice that a meeting of the qualified electors of such municipality will be held at some convenient place within such municipality to vote upon the question of creating such new school district and to elect members of the board of education of such new school district. Such notice shall specify the day, hour and place where such meeting shall be held, which shall be not less than ten nor more than thirty days after the posting or publication of such notice. Such notice shall be published at least once before such meeting in a newspaper circulated in such municipality, and in the event no newspaper is circulated in such municipality, such notice shall be posted at least

ten days prior to such meeting in at least five conspicuous places in such municipality.

d. If a vote of the residents of the existing school district (other than the residents of the municipality seeking to organize the new school district) is required, it shall be the duty of the trustees or board of education of such existing school district to give public notice that a meeting of the qualified electors of such district will be held to vote upon the question of creating such new school district. Such notice shall specify the day, hour and place where such meeting shall be held, which shall be not less than ten nor more than thirty days after the posting or publication of such notice. Such notice shall be published at least once before such meeting in a newspaper circulated in such district, and in the event no newspaper is circulated in such district, such notice shall be posted at least ten days prior to such meeting in at least five conspicuous places in such district. Such meeting shall be held in accordance with the procedures of section one thousand five hundred twenty-three of this article.

e. The clerk of the existing school district immediately shall file with the district superintendent a certification of the vote of the members of the board of education or board of trustees of the existing school district and, if applicable, a certification of the vote of the residents of such existing school district (other than the residents of the municipality seeking to organize the new school district) and/or a certification of the vote of the residents of such municipality. The new union free school district consisting of the entire territory of such municipality shall be deemed created immediately upon the filing of such certifications, and the district superintendent immediately shall issue an order altering the boundaries of the existing school district accordingly, and shall file such order in accordance with section one thousand five hundred six of this article.

f. If there is an outstanding bonded indebtedness chargeable against the existing school district out of the territory of which such new district is organized, the district superintendent shall apportion said indebtedness between such new district and the remaining portion of the

district out of which such new district is organized, according to the assessed valuation thereof, and the portion of the indebtedness so apportioned shall become a charge for principal and interest upon the respective districts as though the same had been incurred by said districts separately.

g. For the purposes of this subdivision, the term "municipality" shall mean a city, town or village, and the terms "enrollment," and "actual valuation" and "total wealth pupil unit" shall have the same meaning as those terms are defined in section three thousand six hundred two of this chapter.

§ 1505. Dissolution, reformation and construction of districts. 1. Any district superintendent by order may dissolve one or more districts and may from such territory form a new district. He may also unite such territory or a portion thereof, by order, to any adjoining school district including a union free school district having a population of forty-five hundred or more and employing a superintendent of schools but excepting a city school district. He shall file such order with the clerks of the school districts affected and also with the town clerks of the towns in which the districts are located, and a copy with the commissioner of education. Such order shall designate the date upon which it shall take effect, which shall be not less than ninety days after the date of filing. If such action is to affect a district or districts within the territory of more than one superintendent, it shall be taken by a majority of them, at a meeting duly called by one or more of them.

2. Within thirty days after the filing of the order any district affected thereby may at a meeting duly called, by a majority vote of the legally qualified voters thereof present and voting at such meeting, present to the county judge of the county in which the district is located, a statement in writing that such district objects to the order and requests the appointment of a committee as provided in this section. Such judge, within ten days after the filing of such statement and request, shall appoint a committee of three disinterested persons,

residents of the county or counties in which the districts affected are located but nonresidents of such school districts, at least two of whom shall reside outside of an incorporated village or village district, and shall designate one of such committee to act as chairman thereof, and shall, at the time of the appointment, file with such chairman such statement and request and a certificate of such appointments and designation. Within thirty days after the receipt of such papers by the chairman, such committee shall call a hearing and decide the matter, and the decision shall be final unless duly appealed from as hereinafter provided. Such decision shall either affirm, vacate or modify the order of the district superintendent or superintendents, and, together with the papers and evidence in the matter, shall be filed with the commissioner of education by the chairman of such committee. Such committee also shall file a copy of its decision with the clerks of the school districts affected, and also with the town clerks of the towns in which the districts are located and with the district superintendent or superintendents who made the original order. In the event that such committee does not make and file its decision as hereinbefore provided, then the order of the district superintendent or superintendents shall become effective in accordance with its terms, and the members of such committee shall not be entitled to receive their fees as hereinafter provided. The members of such committee shall each be entitled to ten dollars for each day actually and necessarily spent in the business of the committee, and the amount thereof shall be a charge upon the school districts affected, in proportion to the actual valuation of such districts. Within twenty days from the making and filing of such decision, any district affected may at a meeting duly called, by a majority vote of the legally qualified voters thereof present and voting, appeal to the commissioner of education as provided in article seven of this chapter.

§ 1505-a. Teachers' rights as a result of the dissolution of a school district. 1. In any case in which a school district is dissolved and portions of such former district are added to more than one school district pursuant to the provisions of section fifteen hundred five of this article or section seventeen hundred five of this chapter, each

teacher employed in such former school district at the time of such dissolution shall select the particular school district to which territory is added in which he or she shall be considered an employee, with the same tenure status he or she maintained in such former school district. Such selection of the particular school district to which territory is added by such teacher shall be based upon each teacher's seniority in such former school district, with the right of selection passing from such teachers with the most seniority to such teachers with least seniority.

2. Any such teacher who is unable to obtain a teaching position in any such school district to which territory is added, because the number of positions needed are less than the number of teachers eligible to be considered employees pursuant to subdivision one of this section, shall, in all such school districts to which territory is added, be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in a position similar to the one such teacher filled in such former school district. The teachers on such a preferred eligible list shall be appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the school district to which territory is added in the order of their length of service in such former school district, within seven years from the date of the dissolution of such former school district.

3. For any such teacher as set forth in subdivision one of this section, for salary, sick leave and any other purpose, the length of service credited in such former school district shall be credited as employment time with such school district to which territory is added.

4. This section shall in no way be construed to limit the rights of any such teachers set forth in this section granted by any other provision of law.

§ 1506. Filing of certain orders of district superintendent. The order of a district superintendent forming or altering the boundaries of a school district and the written description thereof together with all

notices, orders, consents and proceedings relating to the formation or alteration thereof shall be filed with the commissioner, with the clerk of each school district affected, and with the town clerk of the town in which such district is located; provided, however, that orders altering boundaries of school districts shall be filed with the clerk of only the town in which the property being transferred is located.

§ 1507. Alteration by consent. 1. With the written consent of the trustees of all the districts to be affected thereby, the district superintendent may make an order altering the boundaries of any school district within his jurisdiction, and fix in such order a day when the alteration shall take effect.

2. With the written consent of the board of education of a union free school district having a population of forty-five hundred or more, and employing a superintendent of schools, and the written consent of the board of education or trustees of a district in a supervisory district adjoining such union free school district, the district superintendent having jurisdiction may make an order altering the boundaries of such districts, and fix in such order a day when the alteration shall take effect.

§ 1508. Alteration without consent. If the trustees of any district affected thereby refuse to consent, the district superintendent may make and file with the town clerk of the town in which the property being transferred is located his order making the alteration, but reciting the refusal, and directing that the order shall not take effect until a day therein to be named, and not less than three months after the date of such order.

§ 1509. Hearing of objections to order for alteration without consent. 1. Within ten days after making and filing such order the district superintendent shall give at least a week's notice in writing to the trustees of all districts affected by the proposed alterations, that at

a specified time, and at a named place within the town in which one of the districts to be affected lies, he will hear the objections to the alteration.

2. The trustees of any district to be affected by such order may request the supervisor and town clerk of each of the towns, within which such districts shall wholly or partly lie, to join with the district superintendent as a local board.

3. At the time and place mentioned in the notice, such superintendent, with the supervisors and town clerks, if they shall attend and act, shall hear and decide the matter, and the decision shall be final unless duly appealed from. Such decision must either affirm or vacate such order, and must be filed with and recorded by the town clerk of the town in which the property to be transferred shall lie, and a tie vote shall be regarded a decision for the purposes of an appeal on the merits. Upon such appeal the commissioner of education may affirm, modify or vacate the order of the district superintendent or the action of the local board.

4. A supervisor and town clerk shall be entitled each to one dollar and fifty cents a day for each day's service in any proceeding under this section, to be levied and paid as a charge upon their town.

§ 1510. Consolidation of districts by vote of qualified electors. Two or more common school districts may be consolidated and created as one common school district, or two or more union free school districts may be consolidated and created as one union free school district, or one or more common school districts may be consolidated with one or more union free school districts and created as a union free school district, by a vote of the qualified electors thereof as provided in sections fifteen hundred eleven, fifteen hundred twelve and fifteen hundred thirteen.

§ 1511. Request for meeting to consolidate districts; notices of meeting. 1. Whenever two-thirds of the qualified electors of each of

two or more districts in which there shall be less than fifteen qualified electors, or if there be fifteen or more qualified electors in any of such districts whenever ten or more of such electors, shall sign a request for a meeting to be held for the purpose of determining whether such districts shall be consolidated as a common school district or as a union free school district, as the case may be, and submit the same to the trustees or board of education of each of such districts, it shall be the duty of such trustees or board of education to submit such proposed consolidation to the commissioner of education for approval. If the commissioner approve such proposed consolidation, it shall be the duty of such trustees or board of education to give public notice that a meeting of the qualified electors of such districts will be held at some convenient place within such districts, as centrally located as may be, to vote upon the question of consolidating such districts. Such notice shall specify the day and hour when such meeting shall be held, not less than twenty nor more than thirty days after the posting, service or publication of such notice. If the trustees or board of education shall refuse or neglect to give such notice within twenty days after such request is approved by the commissioner of education, the commissioner of education may authorize and direct any qualified elector of the district to give such notice.

2. If any part of any of such districts is situated wholly or partly within an incorporated village in which one or more newspapers are published, such notice shall be published once in each week for three consecutive weeks before such meeting in all the newspapers published in such village, and shall also be posted at least twenty days prior to such meeting, in at least five conspicuous places in each district. In all other districts such notice shall be published once in each week for three consecutive weeks before such meeting, in a newspaper circulated in said districts, and in the event no newspaper is circulated in said districts, such notice may be given by publication thereof in a newspaper circularized and generally distributed through the district or districts involved, and it shall be also posted at least twenty days prior to such meeting in at least five conspicuous places in each district. In districts which by the latest census are shown to have a population of two hundred or less, the trustees or board of education of

said districts may dispense with publication and posting as hereinabove required, and in the event that such publication and posting are dispensed with, said trustees or board of education of each of said districts shall authorize and direct a qualified elector thereof to notify each qualified elector of such district of said meeting by delivering to him a copy of such notice, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least twenty days prior to the time of such meeting.

3. The reasonable expense of the publication and service of such notice shall be chargeable upon the districts, if the vote be in favor of consolidation, and if not, shall be paid by the persons signing the request for such meeting as provided by section fifteen hundred twenty-two.

§ 1512. Proceedings at meeting for consolidation; adoption of resolution; proceedings to be filed. 1. Such meeting shall be organized as provided in section fifteen hundred twenty-three. Such meeting may adopt a resolution to consolidate such districts if two-thirds of the qualified electors of each district having less than fifteen of such electors are present, or in case of districts having fifteen or more qualified electors if ten or more are present. The vote upon such resolution shall be by ballot or by taking and recording the ayes and noes. If the vote shall be by taking and recording the ayes and noes, the clerk and such assistants as may be provided for him by the meeting shall keep a poll-list upon which shall be recorded the names of all qualified electors voting upon the resolution, the districts in which such electors reside, and how each elector voted. If the vote shall be by ballot, one or more inspectors of election shall be appointed in such manner as the meeting shall determine, who shall receive the votes cast, canvass the same and announce the result of the ballot to the chairman. If the vote shall be by ballot then voting machines may be used in the manner prescribed by section two thousand thirty-five of this title and provision shall be made for absentee ballots as provided in section two thousand eighteen-a or two thousand eighteen-b of this title, whichever

shall apply, and early mail ballots as provided in section two thousand eighteen-e or two thousand eighteen-f of this title, whichever shall apply. If it shall appear that a majority of the qualified electors present and voting from each district are in favor of such resolution, it shall be declared adopted and where at least one of the districts consolidated is a union free school district it shall be lawful for such meeting thereafter to proceed to the election of a board of education as provided in sections seventeen hundred two and seventeen hundred four of this title. If a majority of the qualified electors present and voting from each district are not in favor of such resolution, all further proceedings at such meeting, except a motion to reconsider or adjourn, shall be dispensed with and no such meeting shall be again called within one year thereafter.

2. Copies of such request, notice of meeting, order of the commissioner of education directing a qualified elector to call such meeting, if any, and the minutes of the meeting, including the record of the vote upon the resolution and where at least one of the districts consolidated is a union free school district if such resolution be adopted a record of the declaration of the election of a board of education, duly certified by the chairman and clerk, shall be transmitted by either the chairman or clerk, one to the commissioner of education, and one to the district superintendent of schools in whose jurisdiction such districts are located.

§ 1513. Order creating consolidated district; effect. The district superintendent shall thereupon, in case of an affirmative vote, issue an order consolidating such districts and creating a common school district, or union free school district, as the case may be, designating such district by a simplified name in accordance with section three hundred fifteen of this chapter. Such order shall take effect at some date to be specified therein, not more than three months after the date of the meeting. He shall file such order in the town clerk's office of the town in which such districts are located. If such districts are located in two or more supervisory districts, such order shall be executed jointly by the district superintendents of such districts.

Such order shall have the same effect as an order executed by a district superintendent dissolving two or more common school districts and forming a new district therefrom, or dissolving one or more of such districts and uniting the territory thereof to a union free school district.

§ 1514. Property of districts consolidated. When two or more districts shall be consolidated into one, the new district shall succeed to all the rights of property possessed by the annulled districts.

§ 1515. Dissolution or alteration of joint district. The majority of the district superintendents within whose districts any joint school district lies may make an order at a meeting duly called by one of such superintendents altering or dissolving such district.

§ 1516. Special meeting of joint district to act regarding alteration or dissolution. 1. If a district superintendent, by notice in writing, shall require the attendance of the other district superintendents, at a joint meeting for the purpose of altering or dissolving a joint district, and a majority of all the superintendents shall refuse or neglect to attend, such superintendents attending, or any one of them, may call a special meeting of such school district for the purpose of deciding whether such district shall be altered or dissolved.

2. If such special meeting shall vote to alter or dissolve the district, the district superintendent or superintendents who called such meeting may make an order altering or dissolving the district and shall recite in such order the refusal or neglect of the other district superintendents, his call of the special meeting and the action taken at such meeting.

§ 1517. Indebtedness of certain dissolved districts. Whenever any school district is dissolved pursuant to the provisions of section

fifteen hundred five of this article and annexed to an adjoining district or adjoining districts or consolidated as provided in section fifteen hundred twelve, the indebtedness of any such district evidenced by bonds or notes or relating to school building construction shall thereupon become a charge upon the enlarged district formed by such annexation or consolidation. The board of education or trustees of such enlarged district shall raise by tax an amount sufficient to pay any such indebtedness of such district as the same shall become due.

§ 1518. Continuance of dissolved districts for payment of debts. Though a district be dissolved, it shall continue to exist in law, for the purpose of providing for and paying all its just debts, except as provided in section fifteen hundred seventeen; and to that end the trustees and other officers shall continue in office, and the inhabitants may hold special meetings, elect officers to supply vacancies and vote taxes; and all other acts necessary to raise money and pay such debts shall be done by the inhabitants and officers of the district.

§ 1519. Deposit of records of dissolved district. In the event that a school district shall be dissolved, the clerk of the district, or any person in whose possession the books, papers and records of the district, or any of them, may be, shall deposit the same with the clerk of the successor school district, and such records shall thereafter be considered to be the records of the successor school district.

§ 1520. Sale of property of dissolved district and disposition of proceeds. 1. When a district is divided into portions, which are annexed to other districts, its property shall be sold by the supervisor of the town or towns, within which its schoolhouse is situated, at public auction after at least five days' notice.

2. Such notice shall be given by posting the same in three or more public places of the town or towns in which the schoolhouse is situated

and in one conspicuous place in the district so dissolved.

3. The supervisor, after deducting the expenses of the sale, shall apply its proceeds to the payment of the debts of the district, and apportion the residue, if any, among the owners or possessors of taxable property in the district, in the ratio of their several assessments on the last corrected assessment-roll of the towns, and pay it over accordingly.

§ 1521. Collection and distribution of moneys due dissolved district. The supervisor of the town or towns within which the schoolhouse of the dissolved district was situated may demand, sue for and collect, in the name of his office, any money of the district outstanding in the hands of any of its former officers, or any other person; and, after deducting his costs and expenses, shall report the balance to the district superintendent who shall apportion the same equitably among the districts to which the parts of the dissolved district were annexed, to be by them applied as their district meeting shall determine.

§ 1522. Notice of meeting for establishment of union free school district. 1. Whenever fifteen persons entitled to vote at any meeting of the inhabitants of any common school district in this state, shall sign a request for a meeting, to be held for the purpose of determining whether a union free school district shall be established therein in conformity with the provisions of this article, it shall be the duty of the trustees of such district, within ten days after such request shall have been presented to them, to give public notice that a meeting of the inhabitants of such district entitled to vote thereat will be held for such purpose as aforesaid, at the schoolhouse, or other more suitable place in such district, on a day and at an hour to be specified in such notice not less than twenty nor more than thirty days after the publication of such notice.

2. If the trustees shall refuse to give such notice, or shall neglect to give the same for twenty days, the commissioner of education may

authorize and direct any inhabitant of such district to give the same.

3. Whenever such district shall correspond wholly or in part with an incorporated village, in which there shall be published a daily or weekly newspaper, the notice required in this section shall be given by posting the same in five conspicuous places in said district, at least twenty days prior to such meeting, and by causing the same to be published once a week for three consecutive weeks before such meeting, in all the newspapers published in said district.

4. In other such districts the said notice shall be given by posting the same as aforesaid, and in addition thereto, the trustees of such district shall authorize and require any taxable inhabitant thereof to notify every other qualified voter in such district of such meeting by delivering to him a copy of such notice or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode at least twenty days prior to the time of such meeting.

5. Whenever fifteen persons, entitled as aforesaid, from each of two or more adjoining districts, shall unite in a request for a meeting of the inhabitants of such districts, to determine whether such districts shall be consolidated by the establishment of a union free school district therein, it shall be the duty of the trustees of such districts, or a majority of them, to submit such proposed consolidation to the commissioner of education for approval. If the commissioner approve such proposed consolidation, it shall be the duty of such trustees, or a majority of them, to give public notice of such meeting, at some convenient place within such districts, and as central as may be, within the time and to be published and served in the manner set forth in this section, in each of such districts and to provide for the use of absentee ballots as provided under section two thousand eighteen-a or two thousand eighteen-b of this title, whichever shall apply, and early mail ballots as provided in section two thousand eighteen-e or two thousand eighteen-f of this title, whichever shall apply.

6. The commissioner of education may order such meeting under the conditions and in the manner prescribed in this section.

7. The reasonable expense of the publication and service of such notice shall be chargeable upon the district, in case a union free school district is established by the meeting so convened, to be levied and collected by the trustees, as in case of taxes levied for school purposes; but in the event that such union free school district shall not be established, then the said expense shall be chargeable upon the inhabitants signing the request, jointly and severally, to be sued for, if necessary, in any court having jurisdiction of the same.

§ 1523. Proceedings at meeting and effect of affirmative vote. 1. Any such meeting held pursuant to section fifteen hundred twenty-two shall be organized by the election of a chairman and clerk and may be adjourned from time to time, by a majority vote, provided that such adjournment shall not be for a longer period than ten days; and whenever at any such meeting duly called and held under the provisions of subdivisions one to four, inclusive, of section fifteen hundred twenty-two, at least fifteen qualified voters of the districts shall be present; or at such meeting duly called and held under the provisions of subdivisions five and six of section fifteen hundred twenty-two, at least fifteen qualified voters of each of the two or more adjoining districts, joining in the request, shall be present, such meeting may, by the affirmative vote of a majority present and voting, adopt a resolution to establish a union free school district in said district, or to consolidate the two or more adjoining districts by establishing a union free school district in said districts pursuant to the notice of said meeting. If said meeting shall determine to establish a union free school district in said districts as aforesaid, it shall be lawful for such meeting thereafter to proceed to the election of a board of education as provided in sections seventeen hundred two and seventeen hundred four of this chapter.

2. The district superintendent in whose district the union free school district is thus organized shall designate such district by a simplified

name in accordance with section three hundred fifteen of this chapter and the said board shall have the name and style of the board of education of (adding the designation aforesaid).

3. Copies of said request, notice of meeting, order of the commissioner of education directing some inhabitant to call said meeting, if any, and minutes of said meeting, duly certified by the chairman and clerk thereof, shall be transmitted and deposited, immediately after such meeting by one of such officers, one to and with the town clerk, one to and with the district superintendent in whose jurisdiction said districts are located, and one to and with the commissioner of education.

4. If at any such meeting, the question as to the establishment of a union free school district shall not be decided in the affirmative, as aforesaid, then all further proceedings at such meeting, except a motion to reconsider or adjourn, shall be dispensed with, and no such meeting shall be again called within one year thereafter.

5. When any such meeting shall have established a union free school district in said districts, such union free school district shall not be dissolved within the period of one year from the first Tuesday of August next after such meeting.

§ 1524. Consolidation with city school district. 1. Notwithstanding the provisions of this chapter or any other general, special, or local law to the contrary, whenever the qualified voters of a school district which is contiguous to the city school district of a city with less than one hundred twenty-five thousand inhabitants, according to the latest federal census, by a majority vote taken at an annual or special meeting of such district shall adopt a proposition to consolidate such school district with such city school district, and the board of education of such city school district shall by resolution duly adopted consent thereto, the commissioner of education may by order consolidate such school district with such city school district; provided, however, that where several school districts are contiguous to each other and at least

one of such school districts is contiguous to such city school district, such vote may be taken in each of such school districts at the same time, and if the proposition to consolidate is adopted by a majority vote in each such district, including any votes cast by absentee ballot as provided under section two thousand eighteen-a or two thousand eighteen-b of this title, whichever shall apply, and any votes cast by early mail ballots as provided in section two thousand eighteen-e or two thousand eighteen-f of this title, whichever shall apply, and upon the consent of the city school district board of education, the commissioner of education may include each such district in one order of consolidation; provided, further, however, that if the proposition to consolidate is not adopted by a majority vote in each such district, but is so adopted in one or more of such districts, upon the consent of the city school district board of education, the commissioner may include in one order of consolidation only such district or districts as, either singly or as a group, are contiguous to such city school district. Such order shall specify a date on which the same shall take effect, and shall have the same effect as an order made by a district superintendent dissolving two or more common school districts and forming a new district therefrom, or dissolving one or more common school districts and uniting the territory thereof to a union free school district under the provisions of article thirty-one of this title. A copy of such order shall be filed with the clerk of each school district affected thereby.

2. Unless the effective date of such order of consolidation shall coincide with the beginning of the fiscal year of the city school district, the board of education of the city school district upon the effective date of the order of consolidation, shall levy a tax upon the area so consolidated with the city school district, to defray the expenses of educating the pupils of such area from the effective date of the consolidation to the beginning of the next ensuing fiscal year of the city school district. For this purpose, the school tax rate used for the fiscal year of the city school district in progress on the effective date of such order shall be used, except that such rate shall be divided by twelve and multiplied by the number of months intervening between the effective date of such order and the beginning of the next ensuing fiscal year of the city school district. The tax list for this purpose

shall be prepared and confirmed within thirty days after the effective date of such consolidation.

3. In any city school district with which one or more school districts shall have been consolidated under the provisions of this section, the proper equalization rate shall be fixed and determined annually pursuant to the provisions of section thirty-five hundred five of this chapter.

§ 1525. Alteration of boundaries of city school district. Notwithstanding the provisions of this chapter or any other general, special, or local law to the contrary, whenever the commissioner of education shall receive an application for an alteration of the boundaries of a city school district of a city with less than one hundred twenty-five thousand inhabitants, and the board of education of such city school district and the boards of education or trustees of all other districts to be affected by such alteration shall consent thereto in writing, the commissioner of education may make an order altering the boundaries of such city school district, and fix in such order a day when the alteration shall take effect.

§ 1526. Enlarged city school districts. 1. The commissioner of education is hereby authorized and empowered to create enlarged city school districts by consolidation of city school districts of cities of less than one hundred twenty-five thousand inhabitants with such area or areas contiguous to such city school districts as, in his discretion, are suitable for the establishment of enlarged city school systems, and to fix, determine and define the boundaries of such enlarged districts as provided in this section.

2. The commissioner is hereby authorized and empowered to make and enter in his office orders laying out such area or areas contiguous to a city school district of a city of less than one hundred twenty-five thousand inhabitants, provided, however, that no school district which has an outstanding bonded indebtedness shall be divided by such order in such manner that only a part of such district is included in such an

area.

3. Within ten days after the making and entry of an order pursuant to this section, the commissioner shall transmit a certified copy thereof to the board of education of the city school district and the clerk, or in the event there is no clerk, to the trustee or trustees of each school district wholly or partly included in such area or areas. Such clerk, trustee or trustees, as the case may be, shall, within five days after receipt of such order, post a copy thereof in five conspicuous places in such district.

4. No such area or areas laid out by order of the commissioner shall be consolidated with such city school district until a majority of the qualified voters of such area or areas have adopted a proposition to consolidate such area or areas with the city school district, as provided in this section, and until the board of education of the city school district has consented to such consolidation by resolution duly adopted and has transmitted a certified copy of such resolution to the commissioner.

5. When the order laying out such area or areas has been made and entered as provided in this section, a petition may be presented by persons qualified to vote at school meetings, asking for the establishment of an enlarged city school district by the consolidation of such area or areas with the city school district. Such petition shall be signed by a number of qualified voters equal to at least ten per centum of the children in the area or areas according to the latest school census for the area or areas laid out by the commissioner. Such petition shall be filed with the commissioner and shall request that an election of the qualified voters within such area or areas be called for the purpose of determining whether or not such area or areas shall be consolidated with the city school district. If the commissioner is satisfied that the petition has been duly signed as provided in this section, he shall fix a time and place or places for an election of the qualified voters within each such area, which election shall be held not more than thirty days after the filing of such petition.

6. The commissioner of education shall divide the area into a school election district or districts. The area shall be so divided that if circumstances will permit, the school election district will be coterminous with one or more school districts, or parts or combinations thereof, and that, if practicable, there shall be a schoolhouse in each school election district. The commissioner shall describe each of such election districts. If there is no public schoolhouse in a school election district, the commissioner shall designate the place where the election in such district shall be had.

7. The commissioner shall cause notice of such election to be posted at least ten days before the election in three conspicuous places in each school district wholly or partly within such area. In addition to the posting of such notice a copy thereof shall be published at least seven days before the election in a daily or weekly newspaper published within the area or in a newspaper having general circulation therein. Such notice shall state the day of election and the hours the polls are to be open, shall describe the school election district or districts into which the area is divided, shall specify the schoolhouses or other places therein where such election will be held and where the ballots will be canvassed.

8. The election shall take place during at least four consecutive hours between the hours of seven o'clock in the forenoon and ten o'clock in the evening, as determined by the commissioner of education.

9. Any person qualified to vote in any school district wholly or partly within the area laid out by the commissioner and who resides within such area shall be qualified to vote at the election. Before each person casts his ballot he shall be required to sign a statement contained in a poll book provided for the purpose, declaring that he is a qualified voter within the area.

10. The commissioner of education shall appoint a board of canvass for the entire area. Such board shall organize by naming one of its members as chairman and shall, as soon as the ballot boxes and books containing the names of the voters have been delivered to the board of canvass in

the place designated by the commissioner of education, count all the ballots. Prior to ascertaining the manner in which any voter has marked his ballot, the number of ballots from each school election district shall be counted separately without opening them and if the number does not correspond with the number of names contained in the poll book of such school election district, the board before canvassing the ballots, shall withdraw therefrom a number sufficient to make the number of ballots correspond with the number of names in the poll book. Thereafter, and before ascertaining the manner in which any voter has voted, the board of canvass shall cause the ballots cast at each school election district to be thoroughly intermingled with each other in a single ballot box large enough to contain the aggregate number of votes cast. A majority of the valid votes cast shall be necessary to adopt the resolution. Such board shall certify to the commissioner of education the total number of votes cast, the number of valid votes cast for the proposition to consolidate the area with the city school district, the number of valid votes cast against the proposition, the number of void ballots and the number of blank ballots. The board of canvass shall file a copy of such certificate with each superintendent of schools in whose jurisdiction such area is located and shall also file a copy thereof with the town clerk of each town in which any part of such area is located. The board of canvass shall seal the books and ballots immediately upon completion of the certificate setting forth the result, and shall file such sealed books and ballots with the board of education of the city school district, which board of education shall retain and dispose of such books and ballots as provided by law. If an appeal is brought from the election, the ballots shall be available for the inspection of the commissioner of education.

11. The commissioner of education shall designate a member or members of the board of canvass to act as an election board for the conduct of the election in each school election district. The election board shall administer the challenges.

12. The board of canvass shall furnish poll books, ballots and locked ballot boxes for each school election district.

13. After the polls are closed, and after all persons within the polling place have voted, the election board shall forthwith proceed to deliver to the board of canvass at the place designated by the commissioner of education, the ballot box and the book containing the names of the voters. Any wilful violation of this paragraph shall be a misdemeanor.

14. Upon an appeal to the commissioner of education, substantial compliance with the procedures herein required shall be sufficient to meet the intent of this section.

15. If the proposition to consolidate such area with such city school district is adopted, the commissioner may by order consolidate such area or areas, and all school districts and parts of school districts included therein, with such city school district. Such order shall specify a date on which the same shall take effect, and the provisions of sections fifteen hundred fourteen, fifteen hundred seventeen and fifteen hundred eighteen shall be applicable to such consolidation. A copy of such order shall be filed with the clerk of each school district affected thereby.

16. If at any such election the proposition to consolidate shall not be adopted, no such election shall again be called within one year after such original election. If no election shall be called to reconsider the question within two years after such original election or if at any such election called within two years after such original election the proposition shall again fail of adoption, the order of the commissioner laying out such area or areas shall be deemed null and void and of no further force and effect.

17. Unless the effective date of such order of consolidation shall coincide with the beginning of the fiscal year of the city school district, the board of education of the city school district upon the effective date of the order of consolidation, shall levy a tax upon the area so consolidated with the city school district, to defray the expenses of educating the pupils of such area from the effective date of the consolidation to the beginning of the next ensuing fiscal year of

the city school district. For this purpose, the school tax rate used for the fiscal year of the city school district in progress on the effective date of such order shall be used, except that such rate shall be divided by twelve and multiplied by the number of months intervening between the effective date of such order and the beginning of the next ensuing fiscal year of the city school district. The tax list for this purpose shall be prepared and confirmed within thirty days after the effective date of such consolidation.

18. In any enlarged city school district created pursuant to this section, the proper equalization rate or rates shall be fixed and determined annually pursuant to the provisions of section thirty-five hundred five of this chapter.

19. The expense of posting and publishing of the notices and of furnishing the poll books, ballots and ballot boxes shall be borne equally by the several school districts wholly or partly included within such area, unless a consolidation order is made, in which event such expense shall become a charge upon the enlarged city school district.

§ 1527. Payroll deductions for deposit to employee bank accounts. The disbursing officer of the city school district of the city of Syracuse is authorized to deduct from the salary of members of the teaching and supervisory staff and other employees with their prior consent sums for deposit to employee savings accounts.

§ 1527-a. Prohibit symbols of hate. 1. A school district shall not sell or display any symbols of hate or any similar image, or tangible personal property, inscribed with such an image unless the image appears in a book, digital medium, museum, or otherwise serves an educational or historical purpose.

2. For the purposes of this section, the term "symbols of hate" shall include, but not be limited to, symbols of white supremacy, neo-Nazi ideology or the Battle Flag of the Confederacy.

§ 1527-c. Shared superintendent program. Notwithstanding any other provision of law, rule or regulation to the contrary, the governing board of a school district with an enrollment of less than one thousand students in the previous year shall be authorized to enter into a school superintendent sharing contract with no more than two additional school districts each of which had fewer than one thousand in enrolled pupils in the previous year. Each shared superintendent arrangement shall be governed by the boards of education of the school districts participating in the shared contract. Provided however, that this section shall not be construed to alter, affect or impair any employment contract which is in effect on or before July first, two thousand thirteen. Any school district which has entered into a school superintendent sharing program will continue to be eligible to complete such contract notwithstanding that the enrollment of the school district exceeded one thousand students after entering into a shared superintendent contract.

ARTICLE 32

FILING OF EXPENDITURE STATEMENTS BY CANDIDATES FOR MEMBERSHIP ON BOARD OF EDUCATION

Section 1528. Expenditure and contribution statement.
1529. Times for filing statements.
1530. Proceedings to compel filing of statements or corrected statements of campaign expenditures and contributions.
1531. Procedure.

§ 1528. Expenditure and contribution statement. 1. (a) Any candidate for election to the board of education, except a candidate for member of the community district education council of a New York city community school district, shall file sworn statements with the clerk of the school district in which he or she is a candidate and the commissioner setting forth all moneys or other valuable things, paid, given, expended or promised by him or her, or incurred for or on his or her behalf with

his or her approval to be filed with the aforesaid clerk and commissioner by any person, firm, association or corporation, to aid his or her own nomination or election, or to aid or influence the nomination or defeat of any candidate to be voted for at the election. Any candidate for election, if he or she expended nothing or his or her only expenditures were for personal expenses which when taken together with the total expenditures incurred by others on his or her behalf and with his or her approval do not exceed five hundred dollars, and if the aggregate amount of all contributions made to such candidate do not exceed five hundred dollars, shall not be required to file any statements with the commissioner; however such candidate shall file with the clerk of the school district a sworn statement to the effect that his or her election expenditures did not exceed five hundred dollars and contributions received did not exceed five hundred dollars.

(b) Any required contribution statements shall include the dollar amount of any receipt, contribution or transfer, or the fair market value of any receipt, contribution or transfer, which is other than of money, the name and address of the transferor, contributor or person from whom received, and if the transferor, contributor or person is a political committee as defined in subdivision one of section 14-100 of the election law; the name of and the political unit represented by the committee, the date of its receipt, the dollar amount of every expenditure, the name and address of the person to whom it was made or the name of and the political unit represented by the committee to which it was made and the date thereof.

(c) No person or persons shall make expenditures on behalf of a candidate without his or her approval unless such person or persons files a sworn statement with the clerk and commissioner stating that the candidate did not approve such expenditure. Such expenditure shall be limited to twenty-five dollars and shall not be included in determining the five hundred dollars as set forth in paragraph (a) of this subdivision.

2. For the purposes of this section, personal expenses shall include only payments for traveling expenses and expenses incidental thereto, for writing, printing and preparing for transmission any letter, circular, or other publication not issued at regular intervals,

containing a statement of the position or views of the candidate or person upon public or other questions, for stationery and postage and for telegraph, telephone and other public messenger service; but all such expenses shall be limited to those which are directly and personally incurred and paid by the candidate.

§ 1529. Times for filing statements. 1. The times for filing the statements prescribed by section fifteen hundred twenty-eight of this article shall be as follows:

a. A first statement shall be filed on or before the thirtieth day next preceding the election to which it relates.

b. A second statement shall be filed on or before the fifth day next preceding the election to which it relates.

c. A third statement shall be filed within twenty days next succeeding the election to which it relates.

2. Unless otherwise provided, each statement shall cover the period up to and including the day next preceding the day herein specified for the filing thereof; provided, however, that any contribution or loan in excess of one thousand dollars, if received after the close of the period to be covered in the last statement filed before the election but before such election, shall be reported, in the same manner as other contributions, within twenty-four hours after receipt.

3. It shall not be necessary to itemize in any statement the data previously reported in any prior statement but each statement shall include a summary of all expenditures and contributions and other particulars reported in any previous statements.

4. A statement shall be deemed properly filed when deposited in an established post-office within the prescribed time, duly stamped, registered and directed to the clerk of the school district in which he is a candidate and to the commissioner of education, but in the event it

is not received, a duplicate of such statement shall be promptly filed upon notice by the school district administrative officer and/or the commissioner of its non-receipt. Each statement shall be preserved for a period of three years from the date of filing thereof and it shall constitute a part of the public records and shall be open to public inspection.

§ 1530. Proceedings to compel filing of statements or corrected statements of campaign expenditures and contributions. 1. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or by any five qualified voters may compel by order, any candidate required under the provisions of this chapter to file a statement of expenditures or contributions for campaign purposes, who has not filed any such statement within the time prescribed by this chapter, to file such statement within five days after notice of the order.

2. The supreme court or a justice thereof, in a proceeding instituted by any candidate voted for at the election or by any five qualified voters, may compel by order any candidate or other person or persons required under the provisions of this chapter to file a statement of expenditures or contributions for campaign purposes, who has filed a statement which does not conform to the requirements of this chapter in respect to its truth, sufficiency in detail or otherwise, to file a new or supplemental statement which shall make the statement or statements true and complete within five days after notice of the order.

3. In every proceeding instituted under this section, the court may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law; provided, however, that no immunity shall be conferred except upon twenty-four hours prior written notice to both the attorney general and the appropriate district attorney having an official interest therein.

§ 1531. Procedure. A special proceeding under the foregoing

provisions of this article shall be heard upon a verified petition and such oral or written proof as may be offered, and upon such notice to such officers, persons or candidates as the court, justice or judge shall direct and shall be summarily determined.

ARTICLE 33

COMMON SCHOOL DISTRICTS

Section 1601. Trustees constitute a board and body corporate.
1602. Number of trustees; determination of change.
1603. Property held by trustees as corporation.
1604. Powers and duties of trustees.
1604-a. Temporary investment of school moneys.
1605. Powers and duties of a sole trustee.
1606. Mode of exercise of trustees' powers.
1607. Powers of trustees when vacancies on board exist.
1608. Estimated expenses for ensuing year.
1609. Annual report of trustees of certain joint districts.
1610. Trustees' annual report to district.
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1613. Trustees' right of action against predecessor.
1614. Notice of non-payment of moneys apportioned.
1615. Taxation for expenses incurred by trustees.
1616. Issuing order in excess of available funds a misdemeanor.
1618. New York State School Boards Association, Inc.
1619. Advertising for bids; letting of contracts.

§ 1601. Trustees constitute a board and body corporate. The sole trustee or the trustees of a common school district shall constitute a board for such district and such board is hereby created a body corporate.

§ 1602. Number of trustees; determination of change. 1. At the first

annual meeting next after the erection of a common school district the electors shall determine, by resolution, whether the district shall have one or three trustees; and if they resolve to have three trustees, shall elect the three for one, two and three years, respectively, and shall designate by their votes for which term each is elected; thereafter in such district, one trustee shall be elected for three years at each annual meeting to fill the office of the outgoing trustee; and if they resolve to have one trustee, shall elect the trustee for a one-year term; thereafter in such district a trustee shall be elected for one year at each annual meeting to fill the office of the outgoing trustee.

2. The electors of any common school district having three trustees shall have power to decide at any annual meeting by a majority vote of those present and voting, whether the district shall have a sole trustee or three trustees. If they resolve to have a sole trustee, the trustees in office shall continue in office until their terms of office shall expire. No election of a trustee shall be had in the district until the offices of such trustees shall become vacant by the expiration of their terms of office or otherwise, and thereafter but one trustee shall be elected for said district.

3. The electors of a common school district having but one trustee may determine at an annual meeting, by a two-thirds vote of the legal voters present and voting thereat, to have three trustees; and upon the adoption of a resolution to that effect, shall proceed to elect three trustees or such number as may be necessary to form a board of three trustees, in the same manner as provided in this section for the election of three trustees at the first annual meeting after the erection of a district; and thereafter in such district, one trustee shall be elected for three years, at each annual meeting, to fill the office of the outgoing trustee.

§ 1603. Property held by trustees as corporation. All property which is now vested in, or shall hereafter be transferred to the trustees of a common school district, for the use of schools in the district, shall be held by them as a corporation.

§ 1604. Powers and duties of trustees. It shall be the duty of the trustees of a common school district, and they shall have the power:

1. To call special meetings of the inhabitants of such district whenever they shall deem it necessary and proper.

2. To give notice of special, annual and adjourned meetings in the manner prescribed in this chapter, if there be no clerk of the district, or he be absent or incapable of acting, or shall refuse to act.

3. To make out a tax-list of every district tax voted by a district meeting, or authorized by law, which shall contain the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, as directed in article seventy-one of this chapter.

4. To purchase or lease such schoolhouse sites and other grounds to be used for playgrounds, or for agriculture, athletic center and social center purposes, and to purchase or build such schoolhouses, as a district meeting may authorize; to hire temporarily such rooms or buildings as may be necessary for school purposes; and to purchase such implements, supplies and apparatus as may be necessary to provide instruction in agriculture, or to equip and maintain play-grounds, and to conduct athletic and social center activities in the district, when authorized by a vote of a district meeting.

5. To have the custody and safe-keeping of the district schoolhouses, their sites and appurtenances.

6. To insure the school buildings, furniture and school apparatus in an insurance company created by or under the laws of this state, or in an insurance company authorized by law to transact business in this state, and to comply with the conditions of the policy, and raise by a district tax the amount required to pay the premiums thereon.

7. To insure the school library in such a company in a sum fixed by a district meeting, and to raise the premium by a district tax, and comply with the conditions of the policy.

7-a. In their discretion to insure pupils against damage occasioned because of accidental personal injuries sustained while participating in physical education classes, intramural and interscholastic sports activities, in such a company, and raise by district tax the amount required to pay the premiums thereon.

7-b. In their discretion, to purchase insurance against accidents to pupils occurring in school, on school grounds, while being transported between home and school in a school bus as defined in section thirty-six hundred twenty-one, and during sponsored trips.

8. To appoint and enter into contract with a superintendent of schools as provided in, and consistent with, section seventeen hundred eleven of this chapter, and to employ in accordance with, and subject to, the provisions of section three thousand twelve of this chapter as many legally qualified teachers as the schools of the district require; to determine the rate of compensation of each teacher and to determine the terms of school to be held during each school year, and to employ persons to supervise, organize, conduct and maintain athletic, playground and social center activities when they are authorized by a vote of a district meeting as provided by law. The regular teachers of the school may be employed at an increased compensation or otherwise, and by separate agreement, written or oral, for one or more of such additional duties.

9. To establish rules for the government and discipline of the schools of the district.

10. To prescribe the course of studies to be pursued in such schools. Provisions shall be made for instructing pupils in all schools supported by public money, or under state control, in all subjects in which such instruction is required to be given under the provisions of article seventeen of this chapter.

11. To pay the schools moneys apportioned to the district by giving orders on the county treasurer, or on the collector or treasurer of such district when duly qualified to receive and disburse the same.

12. To collect by district tax an amount sufficient to maintain school in the district for the current school year, including any judgment rendered against the district, after deducting from the aggregate amount required for this purpose the amount of school moneys in the hands of the county treasurer, collector or treasurer of the district and to pay the same by written orders on such district collector or treasurer.

13. To draw upon the county treasurer, the collector or treasurer of the district, when duly qualified to receive and disburse the same, for the school moneys, by written orders signed by the sole trustee, or where there are three trustees, signed by a majority of said trustees; provided, however, that in common school districts employing ten or more teachers and having a treasurer and a board of three trustees, by resolution duly adopted, the board may authorize one voucher-order check to be drawn in the total amount of a duly certified payroll for the salaries of regularly appointed employees and officers legally entitled to be compensated for their services; the proceeds of such voucher-order payroll check shall be credited to a payroll account from which checks shall be signed only by the treasurer of the district and drawn payable to individual employees or officers legally entitled to be compensated for services.

14. To keep each of the schoolhouses under their charge, and its furniture, school apparatus and appurtenances, in necessary and proper repair, and make the same reasonably comfortable for use, but shall not expend therefor without vote of the district an amount to exceed one hundred dollars in any one year.

15. To make any repairs and abate any nuisances, pursuant to the direction of the district superintendent as herein provided, and provide fuel, stoves or other heating apparatus, pails, brooms and other implements necessary to keep the schoolhouses and the schoolrooms clean,

and make them reasonably comfortable for use, when no provision has been made therefor by a vote of the district, or the sum voted by the district for said purposes shall have proved insufficient.

16. To provide for all janitorial work in and about the school buildings, and pay reasonable compensation therefor.

17. To provide bound blank-books for the entering of their accounts, the records of the district and the proceedings of district and trustee meetings, and a list of the movable property of the district and they shall deliver such books to their successors in office.

18. To expend in the purchase of a dictionary, books, reproductions of standard works of art, maps, globes or other school apparatus, including implements, apparatus and supplies for instruction in agriculture, or for conducting athletic playgrounds and social center activities, a sum not exceeding fifty dollars in any one year, without a vote of the district.

19. To establish temporary or branch schools in such places in the district as shall best accommodate the children, and to hire rooms or buildings therefor and to fit up and furnish such rooms or buildings in a suitable manner for conducting school therein when it is shown:

a. That any considerable number of the children residing in a portion of the district are so remote from the schoolhouse as to render it difficult for them to attend school in such schoolhouse in inclement weather, or

b. That the schoolhouse is overcrowded and proper accommodations are not afforded all the children of the district, or

c. That for any other sufficient reason suitable and proper school facilities are not provided by the existing school accommodations.

20. To provide transportation, home-teaching or special classes, as defined under sections forty-four hundred one and forty-four hundred two

of this chapter for physically or mentally handicapped and delinquent children. Such transportation, home-teaching or special classes, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend.

21. To purchase and maintain, when authorized by a vote of the qualified voters of the school district, a motor vehicle or vehicles to be used for the transportation of the school children of the district. Such motor vehicle or vehicles may be leased to another school district when not needed for such transportation. Likewise when not so needed such motor vehicle or vehicles may be leased to a school district or a municipality as defined in section two of chapter five hundred fifty-six of the laws of nineteen hundred forty-five, for the purpose of transporting children and instructors in connection with (a) a recreation project or a youth service project operated by one or more municipalities or by a school district, if such project is authorized and approved by the state youth commission, or (b) a youth bureau or agency or activity or project of a county, town, city or village which is devoted to the welfare of youth therein or to providing leisure-time activities for youth or assistance to children, as authorized in section ninety-five of the general municipal law, or (c) one or more playgrounds and neighborhood recreation centers operated and maintained by one or more cities except New York, Buffalo and Rochester, counties except Erie and the counties within the city of New York, towns or villages, whether or not any school board or district joins in such operating and maintaining, as authorized in section two hundred forty-four-b of the general municipal law. In any case when such motor vehicle shall be leased as provided in this subdivision, public liability and property damage insurance, fire insurance and compensation insurance of drivers shall be provided and collision insurance shall be provided in the amount of the value of the vehicle, to protect the lessor. The additional cost of such insurance shall be paid by the lessee. No part of the costs and expenses resulting from operation, maintenance and repair of such vehicles during the leasing thereof shall be included in determining the amount of any form of state aid received by such school district.

21-a. To lease a motor vehicle or vehicles to be used for the transportation of the children of the district from a school district, board of cooperative educational services or county vocational education and extension board or from any other source, under the conditions specified in this subdivision. No such agreement for the lease of a motor vehicle or vehicles shall be for a term of more than one school year, provided that when authorized by a vote of the qualified voters of the district such lease may have a term of up to five years, or eight years for the lease of zero-emission school buses as defined in section thirty-six hundred thirty-eight of this chapter. Where the trustee or board of trustees enter into a lease of a motor vehicle or vehicles pursuant to this subdivision for a term of one school year or less, such trustee or board shall not be authorized to enter into another lease for the same or an equivalent replacement vehicle or vehicles, as determined by the commissioner, without obtaining approval of the qualified voters of the school district.

21-b. a. The trustees are authorized to provide regional transportation services by rendering such services jointly with other school districts or boards of cooperative educational services. Such services may include pupil transportation between home and school, transportation during the day to and from school and a special education program or service or a program at a board of cooperative educational services or an approved shared program at another school district, transportation for field trips or to and from extracurricular activities, and cooperative school bus maintenance.

b. The trustees are authorized to enter into a contract with another school district, a county, municipality, or the state office of children and family services to provide transportation for children, including contracts to provide such transportation as regional transportation services, provided that the contract cost is appropriate. In determining the appropriate transportation contract cost, the transportation service provider school district shall use a calculation consistent with regulations adopted by the commissioner for the purpose of assuring that charges reflect the true costs that would be incurred by a prudent person in the conduct of a competitive transportation business.

22. To pay any judgment levied against the district and in the event there are no moneys otherwise available, to levy a tax upon the taxable property of the district to pay the same.

23. To contract with any person, corporation or other school district for the conveyance of pupils residing within the district, when authorized to do so under subdivision nineteen of section two thousand twenty-one, by vote of the inhabitants of the district entitled to vote, or to contract for the operation, maintenance and garaging of motor vehicles owned by the district, in accordance with such rules and regulations as such trustees may establish, consistent with the regulations of the commissioner of education. Upon authorization by a school district meeting, every such contract of transportation may be made for a period not exceeding five years, notwithstanding any provision of any other law inconsistent herewith.

24. To furnish lighting facilities, janitorial care and supervision for highway underpasses when authorized to do so by vote of a district meeting under the provisions of subdivision twenty of section two thousand fifteen of this chapter.

25. To provide school health services, as defined in subdivision two of section nine hundred one of this chapter, to all children in attendance upon schools under their supervision and to pay any expense incurred therefor.

26. To establish a petty cash fund for the use of the principal, teacher or clerk of the school district for the payment, in advance of authorization, of properly itemized bills for materials, supplies or services furnished to the school district under conditions calling for immediate payment to the vendor upon delivery of any such materials or supplies or the rendering of any such services. The amount of such a petty cash fund and the method of handling same shall be in accordance with regulations established by the commissioner of education.

27. To reimburse members of the teaching and supervising staff for

expenses actually and necessarily incurred in the performance of their official duties and to make such rules and regulations in relation thereto as they shall deem necessary and proper. Such rules and regulations may include the establishment of a mileage rate for the use of personally owned cars for such purpose in lieu of auditing and allowing claims for actual and necessary expenses of travel.

28. To provide, maintain and operate a cafeteria or restaurant service for the use of pupils and teachers while in school and for the use by the community for school related functions and activities and to furnish meals to the elderly residents, sixty years of age or older, of the district. Such utilization shall be subject to the approval of the board of education. Charges shall be sufficient to meet the direct cost of preparing and serving such meals, reducible by available reimbursements.

29. To prescribe the text-books to be used in the schools, and to compel a uniformity in the use of the same, pursuant to the provisions of this chapter, and to furnish the same to pupils out of any moneys provided for that purpose.

29-a. To develop a plan to ensure that all instructional materials to be used in the schools of the district are available in a usable alternative format for each student with a disability, as defined in section forty-four hundred one of this chapter, and for each student who is a qualified individual with a disability as defined in the rehabilitation act of nineteen hundred ninety-three (29 U.S.C. 701) as amended, in accordance with his or her educational needs and course selection, at the same time as such instructional materials are available to non-disabled students. As part of such plan the trustee or board of trustees shall amend its procurement policies to give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. For purposes of this subdivision, "alternative format" shall mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a disabled student enrolled in the school district, including but not limited to Braille, large print, open and closed captioned, audio, or an electronic

file in an approved format, as defined in the regulations of the commissioner. When an electronic file is provided, the plan shall specify how the format will be accessed by students and/or how the district shall convert to an accessible format. Such plan shall identify the needs of students residing in the district for alternative format materials. Such plan shall also specify ordering timelines to ensure that alternative format materials are available at the same time as regular format materials. Such plans shall include procedures to address the need to obtain materials in alternative format without delay for disabled students who move into the school district during the school year.

30. To have in all respects the superintendence, management and control of the educational affairs of the district, and, therefore, shall have all the powers reasonably necessary to exercise powers granted expressly or by implication and to discharge duties imposed expressly or by implication by this chapter or other statutes.

31. To provide workmen's compensation coverage as provided in the workmen's compensation law for all teachers and other employees for injuries incurred in actual performance of duty.

31-a. In its discretion, to provide under a group insurance policy or policies issued by any insurance company or insurance companies authorized to do business in this state or under a group contract issued by one or more corporations subject to article forty-three of the insurance law, life insurance or accident and health insurance benefits or medical and surgical benefits or hospital service benefits or any two or more of such kinds of benefits to teachers and other employees of the school district who participate in a plan or plans, as hereinafter provided. The disbursing officer of the school district is authorized to deduct from the salary of such participant with his prior consent, in writing, the sums representing the participant's share of the premium or premiums which are payable by such officer to such insurance company or corporation. Such board of education is authorized to pay from such moneys as are available for the purpose, a share of the cost of such benefit or benefits in such amount as is required to be paid under such

group insurance policy or policies or group contract or contracts by the board of education, as employer. The sum to be paid by the board of education under such policy or policies or contract or contracts, in the discretion of such board may be any percentage of the total cost of the benefit or benefits including the whole thereof.

31-b. In their discretion, to purchase insurance against personal injuries incurred by an authorized participant in a school volunteer program, including but not limited to, those authorized participants who assist on school buses, school sponsored transportation to and from school, or on school sponsored field trips or any other school sponsored activity; provided, however, that the injuries were incurred while the authorized participant was functioning either within the scope of his or her authorized volunteer duties or under the direction of the board of education, trustee, or board of cooperative educational services, or both.

32. In its discretion, and with the written consent of any employee, to deduct from the salary of such employee such amount as may be agreed to by such employee for payment to any credit union doing business in the state of New York as such employee may designate. Any such written authorization may be withdrawn by such employee at any time.

33. In his discretion to contract with a social services district pursuant to subdivision three of section four hundred ten of the social services law to furnish day care for children on behalf of the social services district.

34. To appoint a district clerk, and a district treasurer, where such office is not filled by election pursuant to section two thousand twenty-one of this chapter, to serve the district during each school year, or until a successor is appointed.

35. a. In their discretion, to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such trustees. In its discretion, the trustees may adopt a resolution establishing the office

of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor. Such claims auditor shall report directly to the trustees. No person shall be eligible for appointment to the office of claims auditor or deputy claims auditor who shall also be:

(1) a trustee of the school district;

(2) the clerk or treasurer of the school district;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. Such claims auditor or deputy claims auditor shall not be required to be a resident of the district, and the positions of claims auditor and deputy claims auditor shall be classified in the exempt class of the civil service. The trustees, at any time after the establishment of the office of claims auditor or deputy claims auditor, may adopt a resolution abolishing such office, whereupon such office shall be abolished. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the trustees with respect to claims auditing, and allowing or rejecting all accounts, charges, claims or demands against the school district, shall devolve upon and thereafter be exercised by such claims auditor during the continuance of such office. The trustees shall be permitted to delegate the claims audit function to one or more independent entities by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

c. When the trustees delegate the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the trustees shall be responsible for auditing all claims for services from the entity providing the delegated claims auditor, either directly or through a delegation to a different independent entity.

36. In its discretion to provide that the proceeds of the sale or appropriation of school district real property shall, after being used for any legally required purpose be used to reduce real property taxes in such district for a period not to exceed ten school years, or such lesser period as it may direct. Such proceeds may be invested and any interest obtained may also be used for such purpose. Such reserve fund shall be invested and reinvested pursuant to the provisions of subdivision two of section sixteen hundred four-a of this article.

37. In their discretion and in compliance with rules and regulations of the commissioner promulgated pursuant to section one hundred one-a of this chapter, to give written notice to the family court pursuant to subdivision four of section seven hundred fifty-eight-a and subdivision four of section 353.6 of the family court act of the desire of the school district to act in the supervision of certain juveniles while performing services for the public good.

38. To offer monetary rewards, in sums not to exceed one thousand dollars, to individuals for information leading to the arrest and conviction of any person or persons for felonies or misdemeanors directly connected to vandalism of district property. Such rewards may be offered on any conditions such trustees may determine, subject to whatever qualifications it may deem appropriate.

39. a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

b. Upon the recommendation of the superintendent, the trustees may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate forty-five days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

c. Upon the recommendation of the superintendent, the trustees may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to paragraph b of this subdivision must also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance but shall terminate twenty business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted, the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An unforeseen emergency vacancy shall be defined as: (i) a vacancy that

occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (ii) when no other qualified person is available to fill the vacancy temporarily; and (iii) when emergency conditional appointment is necessary to maintain services which the district is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of subparagraph (i) of this paragraph shall not apply if the trustees find that the district has been unable to fill the vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

d. Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

40. Shall upon commencement and termination of employment of an employee by the district, provide the commissioner with the name of and position held by such employee.

41. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal

guardian.

42. a. To enter into a lease, sublease or other agreement with the dormitory authority providing for the financing or refinancing of all or a portion of the school district capital facilities or school district capital equipment in accordance with section sixteen hundred eighty of the public authorities law and with the approval of the commissioner. Such lease, sublease, or other agreement may provide for the payment of annual or other payments to the dormitory authority, and contain such other terms and conditions as may be agreed upon by the parties thereto, including the establishment of reserve funds and indemnities. For purposes of this subdivision, school district capital equipment shall have the meaning ascribed thereto in section sixteen hundred seventy-six of the public authorities law.

b. Notwithstanding any provisions of law to the contrary, the dormitory authority and the trustee or board of trustees are hereby authorized and empowered to perform any and all acts and to enter into any and all agreements necessary or desirable to effectuate the purposes of this subdivision.

* 43. To pass a resolution, in the discretion of the board of such district, authorizing the entering of an agreement with a county, city, village or town within such district, for the installation and use of school bus photo violation monitoring systems pursuant to section eleven hundred seventy-four-a of the vehicle and traffic law, provided that the purchase, lease, installation, operation and maintenance, or any other costs associated with such cameras shall not be considered an aidable expense pursuant to section thirty-six hundred twenty-three-a of this chapter.

* NB Repealed December 1, 2029

44. To establish a charitable fund, by resolution of the trustees, to receive unrestricted charitable monetary donations made to such fund for use by the district for public educational purposes. The monies of such charitable fund shall be deposited and secured in the manner provided by section ten of the general municipal law. The monies of such charitable fund may be invested in the manner provided by section eleven of the

general municipal law. Any interest earned or capital gain realized on the money so invested shall accrue to and become part of such fund. At such time and in such amounts as determined by the trustees, the monies of such charitable fund shall be transferred to the school district's general fund for expenditure consistent with the charitable purposes of the fund, provided that the amount of taxes to be levied by the school district for any school year shall be determined without regard to any such transfer. The school district shall maintain an accounting of all such deposits, interest or capital gain, transfers, and expenditures.

Any expenditure made or liability incurred in pursuance of this section shall be a charge upon the district.

§ 1604-a. Temporary investment of school moneys. The board of trustees of any common school district may authorize the district treasurer or other officer having custody of district moneys to invest moneys of the district in the manner provided by section eleven of the general municipal law.

§ 1605. Powers and duties of a sole trustee. The sole trustee of a common school district shall possess all the powers and be subject to all the duties, liabilities and penalties which the law imposes upon a board of three trustees.

§ 1606. Mode of exercise of trustees' powers. 1. The powers committed by law to the trustees of a common school district must be exercised by them as a board. The board must meet for the transaction of business in accordance with notice of time and place.

2. In a board composed of three trustees, when two only meet to deliberate upon any matter, and the third, if notified, does not attend, or the three meet and deliberate thereon, the conclusion of two upon the matter, and their order, act or proceeding in relation thereto, shall be as valid as though it were the conclusion, order, act or proceeding of

the three; and a recital of the two in their minute of the conclusion, act or proceeding, or in their order, act or proceeding of the fact of such notice, or of such meeting and deliberation, shall be conclusive evidence thereof.

3. A meeting of the board may be ordered by any member thereof, by giving not less than twenty-four hours' notice of the same.

§ 1607. Powers of trustees when vacancies on board exist. 1. While there is one vacancy in the office of trustee, the two trustees shall have all the powers and be subject to all the duties and liabilities of the three. And while there are two such vacancies, the trustee in office shall have all the powers and be subject to all the duties and liabilities of the three, as though he were a sole trustee.

2. When a vacancy shall occur in the office of trustee, the board shall immediately call a special meeting of the district to fill such vacancy.

§ 1608. Estimated expenses for ensuing year. 1. It shall be the duty of the trustees of each common school district to present at the annual budget hearing a detailed statement in writing of the amount of money which will be required for the ensuing year for school purposes, specifying the several purposes and the amount for each. The amount for each purpose estimated necessary for payments to boards of cooperative educational services shall be shown in full, with no deduction of estimated state aid. The amount of state aid provided and its percentage relationship to the total expenditures shall also be shown. This section shall not be construed to prevent the trustees from presenting such statement at a budget hearing held not less than seven nor more than fourteen days prior to a special meeting called for the purpose, nor from presenting a supplementary and amended statement or estimate at any time.

2. Such statement shall be completed at least seven days before the

budget hearing at which it is to be presented and copies thereof shall be prepared and made available, upon request and at the school district offices, at any public library or free association library within the district and on the school district's internet website, if one exists, to residents within the district during the period of fourteen days immediately preceding the annual meeting and election or special district meeting at which the budget vote will occur and at such meeting or hearing. The board shall also as a part of the notice required by section two thousand three of this chapter give notice of the date, time and place of the budget hearing and that a copy of such statement may be obtained by any resident in the district at each schoolhouse in the district in which school is maintained during certain designated hours on each day other than a Saturday, Sunday or holiday during the fourteen days immediately preceding such meeting. The board shall include notice of the availability of such statement at least once during the school year in any district-wide mailing distributed.

3. Commencing with the proposed budget for the nineteen hundred ninety-seven--ninety-eight school year, such proposed budget shall be in plain language and shall be consistent with regulations promulgated by the commissioner pursuant to subdivision twenty-six of section three hundred five of this chapter. Categorization of and format for revenue, including payments in lieu of taxes, property tax refunds from certiorari proceedings, expenditure, transfer, and fund balance information and changes in such data from the prior year and, in the case of a resubmitted or amended budget, changes in such information from the prior year's submitted budget, shall be complete and accurate and set forth in such a manner as to best promote public comprehension and readability.

4. Commencing with the proposed budget for the nineteen hundred ninety-eight--ninety-nine school year, such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative

expenses, traveling expenses and all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements any and all expenditures associated with the operation of the office of trustee or board of trustees, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-eight--ninety-nine school year, the trustee or board of trustees shall separate the district's program, capital and administrative costs for the nineteen hundred ninety-seven--ninety-eight school year in the manner as if the budget for such year had been presented in three components.

5. The trustee or board of trustees shall append to the statement of

estimated expenditures a detailed statement of the total compensation to be paid to the superintendent of schools, and any assistant or associate superintendents of schools in the ensuing school year, including a delineation of the salary, annualized cost of benefits and any in-kind or other form of remuneration. The trustees shall also append a list of all other school administrators and supervisors, if any, whose annual salary will be eighty-five thousand dollars or more in the ensuing school year, with the title of their positions and annual salary identified; provided however, that the commissioner may adjust such salary level to reflect increases in administrative salaries after June thirtieth, nineteen hundred ninety-eight. The trustees shall submit a copy of such list and statement, in a form prescribed by the commissioner, of compensation to the commissioner within five days after their preparation. The commissioner shall compile such data, together with the data submitted pursuant to subdivision three of section seventeen hundred sixteen of this chapter, into a single statewide compilation, which shall be made available to the governor, the legislature, and other interested parties upon request.

6. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i)

identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this subparagraph and subparagraphs (i) and (ii) of this paragraph as compared to the statewide average.

7. a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the trustee or board of trustees shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include: (i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and (ii) the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption of the proposed budget; and (iii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and (iv) the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and (v) the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved

fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents, and a schedule of reserve funds, setting forth the name of each reserve fund, a description of its purpose, the balance as of the close of the third quarter of the current school district fiscal year and a brief statement explaining any plans for the use of each such reserve fund for the ensuing fiscal year.

b. A copy of the property tax report card prepared for the annual district meeting shall be submitted to the department in the manner prescribed by the department by the end of the business day next following approval of the report card by the trustee or board of trustees, but no later than twenty-four days prior to the statewide uniform voting day. The department shall compile such data for all school districts whose budgets are subject to a vote of the qualified voters and shall make such compilation available electronically at least ten days prior to the statewide uniform voting day.

c. For purposes of this subdivision, "percentage increase in the consumer price index" shall mean the percentage that represents the product of one hundred and the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the current year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, divided by (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, with the result expressed as a decimal to two places.

§ 1609. Annual report of trustees of certain joint districts. Where a common school district lies in two or more counties, its trustees shall file their annual report in the office of the district superintendent

having jurisdiction over the schools of the town in which the principal schoolhouse of the district is situated.

§ 1610. Trustees' annual report to district. The trustees shall render to the district, at its annual meeting, a just, full and true account in writing, of all moneys received by them respectively for the use of the district, or raised or collected by taxes, in the preceding year, and of the manner in which the same shall have been expended, and showing to which of them an unexpended balance, or any part thereof, is chargeable; and of all drafts or orders made by them upon the county treasurer, collector, treasurer or other custodian of moneys of the district; and a full statement of all appeals, actions or suits and proceedings brought by or against them, and of every special matter touching the condition of the district.

§ 1611. Penalty for failure of trustee to account. By a wilful neglect or refusal to render such account, a trustee forfeits any unexpired term of his office, and becomes liable to the trustees for any district moneys in his hands.

§ 1612. Payment by trustee to successor. An outgoing trustee shall forthwith pay, to his successor or any other trustees of the district in office, all moneys in his hands belonging to the district.

§ 1613. Trustees' right of action against predecessor. The trustees in office shall sue for and recover any district moneys in the hands of any former trustee, or of his personal representatives, and apply them to the use of the district.

§ 1614. Notice of non-payment of moneys apportioned. If any portion of the moneys apportioned to the district shall not be paid by the collector or treasurer of the district, upon the due requirement of the

trustees, they shall forthwith notify the treasurer of the county and the commissioner of education of the fact. In case of such non-payment by the county treasurer, such notification shall be given to the commissioner of education.

§ 1615. Taxation for expenses incurred by trustees. When trustees are required or authorized by law, or by a vote of their district, to incur any expenses for such district, and when any expenses incurred by them are made, by express provision of law, a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting.

§ 1616. Issuing order in excess of available funds a misdemeanor. 1. The trustees of a common school district shall not issue an order or draft upon a county treasurer, collector or treasurer of the district for the payment of the salary of a teacher unless there shall be in the hands of such county treasurer, collector or treasurer at the time sufficient money belonging to the district to meet such order or draft.

2. A violation of this section by the trustees of a district shall be a misdemeanor.

§ 1618. New York State School Boards Association, Inc. The trustee, trustees or board of education of any school district may determine to expend and raise by taxation annually such sums as may be required toward defraying the actual and necessary expenses of maintaining and continuing the New York State School Boards Association, Inc., and any of its activities in this state for the purpose of devising practical ways and means for obtaining greater economy and efficiency in the administration of school district affairs and projects.

§ 1619. Advertising for bids; letting of contracts. The trustees shall let all contracts for public work and all purchase contracts to

the lowest responsible bidder after advertisement for bids where so required by section one hundred three of the general municipal law.

ARTICLE 35

UNION FREE SCHOOL DISTRICTS

Section 1701. Boards of education corporate bodies.
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§ 1701. Boards of education corporate bodies. The board of education of each union free school district is hereby created a body corporate and it shall, at its first meeting and at each annual meeting thereafter, elect one of its members president. It may also, in its discretion, elect one of its members vice president, who shall have the power to exercise the duties of the president in case of the absence or disability of the president. In case of vacancy in the office of president, the vice president shall act as president until a president shall be elected. All property which is now vested in, or shall hereafter be transferred to the board of education of a union free school district, for the use of schools in the district, shall be held by them as a corporation.

§ 1702. Board of education; election; terms of office. 1. Whenever a union free school district shall be established, pursuant to the provisions of subdivision three of section fifteen hundred four of this chapter, or, pursuant to the provisions of sections fifteen hundred twenty-two and fifteen hundred twenty-three of this chapter, it shall be the duty of the meeting at which such union free school district is established to elect by ballot not less than three nor more than nine trustees, who shall, by the order of such meeting, be divided into a sufficient number of classes so that as nearly as possible an equal number of members shall be elected to the board each year, based upon a normal term of three, four or five years, as such meeting may determine. Thereafter there shall be elected in such districts, at the annual meeting, trustees to take the places of those whose terms of office expire. Such successors shall be elected to serve for a full term of three, four or five years, as the case may be.

2. The trustees thus elected, shall enter at once upon their offices, and the office of any existing trustees in such districts, before the establishment of a union free school district therein, shall cease, except for the purposes stated in section fifteen hundred eighteen of this chapter. The said trustees and their successors in office shall

constitute the board of education of the union free school district thus established.

3. Each union free school district that operates a high school shall establish a process for designating at least one student as an ex officio member pursuant to paragraph c of this subdivision. If, prior to August fifth, two thousand three, a school district had a policy that allowed a student or students to be ex officio members of the school board, such policy shall be deemed to meet the requirements of this subdivision and shall be deemed to have full legal effect. In any district that contains more than one high school, such process shall take into consideration the number of high schools within the district and provide for a mechanism which allows for fair representation among the schools. Such school district shall allow such selected student or students to serve as ex officio members of such district's board of education and provided further that:

a. The ex officio student members of the board shall be entitled to sit with board members at all public meetings and hearings of the board and may participate in other board activities and responsibilities at the discretion of the board.

b. The ex officio student members shall not be allowed to vote, shall not be allowed to attend executive session or any other meetings or hearings not open to the public, and shall not be entitled to receive compensation of any form for participating at board meetings.

c. Notwithstanding any other law to the contrary, the ex officio student members of the board may be any of the following: the student that has been duly elected as student president of the high school; a student duly elected by the student body; a student selected by the high school student government; a student selected by the high school principal; a student selected by the superintendent of schools; a student selected by majority vote of the school board.

d. The ex officio student members shall have attended such high school for at least one year prior to selection.

§ 1703. Change in number of members of board of education. 1. The number of members of the board of education of a union free school district may be increased or decreased at an annual meeting by a majority vote of the qualified voters present and voting to be ascertained by taking and recording the ayes and noes or by ballot. The number of members of such board shall not be increased to more than nine nor decreased to less than three.

2. No vote shall be taken upon the proposition to increase or decrease the number of members of such board of education unless the notice of the annual meeting shall contain a statement to the effect that the voters of such district will vote upon such proposition. The board of education of any such district shall, upon the application of at least twenty-five voters or five percent of the number of voters who voted in the previous annual election of the members of the board of education, whichever is greater, such number to be determined by the number of persons recorded on the poll list as having voted at such election, include in the notice of the annual meeting a statement that the proposition to increase or decrease such board will be presented to the annual meeting for determination. If the board refuses or fails to give such notice, the notice may be given in such manner as the commissioner of education may direct.

3. The additional members first elected shall be elected at a special meeting which shall be called by the board and be held not less than thirty nor more than sixty days following the annual meeting at which the number was increased, and pending the first election of such additional members no vacancy shall be deemed to exist in the offices thereof except for the purpose of filling the same by election, notwithstanding any inconsistent provision of any law.

§ 1704. Length of school year, and expenditure of funds. 1. No board of education or community board in the city school district of the city of New York, except as otherwise provided by law, shall authorize or

permit the expenditure of funds under its control at a rate which will exhaust the amount appropriated prior to the conclusion of the period or the completion of the purpose for which such funds were appropriated.

2. Except as otherwise provided by law, no board of education or community board in the city school district of the city of New York shall provide for a school year consisting of fewer than one hundred eighty days of school.

§ 1705. Annexing territory to a union free school district. 1. Territory may be annexed to a union free school district as provided in this section.

a. The commissioner is authorized and empowered to make and enter in the commissioner's office orders dissolving one or more common, union free or central school districts and annexing the territory of such districts, or portions thereof, to one or more adjoining union free school districts, subject to approval of the voters of each school district affected thereby.

b. When an order annexing territory to a union free school district has been made and entered as provided in this section, the commissioner shall, within ten days thereafter, cause certified copies of said order to be filed with the clerk or school authorities of each school district affected thereby. Within thirty days of filing of such order, the commissioner shall fix a time and place for a special meeting of the qualified voters of each school district affected by the proposed annexation and shall cause notice thereof to be posted at least ten days before each such meeting in ten conspicuous places in the school district. In addition to the posting of such notice, a copy thereof shall be duly published, at least three days before each such meeting, in a daily or weekly newspaper published within, or in general circulation in, the school district in which such meeting is to be held. The expense of posting and publishing such notice shall be a charge upon the school district conducting such meeting.

2. Except as provided in this subdivision, any special district meeting held pursuant to paragraph b of subdivision one of this section shall be conducted in accordance with the procedures specified in section eighteen hundred three of this chapter.

a. At a meeting held pursuant to paragraph b of subdivision one of this section, a resolution in substantially the following form shall be presented for the action and determination of the meeting, viz.: "Resolved that the...(insert simplified name of district in accordance with section three hundred fifteen of this chapter) school district be annexed to the...union free school district (designate union free school district) as provided in the order of the commissioner of education now before this meeting."

b. If at any such meeting the resolution described in paragraph a of this subdivision shall be presented and shall not be adopted, there shall be no further proceedings at such meeting, except a motion to reconsider the question. No such meeting shall again be called by the commissioner within one year after such original meeting. If no meeting shall be called to reconsider the question within two years after such original meeting, or if at any such meeting called within two years after such original meeting the resolution shall again be rejected by the voters, the order of the commissioner to which the resolution relates shall be deemed null and void and of no further force or effect.

c. If the resolution submitted to the voters as provided in paragraph a of this subdivision shall be adopted by the voters of each school district affected by the order of the commissioner, the territory described therein shall thereupon be annexed to the existing union free school district or districts as provided in such order.

3. Whenever a common school district, union free school district or central school district becomes a part of a union free school district pursuant to the provisions of this section, the union free school district of which any such district shall have become a part, shall succeed to all the property rights of such common, union free or central school districts and all indebtedness of any such school district

evidenced by bonds or notes or relating to school building construction shall become a charge upon such union free school district of which such district shall have become a part, but all other indebtedness of any such district shall be paid by any such district in accordance with the provisions of section fifteen hundred eighteen of this chapter and to that extent any such district shall continue to exist in law for the purpose of providing for and paying all such indebtedness in accordance with the provisions of such section.

4. Notwithstanding any other provision of law, whenever a common school district, union free school district or central school district is annexed in its entirety to a union free school district pursuant to this section, all employees of the former school districts at the time of dissolution shall immediately become employees of the reorganized union free school district, shall retain their tenure and/or employment status and the seniority gained in the annexed district, and the seniority list of the employees of the annexed school district shall be merged with the seniority list of the employees of the annexing school district. If the number of teaching positions needed to provide services in the reorganized union free school district is less than the number of teachers considered to be employees of the reorganized union free school district pursuant to this subdivision, the board of education shall abolish the unneeded positions and place teachers on preferred eligible lists in accordance with section three thousand thirteen of this chapter. For salary, sick leave and other purposes, an employee's length of service with the annexed school district shall be credited as employment time with the annexing union free school district. This section shall in no way be construed to limit the rights of any such employees set forth in this section granted by any other provision of law.

§ 1706. Power of removal of member of board of education. For cause shown, and after giving notice of the charge and opportunity of defense, the commissioner of education may remove any member of a board of education. Wilful disobedience of any lawful requirement of the commissioner of education, or a want of due diligence in obeying such

requirement or wilful violation or neglect of duty is cause for removal.

§ 1707. Annual organizational meetings of boards of education. The annual organizational meeting of the board of education of every union free school district shall be held in July on or before the Monday after the twentieth day in July of each year.

§ 1708. Regular meetings; visitation of schools. 1. It shall be the duty of each board of education elected pursuant to the provisions of this article to have a regular meeting at least once in each quarter.

2. Each board shall appoint one or more committees, to visit every school or department under its supervision and such committee or committees shall visit such schools at least once annually, and report at the next regular meeting of the board on the condition thereof.

3. The meetings of all such boards shall be open to the public, but said boards may hold executive sessions, at which sessions only the members of such boards or the persons invited shall be present.

§ 1709. Powers and duties of boards of education. The said board of education of every union free school district shall have power, and it shall be its duty:

1. To adopt such by-laws and rules for its government as shall seem proper in the discharge of the duties required under the provisions of this chapter.

2. To establish such rules and regulations concerning the order and discipline of the schools, in the several departments thereof, as they may deem necessary to secure the best educational results.

3. To prescribe the course of study by which the pupils of the schools shall be graded and classified, and to regulate the admission of pupils

and their transfer from one class or department to another, as their scholarship shall warrant.

4. To prescribe the text-books to be used in the schools, and to compel a uniformity in the use of the same, pursuant to the provisions of this chapter, and to furnish the same to pupils out of any moneys provided for that purpose.

4-a. To develop a plan to ensure that all instructional materials to be used in the schools of the district are available in a usable alternative format for each student with a disability, as defined in section forty-four hundred one of this chapter, and for each student who is a qualified individual with a disability as defined in the rehabilitation act of nineteen hundred ninety-three (29 U.S.C. 701) as amended, in accordance with his or her educational needs and course selection, at the same time as such instructional materials are available to non-disabled students. As part of such plan, the board of education shall amend its procurement policies to give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. For purposes of this subdivision, "alternative format" shall mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a disabled student enrolled in the school district, including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file in an approved format, as defined in the regulations of the commissioner. When an electronic file is provided, the plan shall specify how the format will be accessed by students and/or how the district shall convert to an accessible format. Such plan shall identify the needs of students residing in the district for alternative format materials. Such plan shall also specify ordering timelines to ensure that alternative format materials are available at the same time as regular format materials. Such plans shall include procedures to address the need to obtain materials in alternative format without delay for disabled students who move into the school district during the school year.

5. To make provision for the instruction of pupils in all subjects in

which such instruction is required to be given under the provisions of article seventeen of this chapter.

6. To purchase sites, or additions thereto, for recreation grounds, for agricultural education purposes, and for schoolhouses for the district, when designated by a meeting of the district; and to construct such schoolhouses and other structures and additions thereto as may be so designated; and to operate the facilities provided and to market any surplus of farm products that might be so raised and as may be so designated; to purchase furniture and apparatus for such schoolhouses, and to keep the furniture and apparatus therein in repair; and, when authorized by such meeting, to purchase implements, supplies, and apparatus for agricultural, athletic, playground, and social center purposes.

7. To lease, on a temporary basis, necessary space not located on school property, when the facilities of the district are overcrowded or damaged or destroyed, and to furnish and equip such space for school district use. The use of such space shall be subject to annual approval by the commissioner.

8. To insure the schoolhouses and their furniture, apparatus and appurtenances, and the school library, in some insurance company created by or under the laws of this state, or in some insurance company authorized by law to transact business in this state, and to comply with the conditions of the policy, and raise the sums required for premiums by district tax; provided, however, that the members of the board shall not be personally liable for any claim arising out of the use or condition of the aforementioned property if the board, after due diligence, is unable to obtain such insurance.

8-a. In its discretion to insure pupils against damage occasioned because of accidental personal injuries sustained while participating in physical education classes, intramural and interscholastic sports activities, in such a company, and raise the sums required for premiums by district tax.

8-b. In its discretion, to purchase insurance against accidents to pupils occurring in school, on school grounds, while being transported between home and school in a school bus as defined in section thirty-six hundred twenty-one, and during sponsored trips.

8-c. To establish and maintain a program of reserves not to exceed three per centum, exclusive of any planned balance presently authorized, of the annual budget of the district to cover property loss and liability claims. In the event that three per centum, exclusive of any planned balance presently authorized, of the annual budget of the district would result in less than fifteen thousand dollars, the total reserve funds may be for an amount not to exceed fifteen thousand dollars. Separate funds shall be established for property loss and for liability claims and the separate identity of each fund shall be maintained whether its assets consist of cash or investments or both. The moneys in such funds shall be accounted for separate and apart from all other funds of the school district, in the same manner as provided in subdivision ten of section six-c of the general municipal law. Such moneys may be invested in accordance with section seventeen hundred twenty-three-a of this chapter. Any interest earned or capital gain realized on the moneys so deposited shall accrue and become part of such funds. Such reserve funds shall not be reduced to amounts less than the total of the amounts estimated to be necessary to cover incurred but unsettled claims or suits including expenses in connection therewith other than by payments for losses for which such amounts were established. Payments from such reserve funds shall not be made for purposes other than those for which such funds were established without authorizations by vote of the electors of the district, except that such board may authorize use of such funds other than amounts allocated for unsettled claims or suits including expenses in connection therewith to pay premiums for insurance policies purchased to insure subsequent losses in areas previously self-insured, in the event of dissolution of the self-insurance plan.

9. To take charge and possession of the schoolhouses, sites, lots, furniture, books, apparatus, and all school property within its district; and the title of the same shall be vested respectively in said

board of education.

10. To alter and equip for use as a public library any former schoolhouse or part thereof, the title to which is vested in the board, when duly authorized by the qualified voters of the school district.

11. To sell, when authorized by a vote of the qualified voters of the school district, any former school site or lot, or any real estate the title to which is vested in the board, and the buildings thereon, and appurtenances or any part thereof, at such price and upon such terms as said voters shall prescribe, and to convey the same by deed to be executed by the board or a majority of the members thereof. Also to exchange real estate belonging to the district for the purpose of improving or changing schoolhouse sites. All deeds or other conveyances of real property heretofore made and delivered, executed by said board of education by its officers, or in the manner in which deeds are executed by corporations, or executed in any other manner, shall be as valid and of the same force and effect as if executed by said board of education or a majority of the members thereof; but this provision shall not affect any action or proceeding pending at the time of the taking effect hereof.

12. To take and hold for the use of the said schools or of any department of the same, any real estate transferred to it by gift, grant, bequest or devise, or any gift, legacy or annuity, of whatever kind, given or bequeathed to the said board, and apply the same, or the interest or proceeds thereof, according to the instructions of the donor or testator.

12-a. To take and hold in trust for the purpose of awarding scholarships in said schools any real estate transferred to it by gift, grant, bequest or devise, or any gift, legacy or annuity, of whatever kind, given or bequeathed to said board and apply the same, or the interest or proceeds thereof, according to the instructions of the donor or testator.

12-b. To establish a charitable fund, by resolution of the board, to

receive unrestricted charitable monetary donations made to such fund for use by the district for public educational purposes. The monies of such charitable fund shall be deposited and secured in the manner provided by section ten of the general municipal law. The monies of such charitable fund may be invested in the manner provided by section eleven of the general municipal law. Any interest earned or capital gain realized on the money so invested shall accrue to and become part of such fund. At such time and in such amounts as determined by the board, the monies of such charitable fund shall be transferred to the school district's general fund for expenditure consistent with the charitable purposes of the fund, provided that the amount of taxes to be levied by the school district for any school year shall be determined without regard to any such transfer. The school district shall maintain an accounting of all such deposits, interest or capital gain, transfers, and expenditures.

13. To have in all respects the superintendence, management and control of said union free schools, and to establish therein, in conformity with the regents rules, an academic department, whenever in their judgment the same is warranted by the demand for such instruction; to receive into said union free schools any pupils residing out of said district, and to regulate and establish the tuition fees of such nonresident pupils in the several departments of said schools.

14. To provide fuel, furniture, apparatus and other necessaries for the use of said schools.

15. To appoint such librarians as they may from time to time deem necessary.

16. To contract with and employ such persons as by the provisions of this chapter are qualified teachers, to determine the number of teachers to be employed in the several departments of instruction in said school, and at the time of such employment, to make and deliver to each teacher a written contract as required by section three thousand eleven of this chapter, except as otherwise provided by sections three thousand twelve and three thousand thirteen; and employ such persons as may be necessary to supervise, organize, conduct and maintain athletic, playground and

social center activities, or for any one or more of such purposes; and to adopt rules and regulations governing the excusing of absences of all teachers and other employees and for the granting of leaves of absence to such employees either with or without pay. The regular teachers of the school may be employed at an increased compensation or otherwise, and by separate agreement, written or oral, for one or more of such purposes.

17. To fill any vacancy which may occur in said board by reason of the death, resignation, removal from office or from the school district, or refusal to serve, of any member or officer of said board; and the person so appointed in the place of any such member of the board shall hold his office until the next regular school district election. The person elected to fill such vacancy shall take office immediately upon filing of his official oath of office with the district clerk.

18. To remove any member of their board for official misconduct. But a written copy of all charges made of such misconduct shall be served upon him at least ten days before the time appointed for a hearing of the same; and he shall be allowed a full and fair opportunity to refute such charges before removal.

19. To provide and maintain suitable and convenient waterclosets as provided in section four hundred eleven of this chapter.

20. To raise by tax upon the property of the district any moneys required to pay the salary of teachers employed.

20-a. a. In its discretion to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such board of education. In its discretion, the board of education may adopt a resolution establishing the office of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor. Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor or deputy claims auditor who shall also be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. Such claims auditor or deputy claims auditor shall not be required to be a resident of the district, and such position shall be classified in the exempt class of the civil service. Such board of education, at any time after the establishment of the office of claims auditor or deputy claims auditor, may adopt a resolution abolishing such office, whereupon such office shall be abolished. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims auditing, allowing or rejecting all accounts, charges, claims or demands against the school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. A board shall be permitted to delegate the claims audit function to one or more independent entities by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

c. When the board of education delegates the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the board shall be responsible for auditing all claims for services from the entity providing the delegated claims auditor, either directly or through a delegation to a different independent entity.

21. To provide school health services, as defined in subdivision two of section nine hundred one of this chapter, to all children in attendance upon schools under their supervision and to pay any expense incurred therefor.

22. To provide, purchase, lease, furnish and maintain buildings or other suitable accommodations for the use of teachers or other employees of the district when duly authorized by a meeting of the district and to raise by tax upon the taxable property of the district and moneys necessary for such purposes; and also to provide, maintain and operate a cafeteria or restaurant service for the use of pupils and teachers while at school. Such cafeteria may be used by the community for school related functions and activities and to furnish meals to the elderly residents, sixty years of age or older, of the district. Such utilization shall be subject to the approval of the board of education. Charges shall be sufficient to meet the direct cost of preparing and serving such meals, reducible by available reimbursements.

23. To provide milk for pupils within the limitations of an appropriation made therefor.

24. To provide transportation, home-teaching or special classes, as defined under sections forty-four hundred one and forty-four hundred two of this chapter for physically or mentallly handicapped and delinquent children. Such transportation, home-teaching or special classes, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend.

25. a. To purchase and maintain, when authorized by a vote of the qualified voters of the school district, a motor vehicle or vehicles to be used for the transportation of the school children of the district. Any replacement of a motor vehicle or vehicles, necessitated by damage to or loss of such vehicles, owned by the school district and used for the transportation of pupils residing within the district, may be purchased by the board of education without voter approval, using any unencumbered funds in the general fund or by the issuance of budget notes in accordance with section 29.00 of the local finance law, in addition to any available insurance proceeds.

b. Such motor vehicle or vehicles may be leased to another school district or to a board of cooperative educational services or to a

county vocational education and extension board or to an Indian tribe for educational purposes when not needed for such transportation.

c. Likewise when not so needed such motor vehicle or vehicles may be leased to a school district or an Indian tribe, for the purpose of transporting children and instructors in connection with (1) a recreation project or a youth service project operated by a school district or by an Indian tribe, if such project is authorized and approved by the state youth commission, or (2) a youth bureau or agency or activity or project of a county, town, city, village or an Indian tribe which is devoted to the welfare of youth therein or to providing leisure-time activities for youth or assistance to children, as authorized in section ninety-five of the general municipal law, or (3) one or more playgrounds and neighborhood recreation centers operated and maintained by one or more cities except New York, Buffalo and Rochester, counties except Erie and the counties within the city of New York, towns, villages, or Indian tribes, whether or not any school board or district joins in such operating and maintaining, as authorized in section two hundred forty-four-b of the general municipal law.

d. The board of education may lease such motor vehicle or vehicles from a board of cooperative educational services or from a county vocational education and extension board.

e. Under emergency conditions, as determined by the commissioner, the board of education may lease such vehicle or vehicles from sources other than a school district, board of cooperative educational services or county vocational education and extension board.

f. In any case when such motor vehicle shall be leased as provided in this subdivision, public liability and property damage insurance, fire insurance and compensation insurance of drivers shall be provided and collision insurance shall be provided in the amount of the value of the vehicle, to protect the lessor. The additional cost of such insurance shall be paid by the lessee. No part of the costs and expenses resulting from operation, maintenance and repair of such vehicles during the leasing thereof shall be included in determining the amount of any form

of state aid received by such school district.

g. The board of education is authorized to provide regional transportation services by rendering such services jointly with other school districts or boards of cooperative educational services. Such services may include pupil transportation between home and school, transportation during the day to and from school and a special education program or service or a program at a board of cooperative educational services or an approved shared program at another school district, transportation for field trips or to and from extracurricular activities, and cooperative school bus maintenance.

h. The board of education is authorized to enter into a contract with another school district, a county, municipality, or the state office of children and family services to provide transportation for children, including contracts to provide such transportation as regional transportation services, provided that the contract cost is appropriate. In determining the appropriate transportation contract cost, the transportation service provider school district shall use a calculation consistent with regulations adopted by the commissioner for the purpose of assuring that charges reflect the true costs that would be incurred by a prudent person in the conduct of a competitive transportation business.

i. In addition to the authority granted in paragraph e of this subdivision, the board of education shall be authorized to lease a motor vehicle or vehicles to be used for the transportation of the children of the district from sources other than a school district, board of cooperative educational services or county vocational education and extension board under the conditions specified in this paragraph. No such agreement for the lease of a motor vehicle or vehicles shall be for a term of more than one school year, provided that when authorized by a vote of the qualified voters of the district such lease may have a term of up to five years, or eight years for the lease of zero-emission school buses as defined in section thirty-six hundred thirty-eight of this chapter. Where the board of education enters a lease of a motor vehicle or vehicles pursuant to this paragraph for a term of one school

year or less, such board shall not be authorized to enter into another lease of the same or an equivalent replacement vehicle or vehicles, as determined by the commissioner, without obtaining approval of the voters.

26. To pay any judgment levied against the school district and in the event there are no moneys otherwise available, to levy a tax upon the taxable property of the district to pay the same.

27. To contract with any person, corporation or other school district for the conveyance of pupils residing within the district, when authorized to do so under subdivision nineteen of section two thousand twenty-one of this chapter, by vote of the inhabitants of the district entitled to vote, or to contract for the operation, maintenance and garaging of motor vehicles owned by the district, in accordance with such rules and regulations as such board of education may establish, consistent with the regulations of the commissioner. Upon authorization by a school district meeting, every such contract of transportation may be made for a period not exceeding five years, notwithstanding any provision of any other law inconsistent herewith.

28. To furnish lighting facilities, janitorial care and supervision for highway underpasses when authorized to do so by vote of a district meeting under the provisions of subdivision twenty of section two thousand fifteen of this chapter.

29. To establish a petty cash fund for the use of such school district officers and employees as may be designated by the board of education for the payment, in advance of authorization, of properly itemized bills for materials, supplies or services furnished to the school district under conditions calling for immediate payment to the vendor upon delivery of any such materials or supplies or the rendering of any such services. The amount of such a petty cash fund, the method of handling same and the officers and employees eligible to use such fund shall be in accordance with regulations established by the commissioner.

* 30. To provide, in its discretion, compensation to a speaker or speakers at commencement day exercises in such amount as may be

determined by the board.

* NB There are 2 sub 30's

* 30. To reimburse candidates for teaching positions for actual travel and other necessary expenses incurred by them in appearing for purposes of interview or observation with respect to such positions, when such appearance is made upon the request of any authorized representative of the board and when such reimbursement is deemed appropriate and proper by the board, in its discretion, to aid in the obtaining of qualified persons for such positions.

* NB There are 2 sub 30's

31. To explore, develop and produce natural gas solely for school district purposes in accordance with section three hundred sixty-eight of the general municipal law.

32. To provide, in its discretion, in-service training for its teachers.

33. To have in all respects the superintendence, management and control of the educational affairs of the district, and, therefore, shall have all the powers reasonably necessary to exercise powers granted expressly or by implication and to discharge duties imposed expressly or by implication by this chapter or other statutes.

34. To provide workmen's compensation coverage as provided in the workmen's compensation law for all teachers and other employees for injuries incurred in actual performance of duty.

34-a. In its discretion, to provide under a group insurance policy or policies issued by any insurance company or insurance companies authorized to do business in this state or under a group contract issued by one or more corporations subject to article forty-three of the insurance law, life insurance or accident and health insurance benefits or medical and surgical benefits or hospital service benefits or any two or more of such kinds of benefits to teachers and other employees of the school district who participate in a plan or plans, as hereinafter provided. The disbursing officer of the school district is authorized to

deduct from the salary of such participant with his prior consent, in writing, the sums representing the participant's share of the premium or premiums which are payable by such officer to such insurance company or corporation. Such board of education is authorized to pay from such moneys as are available for the purpose, a share of the cost of such benefit or benefits in such amount as is required to be paid under such group insurance policy or policies or group contract or contracts by the board of education, as employer. The sum to be paid by the board of education under such policy or policies or contract or contracts, in the discretion of such board may be any percentage of the total cost of the benefit or benefits including the whole thereof.

34-b. In its discretion, to purchase insurance against personal injuries incurred by an authorized participant in a school volunteer program, including but not limited to, those authorized participants who assist on school buses, school sponsored transportation to and from school, or on school sponsored field trips or any other school sponsored activity; provided, however, that the injuries were incurred while the authorized participant was functioning either within the scope of his or her authorized volunteer duties or under the direction of the board of education, trustee, or board of cooperative educational services, or both.

35. In its discretion, and with the written consent of any employee, to deduct from the salary of such employee such amount as may be agreed to by such employee for payment to any credit union doing business in the state of New York as such employee may designate. Any such written authorization may be withdrawn by such employee at any time.

37. In its discretion to provide that the proceeds of the sale or appropriation of school district real property shall, after being used for any legally required purpose, be used to reduce real property taxes in such district for a period not to exceed ten school years, or such lesser period as it may direct. Such proceeds may be invested and any interest obtained may also be used for such purpose. Such reserve fund shall be invested and reinvested pursuant to the provisions of subdivision two of section seventeen hundred twenty-three-a of this

article.

38. To offer monetary rewards, in sums not to exceed one thousand dollars, to individuals for information leading to the arrest and conviction of any person or persons for felonies or misdemeanors directly connected to vandalism of district property. Such rewards may be offered on any conditions such board of education may determine, subject to whatever qualifications it may deem appropriate.

39. a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate forty-five days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer

shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

c. Upon the recommendation of the superintendent, the board may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to paragraph b of this subdivision must also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance but shall terminate twenty business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An unforeseen emergency vacancy shall be defined as: (i) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (ii) when no other qualified person is available to fill the vacancy temporarily; and (iii) when emergency conditional appointment is necessary to maintain services which the district is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of subparagraph (i) of this paragraph shall not apply if the board finds that the district has been unable to fill the vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

d. Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

40. Shall upon commencement and termination of employment of an employee by the school district, provide the commissioner with the name of and position held by such employee.

41. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal guardian.

42. a. To enter into a lease, sublease or other agreement with the dormitory authority providing for the financing or refinancing of all or a portion of school district capital facilities or school district capital equipment in accordance with section sixteen hundred eighty of the public authorities law and with the approval of the commissioner. Such lease, sublease, or other agreement may provide for the payment of annual or other payments to the dormitory authority, and contain such other terms and conditions as may be agreed upon by the parties thereto, including the establishment of reserve funds and indemnities. For purposes of this subdivision, school district capital equipment shall have the meaning ascribed thereto in section sixteen hundred seventy-six of the public authorities law.

b. Notwithstanding any provisions of law to the contrary, the

dormitory authority and the board of education are hereby authorized and empowered to perform any and all acts and to enter into any and all agreements necessary or desirable to effectuate the purposes of this subdivision.

* 43. To pass a resolution, in the discretion of the board of such district, authorizing the entering of an agreement with a county, city, village or town within such district, for the installation and use of school bus photo violation monitoring systems pursuant to section eleven hundred seventy-four-a of the vehicle and traffic law, provided that the purchase, lease, installation, operation and maintenance, or any other costs associated with such cameras shall not be considered an aidable expense pursuant to section thirty-six hundred twenty-three-a of this chapter.

* NB Repealed December 1, 2029

§ 1709-a. Powers of boards of education to ban fraternities, sororities and other secret societies. 1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

1 (a) Prior to the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by any board of education of a school district, the board of education of the school district must find that the fraternity, sorority or secret society group has by virtue of its activities caused or created a disruption of or interference with the academic processes of any secondary school within its jurisdiction or caused or created any interference with or disruption of the academic progress of any individual student or students in any secondary school within its jurisdiction.

2. For the purposes of this chapter a fraternity, sorority or secret society shall mean any organization composed wholly or in part of pupils enrolled in public secondary schools which exists or seeks to perpetuate itself by taking in additional members from the pupils enrolled in such

schools on the decision of the membership rather than upon the free choice of any pupil in such school but shall not be construed to include organizations institutionally sponsored by agencies of public welfare, the Boy Scouts of America, the Girl Scouts of America, the Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Youth Organization, Kiwanis International, Hi-Y or other similar organizations without limitation to the foregoing.

3. Upon and after the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by the board of education of any such school district, such board of education may in any secondary school under it's jurisdiction discipline any pupil who shall promise to join, or shall become a member of, or shall remain a member of, or shall solicit other persons to join any such fraternity, sorority or secret society.

§ 1710. Boards of education have powers of trustees of common schools and trustees of academies. The board of education of a union free school district shall possess all the powers and privileges, and be subject to all the duties, which the trustees of common school districts possess or are subject to under this chapter, not especially provided for in this article, and not inconsistent with the provisions of this article, including, but not limited to, those provided for in sections sixteen hundred four, sixteen hundred six to sixteen hundred seventeen, both inclusive, and sixteen hundred nineteen of this chapter; and shall enjoy, whenever an academic department shall be by them established, all the immunities and privileges now enjoyed by the trustees of academies in this state.

§ 1711. Appointment of superintendent of schools. 1. The board of education of any union free school district may appoint a superintendent consistent with the provisions of this section.

2. Such superintendent shall possess, unless otherwise specified by

the by-laws of the board of education, the following powers and be charged with the following duties:

a. To be the chief executive officer of the school district and the educational system, and to have the right to speak on all matters before the board, but not to vote.

b. To enforce all provisions of law and all rules and regulations relating to the management of the schools and other educational, social and recreational activities under the direction of the board of education.

c. To prepare the content of each course of study authorized by the board of education. The content of each such course shall be submitted to the board of education for its approval and, when thus approved, the superintendent shall cause such courses of study to be used in the grades, classes and schools for which they are authorized.

d. To recommend suitable lists of textbooks to be used in the schools.

e. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, deputy claims auditors, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and actions; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

f. To have supervision and direction over the enforcement and

observance of the courses of study, the examination and promotion of pupils, and over all other matters pertaining to playgrounds, medical inspection, recreation and social center work, libraries, lectures, and all other education activities under the management, direction and control of the board of education.

3. Such superintendent shall be under the direction of the board of education, which shall prescribe his or her powers and duties, except as otherwise provided in subdivision two of this section. The superintendent shall be paid a salary, to be fixed by the board of education, and he may be removed from office by a vote of the majority of all the members of such board, provided, however, that a board of education may enter into a contract with such superintendent for a period of not less than three and not more than five years, and upon such other terms as shall be mutually acceptable to the parties, including but not limited to, fringe benefits and procedures for termination by either party prior to the expiration of the term of such contract. The services of such a superintendent of schools may be discontinued at any time by a majority vote of the board of education, and upon sixty days notice in writing to the superintendent of schools. The other terms of any such contract, including any provisions relating to an increase in salary, compensation or other benefits, shall not be based on or tied to the terms of any contract or collective bargaining agreement that the board of education has or will enter with the teachers or other employees of the school district.

4. Notwithstanding any inconsistent provision of law, the provisions of paragraph e of subdivision two of this section relating to the transfer of teachers may be modified by an agreement that is collectively negotiated pursuant to the provisions of article fourteen of the civil service law.

§ 1712. Kindergartens; nursery and night schools. 1. The board of education of each school district may maintain kindergartens which shall be free to resident children between the ages of four and six years, provided, however, such board may fix a higher minimum age for admission

to such kindergartens.

2. A board of education may maintain nursery schools which shall be free to resident children and may fix the age for admission.

3. Night schools wherein the common branches and such additional subjects as may be adapted to students applying for instruction are taught on at least two nights each week, for two hours each night, shall be maintained by the board of education and in each school district where twenty or more persons from seventeen to twenty-one years of age are required to attend upon evening instruction, or where twenty or more persons over the age of sixteen years make applications for instruction in a night school, on at least fifty nights. All night schools shall be free to all persons residing in the district.

§ 1713. Academy may be adopted as academic department. Whenever a union free school district shall be established under the provisions of article thirty-one, and there shall exist within the district an academy, the board of education, when authorized by a vote of the voters of the district, may adopt such academy as the academic department of the district, with the consent of the trustees of the academy, and thereupon the trustees by a resolution to be attested by the signatures of the officers of the board and filed in the office of the clerk of the county, shall declare their offices vacant, and thereafter the said academy shall be the academic department of such union free school district. The board of education when thereto authorized by a vote of the qualified voters of the district may lease said academy and site, and maintain the academic department of such union free school district therein and thereon.

§ 1714. Contracts with academies. The board of education of a union free school district, with the approval of the commissioner of education, may adopt an academy as the academic department thereof, and contract for the instruction therein of pupils of academic grade, residing in the district. The academy thereupon becomes the academic

department of such union free school district, and the district is entitled to the same rights and privileges, is subject to the same duties, and the apportionment and distribution of state school money shall be made to it, as if an academic department had been established in such district.

§ 1715. Retransfer of academy to its former trustees. If there shall be, in a dissolved union free school district, an academy which shall have been adopted as the academic department of the union free school district, under the provisions of title nine, chapter five hundred fifty-five of the laws of eighteen hundred sixty-four, and any amendment thereof, or title eight of chapter five hundred fifty-six of the laws of eighteen hundred ninety-four, and any amendment thereof, or under this chapter, it shall, upon the application of a majority of the surviving resident former trustees or stockholders, be transferred by the board of education to said former trustees or stockholders.

§ 1716. Estimated expenses for ensuing year. 1. It shall be the duty of the board of education of each district to present at the annual budget hearing a detailed statement in writing of the amount of money which will be required for the ensuing year for school purposes, specifying the several purposes and the amount for each. The amount for each purpose estimated necessary for payments to boards of cooperative educational services shall be shown in full, with no deduction of estimated state aid. The amount of state aid provided and its percentage relationship to the total expenditures shall also be shown. This section shall not be construed to prevent the board from presenting such statement at a budget hearing held not less than seven nor more than fourteen days prior to a special meeting called for the purpose, nor from presenting a supplementary and amended statement or estimate at any time.

2. Such statement shall be completed at least seven days before the budget hearing at which it is to be presented and copies thereof shall be prepared and made available, upon request and at the school district

offices, at any public library or free association library within the district and on the school district's internet website, if one exists, to residents within the district during the period of fourteen days immediately preceding the annual meeting and election or special district meeting at which the budget vote will occur and at such meeting or hearing. The board shall also as a part of the notice required by section two thousand four of this chapter give notice of the date, time and place of the budget hearing and that a copy of such statement may be obtained by any resident in the district at each schoolhouse in the district in which school is maintained during certain designated hours on each day other than a Saturday, Sunday or holiday during the fourteen days immediately preceding such meeting. The board shall include notice of the availability of such statement at least once during the school year in any district-wide mailing distributed.

3. Commencing with the proposed budget for the nineteen hundred ninety-seven--ninety-eight school year, such proposed budget shall be in plain language and shall be consistent with regulations promulgated by the commissioner pursuant to subdivision twenty-six of section three hundred five of this chapter. Categorization of and format for revenue, including payments in lieu of taxes, property tax refunds from certiorari proceedings, expenditure, transfer, and fund balance information and changes in such data from the prior year and, in the case of a resubmitted or amended budget, changes in such information from the prior year submitted budget, shall be complete and accurate and set forth in such a manner as to best promote public comprehension and readability.

4. Commencing with the proposed budget for the nineteen hundred ninety-eight--ninety-nine school year, such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and all compensation, salaries and benefits of all school administrators and supervisors, including business

administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements, any and all expenditures associated with the operation of the board of education, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-eight--ninety-nine school year, the board of education shall separate the district's program, capital and administrative costs for the nineteen hundred ninety-seven--ninety-eight school year in the manner as if the budget for such year had been presented in three components.

5. The board of education shall append to the statement of estimated expenditures a detailed statement of the total compensation to be paid to the superintendent of schools, and any assistant or associate superintendents of schools in the ensuing school year, including a

delineation of the salary, annualized cost of benefits and any in-kind or other form of remuneration. The board shall also append a list of all other school administrators and supervisors, if any, whose annual salary will be eighty-five thousand dollars or more in the ensuing school year, with the title of their positions and annual salary identified; provided however, that the commissioner may adjust such salary level to reflect increases in administrative salaries after June thirtieth, nineteen hundred ninety-eight. The board of education shall submit a copy of such list and statement, in a form prescribed by the commissioner, of compensation to the commissioner within five days after their preparation. The commissioner shall compile such data, together with the data submitted pursuant to subdivision four of section sixteen hundred eight of this chapter, into a single statewide compilation, which shall be made available to the governor, the legislature, and other interested parties upon request.

6. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information of the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services

sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

7. a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the board of education shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include: (i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and (ii) the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption of the proposed budget; and (iii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and (iv) the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and (v) the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, a schedule of reserve funds, setting forth the name of each reserve fund, a description of its purpose, the balance as of the close

of the third quarter of the current school district fiscal year and a brief statement explaining any plans for the use of each such reserve fund for the ensuing fiscal year and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents.

b. A copy of the property tax report card prepared for the annual district meeting shall be submitted to the department in the manner prescribed by the department by the end of the business day next following approval of the report card by the board of education, but no later than twenty-four days prior to the statewide uniform voting day. The department shall compile such data for all school districts whose budgets are subject to a vote of the qualified voters and shall make such compilation available electronically at least ten days prior to the statewide uniform voting day.

c. For purposes of this subdivision, "percentage increase in the consumer price index" shall mean the percentage that represents the product of one hundred and the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the current year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, divided by (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, with the result expressed as a decimal to two places.

§ 1717. Corporate authorities must raise tax certified by board of education. 1. The corporate authorities of any incorporated village in which any such union free school district shall be established, shall have power, and it shall be their duty, to raise, from time to time, by tax, to be levied upon all the real property in said village, as by law provided for the defraying of the expenses of its municipal government, such sum as the board of education established therein shall declare

necessary for teachers' salaries and the ordinary contingent expenses of supporting the schools of said district.

2. The sums so declared necessary shall be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of anticipated expenditure, and the amount necessary for each; and the said corporate authorities shall have no power to withhold the sums so declared to be necessary; and such corporate authorities as aforesaid shall have power and it shall be their duty to raise, from time to time, by tax as aforesaid, any such further sum to be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of the proposed expenditure, and the amount necessary for each which may have been or which may hereafter be authorized by a majority of the voters of such union free school district present and voting at any special district meeting duly convened for any of the purposes stated in section four hundred sixteen of this chapter.

§ 1718. Limitation upon expenditures. 1. No board of education shall incur a district liability in excess of the amount appropriated by a district meeting unless such board is specially authorized by law to incur such liability.

2. Notwithstanding the provisions of subdivision one of this section, grants in aid received from the state and federal governments for specific purposes, other state grants in aid identified by the commissioner for general use as specified by the board of education, other gifts which are required to be spent for particular objects or purposes and insurance proceeds received for the loss, theft, damage or destruction of real or personal property, when proposed to be used or applied to repair or replace such property, may be appropriated by resolution of the board of education at any time for such objects or purposes.

§ 1719. Deposit, custody and payment of moneys in villages. 1. All moneys raised for the support of schools in any union free school district whose boundaries are coterminous with the boundaries of an incorporated village or apportioned to the same by the education department or otherwise, shall be paid into the treasury of such village to the credit of the board of education therein; and the funds so received into such treasury shall be kept separate and distinct from any other funds received into the said treasury. And the officer having the charge thereof shall give such additional security for the safe custody thereof as the corporate authorities of such village shall require. The board of education in any such union free school district may, in its discretion, fix the compensation to be paid to the treasurer of such village for the services imposed upon him by this section, and such compensation, as so fixed, shall be paid from such moneys.

2. No money shall be drawn from such funds, credited to a board of education, unless in pursuance of a resolution of said board, and on voucher-order checks signed by the treasurer, payable to the order of the persons entitled to receive such money, and stating on their face the purpose or service for which such moneys have been authorized to be paid by the said board of education. The board of education may in its discretion require that such checks be countersigned by another officer of such district. When authorized by resolution of the board of education such checks may be signed with the facsimile signature of the treasurer and other district officer whose signature is required, as reproduced by a machine or device commonly known as a checksigner. No resolution of the board of education, however, shall be necessary for the payment of compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year when the name of such officer or employee appears upon a duly certified payroll, or of the principal of or interest on indebtedness of the district. By resolution duly adopted, the board may determine to enter into a contract to provide for the deposit of the periodic payroll of the school district in a bank or trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

3. When obligations are issued and sold pursuant to the local finance

law by a union free school district whose boundaries are the same as the boundaries of an incorporated village, the proceeds of the sale of such obligations shall be paid into the treasury of said incorporated village, to the credit of the board of education.

4. So much of this section as relates to the deposit of moneys raised for the support of schools in any union free school district shall not apply to the Bronxville union free school district.

§ 1720. Moneys and accounts in union free school districts. 1. All moneys raised in a union free school district or apportioned thereto by the education department or otherwise, shall be paid to the treasurer of the district entitled to receive the same, and be applied to the uses of the district and the board shall annually render their accounts of all moneys received and expended by them for the use of said schools.

2. No money shall be drawn from such funds in possession of such treasurer, unless in pursuance of a resolution of said board, and on voucher-order checks signed by the treasurer, payable to the order of the persons entitled to receive such money and stating on their face the purpose or service for which said moneys have been authorized to be paid by the said board of education. The board of education may in its discretion require that such checks be countersigned by another officer of such district. When authorized by resolution of the board of education such checks may be signed with the facsimile signature of the treasurer and other district officer whose signature is required, as reproduced by a machine or device commonly known as a check-signer. Such board may by resolution designate one of its members other than said other officer whose signature is required or appoint a deputy treasurer who shall serve at the discretion of the board, to sign such checks in lieu of either the treasurer or other officer whose signature is required, in case of their absence or inability, provided that any board member or deputy treasurer so authorized shall, before acting in the place and stead of the treasurer, execute and file an official undertaking in an amount and in the manner required as to such treasurer pursuant to the provisions of this chapter. No resolution of the board,

however, shall be necessary for the payment of compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year, where the name of such officer or employee appears upon a duly certified payroll, or of the principal of or interest on indebtedness of the district. By resolution duly adopted, the board may determine to enter into a contract to provide for the deposit of the periodic payroll of the school district in a bank or trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

§ 1721. Records; reports. It shall be the duty of the board of education of a union free school district to keep an accurate record of all its proceedings in books provided for that purpose. It shall also be the duty of said board to cause to be published once in each year, during the month of July or during the month of August, in at least one public newspaper, published in such district or, if one public newspaper is not published in such district, then in a public newspaper having general circulation within such district, a full and detailed account of all moneys received by the board or the treasurer of said district, for its account and use, and of all the moneys expended therefor, giving the items of expenditure in full; should there be no paper published in or having general circulation within said district said board shall publish such account by notice to the taxpayers, by posting copies thereof in five public places in said district.

§ 1722. Application of article. The provisions of this article shall apply to all union free school districts heretofore organized pursuant to the provisions of chapter four hundred thirty-three of the laws of eighteen hundred fifty-three, and the amendments thereof, chapter five hundred fifty-five of the laws of eighteen hundred sixty-four, and the amendments thereof, and of chapter five hundred fifty-six of the laws of eighteen hundred ninety-four and the amendments thereof; and sections seventeen hundred seventeen, four hundred one, subdivision one, four hundred sixteen and seventeen hundred nineteen, subdivision three, of this chapter are made applicable to all school districts established by

and organized under special statutes, except those of cities; and sections seventeen hundred eleven and four hundred one, subdivision two, of this chapter are made applicable to all school districts, except those of cities, having a population of five thousand and upwards established by and organized under special statutes.

§ 1723-a. Temporary investment of school moneys. The board of education of any union free school district may authorize the district treasurer or other officer having custody of district moneys to invest moneys of the district in the manner provided by section eleven of the general municipal law.

§ 1724. Form and audit of claims. 1. No claim against a central school district or a union free school district, except for compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year or for the principal of or interest on indebtedness of the district, shall be paid unless an itemized voucher therefor approved by the officer whose action gave rise or origin to the claim, shall have been presented to the board of education of the district and shall have been audited and allowed. The board of education shall be authorized, but not required, to prescribe the form of such voucher.

2. The board of education, in considering any claim, may require any person presenting the same to be sworn before it or before any member thereof and to give testimony relative to the justness and accuracy of such claim, and may take evidence and examine witnesses under oath in respect to the claim, and for that purpose may issue subpoenas for the attendance of witnesses. When a claim has been finally audited by the board of education the clerk of such board shall endorse or attach a certificate of such audit upon the claim or upon an abstract on which such claims are listed and file the same as a public record in his office. When any claim has been so audited and a certificate thereof so filed, the clerk of the board of education shall draw a warrant specifying the name of the claimant, the amount allowed and the fund,

function and object chargeable therewith and such other information as may be deemed necessary and essential, directed to the treasurer of the district, authorizing and directing him to pay to the claimant the amount allowed upon his claim. A copy of such warrant shall be filed in the office of the clerk.

3. The board of education may by resolution authorize the payment in advance of audit of claims for public utility services, postage, freight and express charges. All such claims shall be presented at the next regular meeting for audit, and the claimant and the officer incurring or approving the same shall be jointly and severally liable for any amount disallowed by the board of education.

As used in this subdivision, the term public utility services shall mean electric, gas, water, sewer and telephone services.

§ 1725. Lease of personal property. 1. Notwithstanding any inconsistent provision of law, a board of education of any union free school district may enter into agreements for the lease of personal property.

2. Before executing any such agreement, the board of education must adopt a resolution determining that such agreement is in the best financial interests of the school district and stating the bases of that determination.

3. No agreement for the lease of personal property shall be for a term of more than the current school year unless such agreement shall be approved by the voters of the district, either as a separate proposition or as an appropriation with indication that a lease is intended or possible, or unless the board of education shall have determined that such lease of property is an ordinary contingent expense.

4. Such agreements shall be subject to the bidding requirements of the general municipal law for purchase contracts.

§ 1725-a. Powers of boards of education; instructional equipment. Notwithstanding any inconsistent provision of law, the board of education of any school district is hereby authorized and empowered to enter into agreements for the lease-purchase of instructional equipment, with the payments to be applied against the purchase price of the equipment. The term "instructional equipment" shall be defined in regulations by the commissioner. Any such lease-purchase agreements shall have the prior written approval of the commissioner before execution. Such agreements shall be subject to the bidding requirements of the general municipal law.

§ 1726. Lease and lease-purchase of buildings. 1. Notwithstanding any inconsistent provision of law, the board of education of any union free school district may enter into agreements pursuant to the provisions of this section for the lease or lease-purchase of buildings for school purposes, to be placed or erected on a site owned by the district.

1-a. Notwithstanding any inconsistent provision of law, the board of education of any union free school district may enter into agreement with the dormitory authority for the lease or lease-purchase for school purposes from the dormitory authority of a dormitory (or any part thereof), as defined in section sixteen hundred seventy-six of the public authorities law, including, if the agreement so provides, land, buildings, any attendant facilities, and equipment, provided such dormitory (a) is owned by or in the possession of the dormitory authority, and (b) was originally provided or financed by the authority for an educational institution as defined in subdivision one of section sixteen hundred eighty of the public authorities law and (c) is no longer being used by such educational institution. Any such agreement may provide for the alteration, reconstruction or rehabilitation of any such dormitory or part thereof by the school district or the authority as capital items. The provisions of subdivisions three, four, six, eight and nine of this section shall not apply to any agreement with the dormitory authority authorized by this subdivision, provided, nevertheless, that the lease or lease-purchase agreement may not be made for a period in excess of the applicable period of probable usefulness

for the building or buildings, as so altered, reconstructed or rehabilitated, and provided, further, that the plans and specifications for such building or buildings, as so altered, reconstructed or rehabilitated, shall be subject to approval of the commissioner of education, before such alteration, reconstruction or rehabilitation may be authorized by the board of education of such school district.

2. Before executing any such agreement, the board of education shall adopt a resolution determining that such agreement is in the best financial interests of the school district and stating the basis of that determination.

3. Such agreements shall be subject to the bidding requirements of the general municipal law, except that the provisions of section one hundred one of the general municipal law shall not apply to lease or lease-purchase of pre-manufactured items delivered to the site, but shall apply to installation and other work to be performed on the site.

4. No agreement for the lease of a building or buildings may be made for a term of more than five years, beginning with the time of occupancy. No lease-purchase agreement may be made for a period exceeding the applicable period of probable usefulness pursuant to the provisions of the local finance law. Nothing herein contained shall be deemed to prohibit a board of education from entering into a renewal of such lease agreement of such building or buildings for like periods, provided, however, that the total lease payments or the total amount of lease-purchase agreement payments over the period of any such agreement including all lease renewals, may not exceed the purchase price of such building or buildings, together with interest of not to exceed six percent per annum on any unpaid balance.

5. A board of education may not enter into any lease or lease-purchase agreement authorized by this section without the previous approval of the voters of the district; provided that a board of education may, with the approval of the commissioner, lease necessary space in case of an unforeseeable emergency.

6. Any agreement by which a building is leased to a school district for installation on land owned by the district must include provision for the removal of such building by the lessor within ninety days after termination of the lease, unless such lease is renewed or title to the building passes to the school district in accordance with the provisions of this section.

7. The commissioner, with the approval of the director of the budget, shall establish a uniform procedure for allocation of payments under lease-purchase agreements for the purpose of determining operating aid and aid for building purposes, respectively; provided, however, that no building aid shall be paid unless and until the school district has legally committed itself to the purchase in accordance with the provisions of this section.

8. Plans and specifications and the proposed lease, lease renewal or lease-purchase agreement for buildings to be leased or purchased pursuant to the provisions of this section must be approved by the commissioner before a board of education may authorize or execute any agreement, or renewal thereof, for such purposes.

9. The term "lease", as used in this section, shall include a lease with an option to purchase; provided, however, that in the case of a lease with an option to purchase, no part of any lease payments may be counted against the purchase price, in case the option to purchase is exercised.

10. The term of no lease agreement including renewals thereof, may exceed the period of probable usefulness provided for such building or buildings by the local finance law.

11. No annual installment of lease-purchase payment may exceed any other such installment under any such agreement by more than fifty per centum thereof.

12. Any school district entering into any lease-purchase agreement under this section, shall pledge its full faith and credit for the full

performance of all obligations under such agreement, including all annual payments required to be made thereunder.

13. The annual payments to be made by the school district under any such agreement shall commence within two years after the execution of any such agreement, or within thirty days from the time the board of education shall have approved such building for occupancy, whichever shall be later.

14. The total amount of any unpaid annual payments of a lease-purchase agreement in relation to the principal of any such indebtedness, in case of a school district in a city as defined in the local finance law shall be deemed to be indebtedness of the school district for a capital improvement within the meaning of subparagraph (b) of subdivision three of paragraph a of section 135.00 of the local finance law.

15. The annual payments by such a school district in a city in relation to such indebtedness and interest shall be deemed to be "indebtedness" and "interest" within the meaning of section ten of article eight of the state constitution.

16. No such agreement shall be renegotiated or amended in such manner as to constitute a refunding within the meaning of section two of article eight of the state constitution.

ARTICLE 37

CENTRAL SCHOOL DISTRICTS

Section 1801. Formation and changes of central school districts.
1802. Organization procedure.
1803. Proceedings at meeting.
1803-a. Alternative voting procedure.
1804. Board of education; election; powers and duties.
1805. Powers of central school district; officers of component districts; transition state aid.
1807. Transportation of school children.
1809. Apportionment to central school districts containing

former central school districts.

§ 1801. Formation and changes of central school districts. 1. The commissioner of education is hereby authorized and empowered to lay out central school districts for the establishment of central schools to give instruction in elementary or elementary and high school subjects and to fix, determine and define the boundaries of said districts as hereinafter provided.

2. The commissioner is authorized and empowered to make and enter in his office orders laying out territory in new central school districts or annexing to existing central school districts territory not contained within a city school district in a city having a population of more than ten thousand inhabitants, and not contained within a city school district having a full valuation of taxable real estate per public school pupil residing in the district of more than fifteen thousand dollars; provided, however, that no territory contained within a city school district in a city having a population of ten thousand inhabitants or less may be included in new central school districts or annexed to existing central school districts after July first, nineteen hundred fifty-five. The commissioner of education is authorized and empowered to make and enter in his office orders dissolving and annexing a central school district or districts to another central school district, pursuant to the provisions of subdivision two of section eighteen hundred two of this chapter. The commissioner in laying out such central school districts and in fixing and defining the boundaries thereof shall include only territory of suitable size conveniently located for the attendance of pupils and having a sufficient number of pupils for the establishment of a central school. The commissioner shall designate all central school districts by such simplified name as he shall deem proper.

3. Within ten days after the making and entry of the order pursuant to this section, the commissioner shall transmit a certified copy thereof to the clerk, or in the event there is no clerk, to the trustee or trustees of each school district the territory of which is affected by

said order. The clerk, the trustee or trustees, as the case may be, shall, within five days after receipt of such order, post a copy thereof in five conspicuous places in such district.

4. No central school district laid out by order of the commissioner shall operate as a central school district, nor be entitled to receive the benefits of a central school district until it has been organized by the qualified voters of the district in accordance with the provisions of this article, provided, however, a central school district which was organized prior to April seventh, nineteen hundred forty-four, or pursuant to the provisions of this section and to which territory may be annexed shall not be required to again organize.

5. The commissioner of education is hereby authorized and empowered to make and enter in his office an order annexing the territory of common school district number three of the town of Wilmington, Essex county to central school district number two of the town of North Elba, Essex county, together with such territory of common school district number one of the town of Wilmington, Essex county as will provide contiguity between the aforementioned Wilmington common school district number three and North Elba central school district number two.

§ 1802. Organization procedure. 1. New central school districts shall be organized as provided in this subdivision.

a. When an order laying out a central school district has been made and entered as provided in section eighteen hundred one of this chapter, a petition may be presented by persons qualified to vote at school district meetings asking for the organization of a central school district and the establishment of a central school therein. Said petition shall be signed by at least one hundred of such qualified voters or by a number of such qualified voters equal to at least ten per centum of the pupils of said central school district as determined by the last school census, whichever shall be less.

b. Said petition shall be filed with the commissioner and shall

request that a meeting of the qualified voters within said territory be called for the purpose of determining whether or not such territory shall be organized as a central school district and a central school be established therein for instruction in elementary or elementary and high school subjects. If the commissioner is satisfied that the petition has been duly signed as provided in this section, he shall fix a time and place for a special meeting of the qualified voters within the central school district, which meeting shall be held not more than thirty days after the filing of the petition aforesaid. The commissioner shall cause notice of such meeting to be posted at least ten days before the meeting in three conspicuous places in each school district wholly or partly within the central school district. In addition to the posting of such notice, a copy thereof shall be published at least three days before the meeting in a daily or weekly newspaper published within the territory or in a newspaper circulating therein. The expense of posting and publishing of the notice shall be borne equally by the several school districts within the territory, unless a central school district is organized, in which event such expense shall become a charge upon said central school district.

2. Territory shall be annexed to a central school district as provided in this subdivision.

a. When an order annexing territory to a central school district has been made and entered as provided in section eighteen hundred one of this chapter, the commissioner shall within ten days thereafter cause certified copies of said order to be filed with the clerk of the central school district and the trustee or trustees of each school district affected thereby. Said order annexing territory to the central school district shall become final sixty days after such filing of the certified copy thereof, unless a permissive referendum is requested as hereinafter provided. Said order may state that it shall take effect on a date specified therein which date shall not, however, be earlier than sixty days after such filing.

b. When at least one hundred of the qualified voters residing in a central school district, as it existed prior to the order of annexation,

or a number of such qualified voters equal to at least ten per centum of the pupils therein, as determined by the last school census, whichever shall be less; or when at least one hundred qualified voters residing within any school district affected by such order or a number of such qualified voters equal to at least ten per centum of the pupils therein, as determined by the last school census, whichever shall be less, shall, within sixty days after the last filing of the copies of the aforesaid order, file a petition with the commissioner requesting a special meeting of the qualified voters of such district affected thereby, a special meeting shall be held pursuant to notice, as hereinafter set forth, to determine whether the order annexing the school district or districts, or any one of such districts, shall be approved. If the commissioner determines that the petition has been duly signed by the number of qualified voters required, he shall fix a time and place, within thirty days after the receipt by him of said petition, for a special meeting of the qualified voters of the central school district or school district in respect of which a petition has been filed as aforesaid. The commissioner shall cause notice thereof to be posted at least ten days before the meeting in ten conspicuous places in such central school district or such school district. In addition to the posting of such notice a copy thereof shall be duly published, at least three days before the meeting, in a daily or weekly newspaper published within such central school district or any of the school districts in which such meeting is to be held, or in a newspaper circulating in the territory. The expense of posting and publishing the notice aforesaid shall be a charge upon the central school district or school district conducting such meeting.

§ 1803. Proceedings at meeting. 1. Any meeting held pursuant to the notice provided in section eighteen hundred two shall be called to order by a school official or a qualified voter of the district, designated by the commissioner of education for the purpose. The first order of business shall be the election of a chairman and a clerk who shall be qualified voters of the district. The meeting may be adjourned from time to time by a majority vote of the qualified voters present but no such adjournment shall be for a longer period than ten days. The affirmative

vote of a majority of the qualified voters present and voting shall be required on the adoption of a resolution.

2. At a meeting held pursuant to subdivision one of section eighteen hundred two a resolution in substantially the following form shall be presented for the action and determination of the meeting, viz.: "Resolved that the ..... central school district (add designation) as described in the order of the commissioner of education now before this meeting, be organized and a central school for instruction in elementary and high school subjects be established."

3. At a meeting held in an existing central school district pursuant to subdivision two of section eighteen hundred two a resolution in substantially the following form shall be presented for the action and determination of the meeting, viz.: "Resolved that the ..... (insert simplified name of district in accordance with section three hundred fifteen of this chapter) school district be annexed to the ..... central school district (designate central school district) as provided in the order of the commissioner of education now before this meeting." Said resolution may be amended by a majority vote of the qualified voters present to exclude one or more of the districts described in said order of the commissioner from annexation to the central school district.

4. At a meeting held in any common or union free school district pursuant to subdivision two of section eighteen hundred two a resolution in substantially the following form shall be presented for the action and determination of the meeting, viz.: "Resolved that the ..... (insert simplified name of district in accordance with section three hundred fifteen of this chapter) school district be annexed to the ..... central school district (designate central school district) as provided in the order of the commissioner of education now before this meeting."

5. Votes upon the adoption of a resolution shall be cast in the same manner as votes for the election of school district trustees. The commissioner of education may order such modifications in the manner of

voting as are customary for school district elections in the community affected by such vote. Such modifications may include the use of voting machines and shall include the use of absentee ballots as provided under section two thousand eighteen-a or two thousand eighteen-b of this title, whichever shall apply, and early mail ballots as provided in section two thousand eighteen-e or two thousand eighteen-f of this title, whichever shall apply.

6. A copy of the minutes of the meeting or meetings duly certified by the clerk shall be filed by him with the commissioner of education, with each school superintendent in whose jurisdiction such school district, or any part thereof, is or may thereafterward be located and with the town clerk of each town in which any part of said school district is or may thereafterward be located.

7. If the resolution described in subdivision two of this section is adopted, then the voters shall proceed to organize in accordance with the provisions of this article.

8. If at any such meeting the resolution described in subdivision two, three or four of this section shall be presented and shall not be adopted, there shall be no further proceedings at such meeting, except a motion to reconsider the question. No such meeting shall again be called within one year after such original meeting. No new meeting shall be called unless a petition therefor shall be presented to the commissioner in the manner provided in subdivision two of section eighteen hundred two of this article. If no meeting shall be called to reconsider the question within two years after such original meeting or if at any such meeting called within two years after such original meeting the resolution shall again fail of adoption, the order of the commissioner of education to which the resolution relates shall be deemed null and void and of no further force or effect.

9. If the resolution submitted to the voters as provided in either subdivision three or subdivision four of this section shall be adopted the territory described therein shall thereupon be annexed to the existing central school district.

§ 1803-a. Alternative voting procedure. 1. When an order laying out a central school district has been made and entered as provided in section eighteen hundred one of this chapter, and the petitions referred to in paragraph a of subdivision one of section eighteen hundred two thereof have been, or are being, presented and filed with the commissioner, a second petition may be presented by persons qualified to vote in any school district, all of which is included in the area of the central school district as laid out by such order, and which school district at the time of such order maintained its own schoolhouse. Such second petition may request the alternative voting procedure authorized by this section, and shall be signed by at least one hundred qualified voters of such district or by a number of such qualified voters equal to at least ten per centum of the pupils of such district as determined by the last school census, whichever shall be less; provided, however, that such second petition must, in any event, contain not less than ten signatures. Such second petition shall be filed with the commissioner at the same time as the first petition is filed. If the commissioner is satisfied that both petitions have been duly signed as provided by law, he shall fix a time and place for an election of the qualified voters within the central school district, which said election shall be held not more than thirty days after the filing of the petitions aforesaid. The commissioner shall cause notice of such election to be posted at least ten days prior thereto in three conspicuous places in each school district wholly or partly within the central school district. In addition to the posting of such notice, a copy thereof shall be published at least three days before the election in a daily or weekly newspaper published within the territory or in a newspaper circulating therein. The expense of posting and publishing of the notice shall be borne equally by the several school districts within the territory, unless a central school district is organized, in which event such expense shall become a charge upon said central school district.

2. Elections for the establishment of a central school district under the provisions of this section shall be conducted as follows:

a. They shall take place on a day and at a place designated by the commissioner for a vote by all the qualified voters within the central school district, except as otherwise provided in paragraph b of this subdivision.

b. The qualified voters of any school district from which a second petition pursuant to subdivision one of this section has been received, shall vote on the designated day at the principal schoolhouse located in such district. Such petitioning district shall be known as a special election district.

c. The election shall take place during at least four consecutive hours between the hours of seven o'clock in the forenoon and ten o'clock in the evening, as determined by the commissioner of education.

d. The ballots for the election shall be furnished by the commissioner of education and shall contain a resolution in substantially the following form: "Resolved that the ..... central school district (add designation) as described in the order of the commissioner of education be organized and a central school for instruction in elementary and high school subjects be established."

e. Before each person casts his ballot he shall be required to sign a statement contained in a poll book provided for the purpose, declaring that he is a qualified voter within the central school district.

f. Provision shall be made for the use of absentee ballots as provided under section two thousand eighteen-a or two thousand eighteen-b of this title, whichever shall apply, and early mail ballots as provided under section two thousand eighteen-e or two thousand eighteen-f of this title, whichever shall apply.

3. The commissioner shall appoint a board of canvass whose duty it shall be to act as a board of elections at the central voting place designated by the commissioner pursuant to paragraph a of subdivision two of this section, and also to act as a board of canvass for the entire area included in the central school district, including any

district petitioning pursuant to subdivision one of this section. Such board shall, as soon as the ballot boxes and books containing the names of the voters have been delivered to the board of canvass at the place designated by the commissioner, count the ballots of all those voting in the central school district. Prior to ascertaining the manner in which any voter has marked a ballot, the number of ballots from the central voting place and each special election district shall be counted separately without opening them and if the number does not correspond with the number of names contained in the poll book of such central voting place or special election district, the board before canvassing the ballots, shall withdraw therefrom a number sufficient to make the number of ballots correspond with the number of names in the poll book. Such board shall then canvass the vote of the central voting place and of each special election district separately and certify to the commissioner the total number of votes cast at the central voting place and at each special election district, the number of valid votes cast for the organization, the number of valid votes cast against the organization, the number of void ballots and the number of blank ballots. A majority of the valid votes cast at the central voting place and at each special election district shall be necessary to establish the central school district. The board of canvass shall seal the books and the ballots immediately upon the completion of the certificate, setting forth the result and shall retain them in its possession for at least thirty days. If an appeal is brought from an action of the meeting, the ballots shall be available for the inspection of the commissioner. The board of canvass shall file a copy of such certificate with each school superintendent in whose jurisdiction the central school district, or any part thereof, is or may thereafterward be located, and shall also file a copy thereof with the town clerk of each town in which any part of such central school district is or may thereafterward be located.

4. a. The trustee or board of trustees or education of each special election district shall act as an election board for the conduct of the election in such district. The sole trustee or president of the board shall administer the challenges. If the president of the board is not available, the board may elect any one of its members in his stead. If

no one is otherwise available or if during the course of the election it becomes necessary for a trustee in a one-trustee district to absent himself, the district superintendent of schools shall designate a voter of the election district to carry out the duties of the election board. Such board shall furnish a padlocked ballot box.

b. After the polls are closed, and after all persons within the room have voted, the election board shall forthwith proceed to deliver to the board of canvass at the place designated by the commissioner of education the ballot box and the book containing the names of the voters. Any wilful violation of this paragraph shall be a misdemeanor.

5. Upon an appeal to the commissioner of education, substantial compliance with the procedures herein required shall be sufficient to meet the intent of this section.

6. If the resolution described in subdivision two of this section shall be defeated, no such elections or meeting shall again be called within one year after such elections. If no elections or meeting shall be called to reconsider the question within two years after such original elections or if at any such elections or meeting called within two years of such original elections the resolution shall again fail of adoption, the order of the commissioner of education to which the resolution relates shall be null and void and of no further force and effect.

7. If at such election the resolution referred to in subdivision two is adopted, the commissioner of education shall fix a time and place for a special meeting of the qualified voters within the central school district for the purpose of electing a board of education. The commissioner shall cause notice of such meeting to be posted at least ten days before the meeting in three conspicuous places in each former school district wholly or partly within the central school district. In addition to the posting of such notice, a copy thereof shall be published at least three days before the meeting in a daily or weekly newspaper published within the territory or in a newspaper circulating therein. The expense of posting and publishing of the notice shall be

upon said central school district.

8. The commissioner of education may order such modifications in the manner of voting on the resolution described in subdivision two of section eighteen hundred three of this chapter and for the election described in subdivision seven of this section as are customary in school district elections in the community affected by such vote. Such modifications may include the use of voting machines and the use of nominating petitions.

§ 1804. Board of education; election; powers and duties. 1. Each such central school district shall be managed by a board of education consisting of five, seven or nine members, which board shall have the same powers and duties as boards of education in union free school districts as prescribed by this chapter. Except as provided in this article, all the provisions of this chapter or of any other general law relating to or affecting union free school districts shall apply to central districts organized as herein provided. The corporate existence of any city school district the territory of which is enlarged by the formation of a central school district pursuant to this article shall continue and such central school district shall be and shall be designated as a city school district and shall be subject to the provisions of article fifty-one of this chapter and to those provisions of this article which are not inconsistent with the provisions of article fifty-one.

2. The first board of education shall be elected at the meeting at which the resolution organizing such central school district and establishing a central school is adopted or in case the alternative voting procedure authorized by section eighteen hundred three-a of this chapter has been adopted, at the meeting referred to in subdivision seven of such section. It shall be the duty of such meeting to elect five, seven or nine members of the board of education who shall by order of such meeting be divided into a sufficient number of classes so that as nearly as possible an equal number of members shall be elected to the board each year.

3. The number of members of the board of education of an organized and existing central school district may be increased to seven or nine members in the same manner as increases are made in union free school districts. The number of members of a board containing nine members may be decreased to seven or five members and the number of members of a board containing seven members may be decreased to five members in the same manner as decreases are made in union free school districts.

4. The annual meeting and election in each central school district shall be held on the third Tuesday of May provided, however that such annual meeting and election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances, and any school budget revote shall be held on the date specified in subdivision three of section two thousand seven of this title. Such annual meeting and school budget revote shall be conducted and the election of members of the board shall be held in the same manner as in union free school districts organized and operating under the provisions of this chapter. The board of education of each central school district shall hold a budget hearing not less than seven nor more than fourteen days prior to the annual or special district meeting at which a school budget vote will occur, and shall prepare and present to the voters at such budget hearing a proposed school district budget for the ensuing school year.

5. a. Nothing herein contained shall be construed to deprive any existing school district of the property belonging to such district, or to affect the indebtedness of said district. An existing district within the meaning of this article shall be construed to mean a district that lies within the boundaries of a central school district. Each such existing district shall be deemed to continue to exist in law for the purpose of paying all its just debts, including obligations lawfully issued prior to the organization of such central school district, together with all interest thereon as the same shall fall due. In levying the annual school tax upon the property of such central school districts, the board of education shall also assess and levy upon the

taxable property of each such existing district which has an outstanding indebtedness, an additional sum sufficient to pay all of such indebtedness which shall fall due during the school year for which the tax is levied less any sum received by such central school district and apportioned and credited to the existing school district pursuant to the provisions of subdivision four of section eighteen hundred six of this article.

b. Notwithstanding the provisions of paragraph a of this subdivision, whenever a common school district or a union free school district shall, after July first, nineteen hundred sixty-four, become a part of a central school district either pursuant to the provisions of subdivision one of section eighteen hundred two of this article, or pursuant to the provisions of subdivision two thereof, or whenever a central school district, after such date, shall become a part of another central school district pursuant to either of such provisions, the central school district, of which any such district shall have become a part, shall succeed to all the property rights of such common, union free or central school district and all indebtedness of any such school district evidenced by bonds or notes or relating to school building construction shall become a charge upon such central school district of which such district shall have become a part, but all other indebtedness of any such district shall be paid by any such district in accordance with the provisions of section fifteen hundred eighteen of this chapter and to that extent any such district shall continue to exist in law for the purpose of providing for and paying all such indebtedness in accordance with the provisions of such section.

6. a. The board of education shall not sell or otherwise dispose of the property of any such existing district except with the approval of a majority of the qualified voters of such existing district present and voting upon the question at a meeting of such voters duly called by such board of education; provided, however, that upon the expiration of five years from the date of discontinuance of a school, pursuant to section one thousand eight hundred five of this chapter, the board of education may, in its discretion, without a vote by such qualified voters upon such question, sell or otherwise dispose, in the manner provided by law,

of such a school or other building previously used for school purposes and the real property on which it is situated. For that purpose the proceeds of such sale or disposal of property belonging to such existing district, after deducting the cost of repairs or improvements made after the organization of the central school district, shall be used for the payment of the portion payable by such existing district of any outstanding indebtedness of such existing district which shall be due and payable or which may thereafter become due and payable. Any balance remaining after the payment of such indebtedness shall be apportioned among the taxpayers of such existing district as they appear upon the last completed town or city assessment roll preceding the date of sale, providing such apportioned sum shall equal or exceed five dollars and unless the voters of such existing district by a majority vote of those present and voting at a special district meeting called for that purpose shall vote to turn over the proceeds of such sale or disposal of such property to the central district to be used for the benefit of the central district. Any balance of funds remaining in the treasury of the several districts included within the central school district on July first next following the date of the establishment of such central school district, after paying all outstanding obligations then due and payable, shall be turned over to the treasurer of the central school district within thirty days thereafter and shall become available for use by the board of education of the central school district; provided, however, that if any such existing district shall have any obligations which shall become due and payable after such July first, so much of any such balance of funds as may be necessary shall be held in a special account by the treasurer of the central school district for the purpose of paying the principal of, and interest on, such obligations, as the same shall become due and payable from time to time. The title to all property erected or otherwise acquired after the organization of such central school district shall be vested in the central district, irrespective of the location of such property.

b. The provisions of paragraph a of this subdivision shall not be applicable to the property of any common or union free school district which, after July first, nineteen hundred sixty-four, shall become part of a central school district, nor to any central school district which,

after such date, shall become part of another central school district.

c. Notwithstanding the provisions of paragraph a of this subdivision, the board of education of a central school district may, by resolution, after a period of at least seven years of centralization, sell any piece of real property which such board shall deem to be of no use or value therefor. The sale of such property shall be without the approval of the qualified voters of the school district, unless a petition requiring that the question as to the sale of such property be submitted to a vote by the qualified voters of such district. Such petition shall be subscribed and acknowledged by at least ten per centum of the qualified voters of such district, and filed with the clerk of the board of education within thirty days of the adoption of such resolution. Upon the affirmative vote of a majority of the qualified voters, voting thereon, such resolution shall become effective. The proceeds derived from such sale shall revert to the use and benefit of the entire district. Upon approval by the board of education, such funds may be (i) utilized to reduce existing bonded indebtedness; (ii) applied to construction, reconstruction or renovation within such district; or (iii) applied to the general fund of such district.

7. Deeds of property sold or disposed of under the provisions of the preceding subdivision shall be executed by the board of education of the central school district or a majority of the members thereof. Any deed duly executed and delivered by the board of education of the central school district in the course of a sale or disposal of real property of a constituent district pursuant to the provisions of the preceding subdivision shall be valid and effectual to pass all the estate or interest of such constituent district in the premises. All deeds or other conveyances of real property of any district heretofore made and delivered, executed by said board of education of said central school district by its officers, or in the manner in which deeds are executed by corporations, or executed in any other manner, shall be as valid and of the same force and effect as if executed by said board of education of said central school district or a majority of the members thereof; but this provision shall not affect any action or proceeding pending at the time of the taking effect hereof.

8. The board of education may, in its discretion, provide compensation to a speaker or speakers at commencement day exercises in such amount as may be determined by the board.

9. a. The board of education shall, for purposes of a criminal history record check, require the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate forty-five days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal

conviction in any jurisdiction outside the state.

c. Upon the recommendation of the superintendent, the board may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to paragraph b of this subdivision must also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance but shall terminate twenty business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An unforeseen emergency vacancy shall be defined as: (i) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (ii) when no other qualified person is available to fill the vacancy temporarily; and (iii) when emergency conditional appointment is necessary to maintain services which the district is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of subparagraph (i) of this paragraph shall not apply if the board finds that the district has been unable to fill the vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

d. Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

10. The board of education shall upon commencement and termination of employment of an employee by the school district, provide the

commissioner with the name of and position held by such employee.

11. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal guardian.

12. Each central school district shall establish a process for designating at least one student as an ex officio member pursuant to paragraph c of this subdivision. If, prior to August fifth, two thousand three, a school district had a policy that allowed a student or students to be ex officio members of the school board, such policy shall be deemed to meet the requirements of this subdivision and shall be deemed to have full legal effect. In any district that contains more than one high school, such process shall take into consideration the number of high schools within the district and provide for a mechanism which allows for fair representation among the schools. Such school district shall allow such selected student or students to serve as ex officio members of such district's board of education and provided further that:

a. The ex officio student members of the board shall be entitled to sit with board members at all public meetings and hearings of the board and may participate in other board activities and responsibilities at the discretion of the board.

b. The ex officio student members of the board shall not be allowed to vote, shall not be allowed to attend executive session or any other meetings or hearings not open to the public, and shall not be entitled to receive compensation of any form for participating at board meetings.

c. Notwithstanding any other law to the contrary, the ex officio student members of the board may be any of the following: the student that has been duly elected as student president of the high school; a student duly elected by the student body; a student selected by the high school student government; a student selected by the high school principal; a student selected by the superintendent of schools; a student selected by majority vote of the school board.

d. The ex officio student members shall have attended such high school for at least one year prior to selection.

§ 1805. Powers of central school district; officers of component districts; transition state aid. All central school districts shall have the same powers and be subject to the same limitations that are now conferred or imposed by law upon union free school districts as provided by this chapter. The district officers of the several existing districts shall remain in office until August first next following organization of such central school district for the purpose of conducting and maintaining school in the several districts, the carrying out of contracts in force at the time of the organization of such central school district, of paying all just debts and obligations of such existing districts due and payable on or prior to said August first, and of levying and collecting taxes raised or necessary to be raised for any of said purposes. For the purposes of the apportionment and payment of public moneys, notwithstanding any other provisions of this article, any apportionments and payments made during the school year in which such central school district was organized shall be apportioned and credited to the existing districts. Any apportionments made and paid during the school year next succeeding the date of the organization of such central school district shall be made and credited

to the central school district but the amounts thereof shall be determined upon the basis of the continuance of the existing districts as separate districts during the entire school year in which such central school district was organized.

§ 1807. Transportation of school children. 1. The commissioner of education shall have power in any such central school district to require the payment by the district of such expense of transportation of school children to and from the schools they legally attend within the district as in his judgment such transportation is required because of the remoteness of the school to the pupil or for the promotion of the best interests of such children and the same shall be a charge upon the district.

2. In any part of the city school district of the city of Syracuse for which transportation of school children is not provided and which the board of education of such district shall have designated as an area presenting a danger or hazard to school children walking to and from school, such board may provide transportation for such school children to and from the school they legally attend within the district and the cost of such transportation shall be a charge upon the district.

§ 1809. Apportionment to central school districts containing former central school districts. Whenever a new central school district shall be laid out and organized out of territory including existing central school districts, or whenever a central school district shall have territory annexed to it including existing central school districts, such central school district shall be entitled to receive the same apportionments as it would have received had all the districts included in the existing central school district or districts included in such territory been originally laid out and organized as a central school district; provided that the amount of the building quota or quotas if any for each central school district included in such new central school district or annexed to such central school district shall continue to be paid to the new central school district or the central school district

to which such territory is annexed.

ARTICLE 39

CENTRAL HIGH SCHOOL DISTRICTS

Section 1901. Central high school districts; number and election of members of board of education.
1902. Other districts may join central high school district.
1903. Powers of board of education; laws applicable.
1905. District treasurer and clerk; custody and disbursement of funds.
1906. District meetings; vote upon school taxes.
1907. Transportation of pupils.
1908. Apportionment of expenses.
1909. State aid.
1910. Location of site or sites.
1911. Acquisition of site and erection of building.
1912. Formation of central high school districts in the county of Suffolk.
1913. Laying out; referendum procedure.
1914. Board of education; number and election.
1915. Facilities; housing of program.
1916. Superintendent status.
1917. Employees; employment rights.
1917-a. Employees; employment rights; creation of new central high school district.

§ 1901. Central high school districts; number and election of members of board of education. 1. Existing central high school districts are continued. Boards of education of such central high school districts heretofore established shall continue as constituted under the order of the commissioner. The number of their members shall be not less than five. There shall be at least one member of such a board from each common school district and at least two from each union free school district within the central high school district. The board of education of each union free school district in each such central high school

district shall appoint the number of persons so designated by the commissioner to represent such district as members of the board of education of such central high school district. In each common school district having a sole trustee, such trustee shall represent such district as a member of the board of education of such central high school district. If a common school district have three trustees, such board of trustees shall designate one of its members to represent such district as a member of such board of education. The persons so designated shall be members of the board of education of the central high school district during their terms of office as members of the board of education or as trustees of the districts respectively represented by them. Whenever a vacancy shall occur in the office of a member of the board of education of such central high school district, it shall be filled as above provided.

2. Each central high school district shall establish a process for designating at least one student as an ex officio member pursuant to paragraph c of this subdivision. If, prior to August fifth, two thousand three, a school district had a policy that allowed a student or students to be ex officio members of the school board, such policy shall be deemed to meet the requirements of this subdivision and shall be deemed to have full legal effect. In any district that contains more than one high school, such process shall take into consideration the number of high schools within the district and shall provide for a mechanism which allows for fair representation among the schools. Such district shall allow such selected student or students to serve as ex officio members of such board of education, and provided further that:

a. The ex officio student members of the board shall be entitled to sit with board members at all public meetings and hearings of the board and may participate in other board activities and responsibilities at the discretion of the board.

b. The ex officio student members of the board shall not be allowed to vote, shall not be allowed to attend executive session or any other meetings or hearings not open to the public, and shall not be entitled to receive compensation of any form for participating at board meetings.

c. Notwithstanding any other law to the contrary, the ex officio student members of the board may be any of the following: the student that has been duly elected as student president of the high school; a student duly elected by the student body; a student selected by the high school student government; a student selected by the high school principal; a student selected by the superintendent of schools; a student selected by majority vote of the school board.

d. The ex officio student members shall have attended such high school for at least one year prior to selection.

§ 1902. Other districts may join central high school district. Other school districts that were not included in the establishment of the original central high school district may join such district upon a vote of the majority of the electors of such district present and voting at a district meeting duly called for that purpose and upon the consent of the board of education of the central high school district and the order of the commissioner of education.

§ 1903. Powers of board of education; laws applicable. 1. The board of education of a central high school district shall have jurisdiction over the pupils residing therein who have completed the work of the sixth grade and shall have the same powers and duties in respect to the school therein as a board of education of a union free school district has, under this chapter, in respect to the schools in such district. Except as otherwise provided in this article, the provisions of this chapter as to the courses of study, the qualifications and employment of teachers and the maintenance, conduct and supervision of public schools in union free school districts shall apply to a central high school district.

2. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in

the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal guardian.

§ 1905. District treasurer and clerk; custody and disbursement of funds. The board of education of a central high school district shall appoint a treasurer, who shall hold office during the pleasure of the board and shall be subject to the provisions of this chapter relative to the treasurer of a union free school district. The amount raised by tax in the several districts included within the central high school district for the support and maintenance of such central high school, shall be paid to the treasurer of such central high school district and shall be paid out by him upon the orders of the board of education issued and executed in pursuance of a resolution of said board. The provisions of this chapter relative to the payment of claims against a union free school district shall apply, so far as practicable, to the payment of claims against a central high school district. The board of education of such district may appoint one of its members or a qualified elector of such district as clerk of the district.

§ 1906. District meetings; vote upon school taxes. 1. The annual meeting and election of a central high school district shall be held on the third Tuesday in May, provided, however, that such annual meeting and election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious

observances, and any school budget revote shall be held on the date specified in subdivision three of section two thousand seven of this title. The board of education of every central high school district shall hold a budget hearing prior to each annual meeting and election or special district meeting at which a school budget vote will occur, and shall prepare and present to the voters at such budget hearing a proposed school district budget for the ensuing school year. Special meetings may be called in the same manner and for the same purposes as special meetings in union free school districts. Such meetings shall be held for the same purposes and in the same manner, and be subject to the same provisions of law, except as may be provided otherwise in subdivision two of this section, as like meetings in union free school districts, and all persons who are qualified electors of the school districts included in such central high school district may vote at such meetings.

2. For any annual or special meeting the board of education may on its own motion divide the central high school district into such number of election districts as there shall be union free school districts within the central high school district. The boundaries of such election districts shall be coterminous with the boundaries of such union free school districts. Such meetings shall be held so far as possible in the public schoolhouse within each such election district designated by the board of education. The schoolhouse or other place so designated for each election district shall be stated in the notice of the meeting. The legal voters present in each election district shall elect a chairman and secretary and the chairman so elected shall appoint at least three inspectors of election who shall canvass the result of the election in such election district and prepare and sign a statement showing the results of the voting. Each such statement shall be forthwith delivered to the district clerk. The district clerk shall forthwith examine and tabulate the statements and prepare a certificate of the combined results of the voting, announce the result thereof and record the certificate with the records of the meeting. The proceedings, in the event of such division, in all other respects shall be the same as if the school meeting were held in one place.

3. The board of education of such district shall present at the annual meeting a detailed statement in writing of the estimated expenditures required for the support and maintenance of the central high school therein for the ensuing year. The said meeting shall vote the necessary taxes to meet such expenditures, in the same manner as taxes are voted at a district meeting in a union free school district. The provisions of sections seventeen hundred twenty-five and seventeen hundred sixteen to seventeen hundred nineteen, inclusive, of this chapter, and all other provisions relative to the making of appropriations, the voting of taxes, and the expenditure of moneys for the support, maintenance and expenses of public schools in union free school districts, shall apply to the support, maintenance, and expenses of a central high school district.

4. a. Whenever the board of education of a central high school district in the county of Nassau shall have provided for the personal registration of voters at school meetings or elections in such district, such board of education shall fix the day or days for registration by resolution adopted not later than the fortieth day preceding each annual or special meeting or election in such district. The last day for such registration shall not be more than eleven nor less than three days preceding each annual or special meeting or election. Such board shall forthwith notify the clerk of each component union free school district providing for personal registration, of such registration day or days for each annual meeting. Such board shall also notify each such clerk of every special meeting or election in such central high school district at least ten days prior thereto. The board of registration of the central high school district shall meet on the day or days fixed by such board of education for the purpose of preparing a register, complementary to the register or registers of any component union free school district providing for personal registration, for the personal registration of qualified voters within any component union free school district providing for personal registration, which voters have not registered for the annual or any subsequent special meeting or election in such union free school district, and for the personal registration of qualified voters of any component union free school district not providing for personal registration.

b. Whenever personal registration of voters shall have been provided for in any such central high school district, any qualified voter of a component union free school district who is duly registered in such union free school district for the annual meeting or a subsequent special meeting or election therein, shall be deemed duly registered for and entitled to vote at the annual meeting or any special meeting or election in such central high school district occurring between the date of such registration and the next ensuing annual meeting.

c. Whenever the board of education of such central high school district shall have so provided for registration of voters, the board of education of any component union free school district in such central high school district, which board of education shall have provided or shall provide for personal registration of voters at school meetings or elections of such union free school district, shall designate the day or days for registration so that the last day for such registration shall not be more than eleven nor less than five days preceding each such school meeting. In designating the day or days of registration for the annual meeting such board shall include the day or days which shall have been theretofore designated by the board of education of the central high school district as the registration day or days for the annual meeting of the central high school district. The register prepared in such union free school district, in addition to complying with the requirements of subdivision two of section two thousand fourteen of this chapter, shall include columns or space to make the proper entries relating to any annual or special central high school district meeting or election. Such register shall be delivered by the clerk of such union free school district to the custody of the clerk of the central high school district on the day preceding the meeting or election of the central high school district at which it is to be used. It shall be returned to the clerk of the union free school district on the day following such meeting or election. Such register shall at all reasonable times be open to inspection by any qualified voter of the central high school district, even though in the possession of the clerk of such union free school district.

d. The provisions of sections two thousand four, two thousand fourteen and two thousand fifteen of this chapter shall be applicable in any central high school district providing for personal registration, except as otherwise provided in this subdivision.

e. Nothing contained in this subdivision shall be deemed to require the board of education of any component union free school district to provide for personal registration of voters for meetings or elections in such union free school district.

5. a. The board of education of a central high school district in the county of Nassau, which has provided for the personal registration of voters at school meetings and elections in such central high school district, may, by resolution duly adopted and entered upon its minutes, on its own motion divide the central high school district into election districts. The boundaries of such election districts shall be coterminous with the boundaries of the union free school districts within the central high school district, except that where a component union free school district, in turn, shall have been or hereafter is divided into school election districts pursuant to section two thousand seventeen of this chapter, such school election districts of such union free school districts shall in such case, without further action of the board of education of the central high school district, become and be election districts of the central high school district.

b. Where the board of education shall have so divided the central high school district into election districts pursuant to the provisions of this subdivision, notwithstanding the provisions of subdivisions one and three of this section, the vote upon the appropriation of the necessary funds to meet the estimated expenditures of the central high school district and upon any propositions involving the expenditure of money by the central high school district or upon any other matter which may properly be brought before the annual meeting or election of the central high school district, shall be held at the same time as the annual meetings or elections of the component union free school districts. The clerk of the central high school district shall give the notices required by subdivision one of section two thousand four of this

chapter, in relation to such annual meeting.

c. Where the procedure of this subdivision is used, the board of education of the central high school district shall notify the clerk of each component union free school district of such determination, not later than thirty days preceding the date of such annual meeting. In such case, also, the board of education of the central high school district shall complete the statement required by section seventeen hundred sixteen of this chapter and shall forward a sufficient number of copies thereof to the clerk of each component union free school district therein, not later than ten days preceding such annual meeting or election, and such copies shall thereupon be made available by the clerk of each such component union free school district, together with the copies of the statement relating to such component union free school district, provided, however, that an additional supply of copies of such statement shall also be made available to the annual meeting of the central high school district by the clerk of such district.

d. Each clerk of a component union free school district shall thereupon include in the notices required by section two thousand four of this chapter, relating to the annual meeting or election in such component union free school district, a statement to the effect that the meeting or election will also vote on the appropriation of the necessary funds to meet the estimated expenditures of the central high school district and upon any propositions involving the expenditure of moneys by the central high school district or upon any other matter which may be properly brought before the annual meeting or election of the central high school district. Such appropriation and propositions, if any, shall then appear separately upon the ballot or voting machines used at such meetings or elections in such component union free school districts. The canvass of the result of the vote on each such appropriation and proposition relating to the central high school district shall forthwith be certified to the clerk of each such component union free school district, who in turn shall forthwith certify such canvass to the clerk of the central high school district. Such clerk shall forthwith examine and tabulate such statements and prepare a certificate of the combined results of the vote, announce the result thereof to the board of

education of the central high school district and record the certificate with the records of the meeting or election.

e. Where the board of education of a central high school district proceeds under the provisions of this subdivision, the registration of a qualified voter of a component union free school district upon the register of such union free school district shall be a sufficient registration for the purpose of the vote of such voter on the appropriation and propositions of the central high school district.

f. When the board of education of such central high school district calls a special meeting or election of such central high school district, the respective boards of registration of the component union free school districts shall meet on such day or days as shall be fixed by the board of education of the central high school district and the provisions of section two thousand fourteen of this chapter shall be applicable to the registration for special meetings or elections of the central high school district, except as otherwise provided in this subdivision. The canvass of the result of the voting at such special meeting or election shall forthwith be certified to the clerk of the central high school district who shall forthwith proceed in the same manner as hereinbefore provided in the case of an annual meeting or election.

g. If voting machines are used in any component union free school district of such central high school district, the rules printed and distributed pursuant to section two thousand thirty-five of this chapter in such union free school district shall also contain the rules similarly adopted or to be adopted by the board of education of the central high school district with respect to any propositions relating to such central high school district.

h. All the provisions of articles thirty-nine and forty-one of this chapter shall be applicable to any annual or special meeting or election held pursuant to this subdivision, except as otherwise provided in this subdivision either expressly or by necessary implication.

i. Upon an appeal to the commissioner of education, substantial compliance with the procedures herein required shall be sufficient to meet the intent of this subdivision.

6. The provisions of this section shall not apply with respect to any person registered to vote pursuant to the provisions of section three hundred fifty-two of the election law.

§ 1907. Transportation of pupils. The board of education of such central high school district may cause transportation to be furnished to the pupils residing in the district who are entitled to attend such central high school or other public or non-public high school within the central high school district and who reside so remote from the high school they legally attend that they will be deprived of the privilege of attendance thereat unless such transportation is furnished. The cost of such transportation shall be a charge against such central high school district and shall be raised by tax without a vote of the district and be paid in the same manner as are any expenditures for the support and maintenance of such central high school district. The commissioner of education may, upon sufficient notice to such board of education and after an opportunity to such board to be heard in its defense, issue an order directing such board to provide such transportation.

§ 1908. Apportionment of expenses. 1. The board of education of such central high school district shall cause to be apportioned among the school districts included in such central high school district the amount required for the payment of the principal and interest of all obligations issued for the purchase or acquisition of a school site, the erection thereon of a new school building and the construction of improvements and other structures on such site, and for the payment of the authorized expenditures for the maintenance, support and expenses of such high school during the ensuing school year. There shall be apportioned to each such district such portion of such amount as the assessed valuation of the taxable property in such district bears to the

total assessed valuation of all the school districts included in such central high school district, as appears from the last preceding assessment roll. The board of education of such central high school district shall on or before July first of each year present to the board of education of each union free school district and to the trustee or board of trustees of each common school district in such central high school district a certified statement of the portion of such amount to be paid by each of such districts, except that in a central high school district where the board of education has by resolution pursuant to section nineteen hundred six determined that the annual meeting of such central high school district shall be held on the last Tuesday in April, and where the annual meeting has been so held, the board of education of such central high school district must present the above mentioned certified statement in the manner above set out on or before May tenth of each year, and the said boards of education, boards of trustees or trustees shall cause the same to be raised by tax on the taxable property in such districts in the same manner as other taxes for the support and maintenance of the schools therein.

2. The board of education of a central high school district in the county of Westchester shall present such certified statements to the board of education of each union free school district and to the trustees or board of trustees of each common school district in such central high school district on or before the third Tuesday in June each year, and such boards of education, boards of trustees or trustees shall include such amount in the annual school taxes of such districts and certify the same to the supervisor of the town before July first each year as provided in the laws applicable to such county.

3. The board of education or the trustees of each school district within and forming a part of such central high school district situate within the county of Nassau, within ten days after receipt of any payment of moneys raised by taxation as determined by the school district assessment roll, shall pay or cause to be paid over to the treasurer of such central high school district a sum of money not less than an amount which bears the same ratio to such payment received by the said board of education or trustees as such school district's share

of the central high school budget bears to the total budget of such school district.

§ 1909. State aid. 1. Public moneys shall be apportioned to such central high school district on account of the central high school maintained therein, in the same amount and under the same conditions as in the case of apportionments to union free school districts on account of secondary instruction given in the public schools of such districts, under the provisions of this chapter. There shall be apportioned to such central high school district the amounts allowed by section two thousand forty-five of this chapter for the instruction of non-resident academic pupils, on account of pupils attending the high school in such central high school district from a district or districts included in such central high school district not maintaining an academic department at the time of the establishment of such district.

2. Any state aid representing tax savings duly provided by a component school district of the central high school district pursuant to section thirteen hundred six-a of the real property tax law for taxes levied to fund expenditures of the central high school district shall be claimed by such component school district pursuant to subdivision three of section thirteen hundred six-a of the real property tax law, and any resulting payment of state aid to the component school district based on such tax savings shall be paid by the component school district, within ten days after receipt of such payment, over to the treasurer of such central high school district in an amount equal to the product of the total payment received by such component school district for all tax savings provided pursuant to section thirteen hundred six-a of the real property tax law multiplied by the quotient of the tax savings provided for taxes levied to fund expenditures of the central high school district divided by the total tax savings duly provided by such component school district pursuant to section thirteen hundred six-a of the real property law.

§ 1910. Location of site or sites. The board of education of such

central high school district shall designate the site or sites for one or more central high school buildings in such district or for any other school purpose by resolution containing a description thereof by metes and bounds. If such board of education is unable to agree as to the selection of such site or sites, or shall for any reason neglect or refuse to designate such site or sites, the commissioner of education may upon submission of the question to him, after a hearing and due investigation, issue an order determining the location of such site or sites.

§ 1911. Acquisition of site and erection of building. 1. The board of education of a central high school district shall, when the site of the said high school building shall have been designated as provided herein, submit to the qualified electors of such district a proposition authorizing the levy and collection of a tax, in one sum or by installments, sufficient in amount for the purchase or acquisition of such site.

2. The said board of education shall also submit to the qualified electors of the said central high school district a proposition authorizing the levy and collection of a tax, in one sum or in installments, for the erection on such site of a new building suitable for high school purposes and for the construction of such improvements or structures on such site as may be required for the establishment and maintenance of a high school in such district.

3. Such propositions shall be voted upon by the qualified electors of the district at a meeting called by the board of education of such central high school district, and for the purpose of voting upon such propositions the said district shall be deemed to be a school district and the provisions of this chapter relative to district meetings and the adoption of propositions authorizing the levy of school taxes shall apply to meetings held in such central high school district for the purposes herein specified.

§ 1912. Formation of central high school districts in the county of Suffolk. A central high school district may be formed by the combination of two or more central, union free or common school districts in the county of Suffolk. The territory shall be contiguous.

§ 1913. Laying out; referendum procedure. 1. The commissioner is authorized to lay out a central high school district for the establishment and maintenance of instruction for secondary pupils in grades seven through twelve and to fix its boundaries.

2. Within ten days after the making and entry of the order pursuant to this section, the commissioner shall transmit a certified copy thereof to the clerk, or in the event there is no clerk, to the trustee or trustees of each school district affected by such order. The clerk, the trustee or trustees, as the case may be, shall, within five days after receipt of such order, post a copy thereof in five conspicuous places in such district.

3. No central high school district laid out by order of the commissioner shall operate as such until it has been established by the qualified voters of the district in accordance with the provisions of this article.

4. Upon the request of the boards of education of two or more school districts involved, or upon the receipt of petitions representing qualified voters equal to ten percent of resident school age pupils from each of a majority of the districts to be included, the commissioner shall order a referendum to be conducted in each of the districts included in the proposed reorganization. The conduct of such referenda shall be consistent with the provisions of sections eighteen hundred one, eighteen hundred two, eighteen hundred three and eighteen hundred four of this chapter, except as specifically provided in this article. If the resolution to establish the central high school district is passed in all of the districts, the central high school district shall be established as laid out. If the proposition to establish the central high school district shall fail to receive a majority of the votes cast

in any district, the order laying out such central high school district shall be deemed void. However, nothing herein contained shall prevent the commissioner from issuing a new order and ordering a vote in districts in which a resolution shall have received a majority of the votes cast. An order defeated at the polls may not be reissued for two years. Notwithstanding any inconsistent provision of law, upon consent of the commissioner and each of the boards of education of the school districts involved, there may also be offered before the qualified voters of all the districts, at the same time as the referendum to form a central high school district, a bond referendum for the construction of a new high school to serve as the central high school of the new central high school district, provided, however, that if either referendum shall fail to gain approval, both shall be deemed to have failed and provided, further, that the boards of education of the school districts involved shall submit the proposition and that such proposition shall be deemed to have been submitted by the board of education of the newly formed central high school district. The board of education of the central high school district subsequently formed shall be authorized to carry out all acts necessary to effectuate such construction, and such board shall be deemed to have assumed full authority to take all action necessary and to proceed with all other business to establish the central high school district and to enter into any and all contracts, including but not limited to construction contracts, and be eligible for any and all state aid and state aid reimbursement pursuant to subdivision six and paragraph c of subdivision fourteen of section thirty-six hundred two of this chapter, provided that the percent increase pursuant to such paragraph c shall be thirty, and shall be in effect for expenditures incurred on or after the date upon which a bond referendum for the construction of a new high school to serve as the central high school of the new central high school district is offered before the qualified voters of the district.

§ 1914. Board of education; number and election. For any central high school district formed on or after July first, nineteen hundred eighty-one, the order of the commissioner establishing such central high school district shall specify the number of members to constitute the

board of education of such district and the number of members representing each of the districts included in such district. The number of members of such board shall be not less than five. There shall be at least one member of such board from each component school district. The board of education of each union free school district or central school district in such central high school district shall appoint the number of persons so designated by the commissioner to represent such district as members of the board of education thereof. In each common school district having a sole trustee, such trustee shall represent such district as a member of the board of education of such central high school district. If a common school district has three trustees, such board of trustees shall designate one of its members to represent such district as a member of such board of education. The persons so designated shall be members of the board of education of the central high school district during their terms of office as members of the board of education or as trustees of the districts respectively represented by them. Whenever a vacancy shall occur in the office of a member of the board of education of such central high school district, it shall be filled as above provided; except that each component school district may choose to fill vacancies from its district on the central high school district board by election.

§ 1915. Facilities; housing of program. 1. The board of education may lease existing buildings within a territory of the central high school district from a component district or, if authorized by the voters of a central high school district, construct, purchase or otherwise acquire land and buildings for school purposes.

2. The board of education of such central high school district shall designate the site or sites for one or more high school buildings in such district or for any other school purpose by resolution containing a description thereof by metes and bounds.

§ 1916. Superintendent status. A central high school district will be considered for eligibility for independent superintendency status under

criteria established by the commissioner.

§ 1917. Employees; employment rights. Teachers and other staff members of component districts, except the superintendent of schools, whose services in the component districts are no longer needed because of creation of a central high school district, shall be granted employment rights in central high school districts in accordance with length of service in each tenure area.

§ 1917-a. Employees; employment rights; creation of new central high school district. 1. Teachers and other staff members of component districts, except the superintendent of schools, whose services in the component districts are no longer needed because of the creation of a central high school district or the transference of students to an existing central high school district, shall be granted employment rights in central high school districts in accordance with the provisions of this section.

2. As used in this section, a "component district" shall mean a central, union free or common school district within the territory of the central high school district, and a "central high school district" shall mean a central high school district existing or created pursuant to this article.

3. In any case in which a component district sends students to a central high school district, each teacher and all other employees previously employed in the education of such students by such component district prior to the time that such component district sends its students to a central high school district shall be considered employees of such central high school district, with the same tenure status held in such component district.

For purposes of this section, when a component district takes back students that it sent to another district on a tuition basis and sends such students to a central high school district, such central high

school district shall be deemed the "sending district" for purposes of the rights and protections provided in section three thousand fourteen-c of this chapter.

4. If the number of teaching and other positions needed to provide the educational services required by such central high school district is less than the number of teachers and other employees eligible to be considered employees of such central high school district as provided by subdivision three of this section, the services of the teachers and other employees having the least seniority in the component district within the tenure area of the position shall be discontinued. Such teachers and other employees shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the component district, the "receiving district" as defined in section three thousand fourteen-c of this chapter, from which a component district has taken back students, and the central high school district similar to the one such teacher or other employee filled in such component district. The teachers and other employees on such preferred lists shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the component district or the central high school district in the order of their length of service in such component district, within seven years from the date of the abolition of such office or position.

5. For any such teacher or other employee as described in subdivision three of this section for salary, sick leave and any other purposes, the length of service credited in such component district shall be credited as employment time with such central high school district.

6. This section shall in no way be construed to limit the rights of any of such teachers or other employees described in this section granted by any other provision of law.

ARTICLE 40

BOARDS OF COOPERATIVE EDUCATIONAL SERVICES

Section 1950. Establishment of boards of cooperative educational services pending the creation of intermediate districts.
1951. Budget of board of cooperative educational services.
1952. Technologies network ties program.

§ 1950. Establishment of boards of cooperative educational services pending the creation of intermediate districts. 1. The boards of education and school trustees of a supervisory district which is not part of an intermediate district, meeting at a time and place to be designated by the district superintendent of schools, may, by a majority vote of their members present and voting, file with the commissioner of education a petition for the establishment of a board of cooperative educational services for the purpose of carrying out a program of shared educational services in the schools of the supervisory district and for providing instruction in such special subjects as the commissioner may approve. The commissioner, by order, may establish such a board with membership of not less than five nor more than fifteen, upon such application and when a vacancy occurs in the office of district superintendent of schools shall establish such a board, unless the commissioner shall issue an order pursuant to section twenty-two hundred one redistricting the county so as to provide for a lesser number of supervisory districts. The commissioner, by order, may authorize a board, established prior to July second, nineteen hundred sixty-five, to increase its membership to not less than five nor more than fifteen.

2. Upon the establishment by the commissioner of such a board, boards of education and school trustees, by a vote pursuant to subdivision two-a of this section shall elect a board of cooperative educational services. Except for elections conducted pursuant to subdivision two-a of this section, and the adoption of a public resolution regarding the approval or disapproval of the tentative administrative budget pursuant to subparagraph five of paragraph b of subdivision four of this section, component districts having more than five board of education members shall be limited to five votes on any matters relating to the district superintendency or board of cooperative educational services. A full term shall be three years to serve from July first next following

election. It shall be the duty of such meeting by order of such meeting to divide into a sufficient number of classes the terms of the members of the board of cooperative educational services so that as nearly as possible an equal number of members shall be elected to the board each year. Notwithstanding any other provision of this subdivision, upon the decrease of the full term of members from five to three years, the board of cooperative educational services shall direct that one or more members be elected for a term of one, two or four years in order to assure, as nearly as possible, that an equal number of members will be elected to the board each year. Members of such board shall be reimbursed for necessary expenses for attending meetings of such boards. The district superintendent shall be the executive officer of the board, and where a board of cooperative educational services comprises two or more supervisory districts the district superintendents, together with the president of the board of cooperative educational services, shall act as an executive committee.

2-a. a. Notwithstanding any other provision of law, commencing on and after the first day of November, nineteen hundred ninety-three, the members of a board of cooperative educational services shall be elected in accordance with the provisions of this subdivision.

b. Not later than the first day of February of each year the president of the board of cooperative educational services shall designate a single date on or after the sixteenth day and on or before the thirtieth day of April on which each component board, other than the board of education of a central high school district, shall conduct a public meeting which may be a regular or special meeting, for the purpose of electing members of the board of cooperative educational services and adopting a public resolution concerning the approval or disapproval of the tentative administrative budget. In the case of a central high school district, such public meeting shall be held on the regular business day next following the date designated by the president of the board of cooperative educational services. Nomination of a person to be elected to a board of cooperative educational services shall be made by at least one component district by board resolution. Such resolution shall be transmitted in writing to the clerk of the board of cooperative

educational services at least thirty days prior to the date of the election as designated by the president of the board of cooperative educational services. No nomination of a person to be elected to a board of cooperative educational services from a component district which currently has a resident serving on such board shall be accepted unless such member's office is to expire at the end of the current year, unless the size of such board exceeds the number of component school districts or unless an unrepresented district declines to make a nomination. For purposes of this subdivision, any such person or board member nominated by a special act school district, a central high school district or any district which is a component of a central high school district shall be deemed a resident of the district that nominated him or her only. Furthermore, it shall be the duty of the board of cooperative educational services to encourage the nomination of persons residing in component districts not currently represented on such board. The clerk shall include the name and address of each person nominated on the election ballot to be distributed in accordance with paragraph c of this subdivision.

c. Members of the boards of cooperative educational services shall be elected by resolution of the component boards on a ballot prepared by the clerk of the board of cooperative educational services. Such ballot shall be mailed to each component district no later than fourteen days prior to the date designated as the day of the election by the president of the board of cooperative educational services. Each component district shall be entitled to one vote for each vacant office to be filled. A component board may not cast more than one vote for any candidate. The candidates receiving a plurality of the votes cast for the several offices shall be elected, provided, however, that no more than one person residing in a particular component district may be elected to serve as a member of a board of cooperative educational services at one time unless the number of seats on such board exceeds the number of component districts or unless an unrepresented district declines to make a nomination, provided further that a person nominated by a special act school district, a central high school district or a component of a central high school district shall be deemed a resident of the nominating district only for this purpose. Where more than one

position is to be filled by such election and there is a variance in the length of the terms for which such offices are to be filled as authorized by this subdivision, or one or more persons are to be elected for a full term or terms and one or more persons are to be elected for the unexpired portion of a term or terms, or both, the candidate receiving the greatest number of votes shall be entitled to the longest term and candidates receiving the next highest number of votes, to the several offices in decreasing order of the length of such terms or unexpired portions of such terms. Each component school district shall mail or deliver its completed ballot to the clerk of the board of cooperative educational services no later than one business day after the election.

d. In the event that more eligible persons than the number remaining to be elected receive an equal number of votes sufficient that fewer persons receiving such number of votes would be elected, the president of the board of cooperative educational services shall call a run-off election to be conducted in accordance with the provisions of paragraph c of this subdivision and to be held on a date within twenty days of the initial vote. The only persons who shall be deemed nominated for such run-off election shall be the candidates who have received such equal number of votes. In the event that equal numbers of votes are received by eligible candidates for offices with a variance in the length of the term of office but the number of votes received by such candidates is sufficient to elect each of the candidates to the board of cooperative educational services, the candidates receiving such equal number of votes shall draw lots to determine who of them shall fill each such office.

e. Notwithstanding any other provision of this subdivision to the contrary, in the event a component school district will be transferred to a new supervisory district as of July first next succeeding the date designated for the annual election of the board of cooperative educational services, and such component district, as of April fifteenth of the current year, does not have a resident who is a member of the board of cooperative educational services of the supervisory district of which it is a component in the current year, such component district

shall be eligible to nominate candidates and vote in the annual board election of the boards of cooperative educational services to which the component district will be transferred, as if such transfer had already occurred.

f. In the event of a vacancy in the membership of a board of cooperative educational services, such board of cooperative educational services may fill such vacancy by appointment, provided that notification be provided to all component boards of such vacancy and that the component boards are given ten days to provide any comments and/or objections to fill the vacancy by appointment, and the person so appointed shall hold office until the next annual election of the board of cooperative educational services.

2-b. Where the commissioner of education has established or hereafter establishes a board of cooperative educational services for the purpose of carrying out a program of shared educational services in the schools of two or more supervisory districts, the commissioner may by order designate the number of members of such board which shall not be less than five nor more than fifteen, or may by order increase the number of members of such board to a maximum of fifteen or decrease the number of members to a minimum of five. Except for elections conducted pursuant to subdivision two-a of this section, and the adoption of a public resolution regarding the approval or disapproval of the tentative administrative budget pursuant to subparagraph five of paragraph b of subdivision four of this section, component districts having more than five board of education members shall be limited to five votes on any matters relating to the district superintendency or board of cooperative educational services.

Boards of education and school trustees, shall elect the members of such board of cooperative educational services pursuant to subdivision two-a of this section. A full term shall be three years to serve from July first next following election. It shall be the duty of such meeting by order of such meeting to divide into a sufficient number of classes the terms of the members of the board of cooperative educational services so that as nearly as possible an equal number of members shall

be elected to the board each year. Notwithstanding any other provision of this subdivision, upon the decrease of the full term of members from five to three years, the board of cooperative educational services shall direct that one or more members be elected for a term of one, two or four years in order to assure, as nearly as possible, that an equal number of members will be elected to the board each year. Members of boards of cooperative educational services shall be reimbursed for necessary expenses for attending meetings of such board. Where the board of cooperative educational services comprises two or more supervisory districts, the district superintendents, together with the president of the board of cooperative educational services, shall act as an executive committee.

2-c. a. Each board of cooperative educational services shall have one or more ex officio student members. Supervisory districts with ten or fewer component districts shall have at least one ex officio student member; supervisory districts with more than ten and fewer than or equal to twenty component districts shall have at least two ex officio student members; and supervisory districts with more than twenty component districts shall have at least three ex officio student members.

b. Each supervisory district shall establish a process for determining which component district or districts shall select the ex officio student members each school year. Such process shall take into consideration the number of component districts within the supervisory district and provide for a mechanism which allows for fair representation among the component districts. Each supervisory district shall also establish a process by which such component district or districts shall select the ex officio student member or members, provided that such members shall be students who have attended a high school within their component district for at least one year and who participate in a program administered by the supervisory district.

c. The ex officio student members of the board shall be entitled to sit with board members at all public meetings and hearings of the board and may participate in other board activities and responsibilities at the discretion of the board.

d. The ex officio student members of the board shall not be allowed to vote, shall not be allowed to attend executive session or any other meetings or hearings not open to the public, and shall not be entitled to receive compensation of any form for participating at board meetings.

3. The boards of cooperative educational services in any two or more supervisory districts may cooperate in the provision of any of the services authorized by subdivision four of this section. In such cases, the district superintendents of the respective supervisory districts shall serve as an executive committee to carry out the decision of the boards of cooperative educational services in their respective districts. Agreements may be made by such boards arranging for such cooperative services on such terms and conditions as may be agreed upon and providing the method of allocation of the cost thereof. Such agreements may be made for such period as may be approved by the commissioner but not to exceed ten years. The terms of such agreement shall be binding upon such boards and their component districts for the period specified in such agreement.

4. The board of cooperative educational services shall have the power and duty to:

a. (1) Appoint a district superintendent of schools in the manner provided in section twenty-two hundred four of this chapter, and in its discretion to provide for the payment of supplementary salary to the district superintendent of schools by the supervisory district. The term of any employment contract or agreement between a district superintendent and the board of cooperative educational services that is entered into or amended on or after the effective date of this subparagraph shall not exceed three years. Copies of employment contracts and amendments to such contracts entered into pursuant to this paragraph shall be filed with the commissioner within five days of execution.

(2) Notwithstanding any inconsistent provision of law in no event shall the total salary including amounts paid pursuant to section twenty-two hundred nine of this chapter for district superintendents for

the two thousand nineteen--two thousand twenty school year or any subsequent school year exceed: (i) one hundred six percent of the salary cap applicable in the preceding school year, or (ii) ninety-eight percent of that earned by the commissioner in the two thousand thirteen--two thousand fourteen state fiscal year, whichever is less. In no event shall any district superintendent be permitted to accumulate vacation or sick leave credits in excess of the vacation and sick leave credits managerial/confidential employees of the state are permitted to accumulate pursuant to regulations promulgated by the state civil service commission, nor may any district superintendent at the time of separation from service be compensated for accrued and unused vacation credits or sick leave, or use accrued and unused sick leave for retirement service credit or to pay for health insurance in retirement, at a rate in excess of the rate permitted to managerial/confidential employees of the state pursuant to regulations of the state civil service commission. In addition to the payment of supplementary salary, a board of cooperative educational services may provide for the payment of all or a portion of the cost of insurance benefits for the district superintendent of schools, including but not limited to health insurance, disability insurance, life insurance or any other form of insurance benefit made available to managerial/confidential employees of the state; provided that any such payments for whole life, split dollar or other life insurance policies having a cash value shall be included in the total salary of the district superintendent for purposes of this subparagraph, and provided further that any payments for the employee contribution, co-pay or uncovered medical expenses under a health insurance plan also shall be included in the total salary of the district superintendent. Notwithstanding any other provision of law, payments for such insurance benefits may be based on the district superintendent's total salary or the amount of his or her supplementary salary only. Any payments for transportation or travel expenses in excess of actual, documented expenses incurred in the performance of duties for the board of cooperative educational services or the state, and any other lump sum payment not specifically excluded from total salary pursuant to this subparagraph, shall be included in the total salary of the district superintendent for purposes of this subparagraph. Nothing herein shall prohibit a district superintendent from waiving any

rights provided for in an existing contract or agreement as hereafter prohibited in favor of revised compensation or benefit provisions as permitted herein. In no event shall the terms of the district superintendent's contract, including any provisions relating to an increase in salary, compensation or other benefits, be contingent upon the terms of any contract or collective bargaining agreement between the board of cooperative educational services and its teachers or other employees. The commissioner may adopt regulations for the purpose of implementing the provisions of this paragraph.

(3) Notwithstanding any provision of law to the contrary, any employee of a board of cooperative educational services who is appointed as the district superintendent of schools shall vacate his or her prior position with the board of cooperative educational services upon appointment as district superintendent, and no district superintendent shall have a contract of employment with the board of cooperative educational services other than a contract entered pursuant to this paragraph.

b. (1) Prepare, prior to the annual meeting of members of the boards of education and school trustees, held as provided in paragraph o of this subdivision, a tentative budget of expenditures for the program costs, a tentative budget for capital costs, and a tentative budget for the administration costs of the board of cooperative educational services. Such budgets shall include the proposed budget for the upcoming school year, the previous school year's actual costs and the current school year's projected costs for each object of expenditure. Such program, capital and administrative budgets shall be separately delineated in accordance with the definition of program, capital and administrative costs which shall be promulgated by the commissioner after consultation with school district officials and the director of the budget. Personal service costs for each budget shall include the number of full-time equivalent positions funded and total salary and, except as noted herein, fringe benefit costs for such positions by program. Each program budget shall also include the local and statewide unit costs of such programs and services proposed for the upcoming school year, such actual unit costs for the previous school year, and the current school year's projected unit costs, all established in

accordance with paragraph d of this subdivision. The capital budget shall include facility construction and lease expenditures authorized pursuant to paragraphs p, t and u of this subdivision, payments for the repayment of indebtedness related to capital projects, payments for the acquisition or construction of facilities, sites or additions, provided that such budget shall contain a rental, operations and maintenance section that will include base rent costs, total rent costs, operations and maintenance charges, cost per square foot for each facility rented or leased by such board of cooperative educational services, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, maintenance and repairs for such facilities, and that such budget shall include the annual debt service and total debt for all facilities financed by bonds or notes of the component districts, annual rental and lease payments and total rental and lease costs for all facilities rented by such board; such capital budget shall also include expenditures resulting from court judgments and orders from administrative bodies or officers, and, to the extent a board's administrative budget has been adopted, one-time costs incurred in the first year in which an employee retires. The administrative budget shall include, but need not be limited to, office and central administrative expenses, traveling expenses and salaries and benefits of supervisors and administrative personnel necessary to carry out the central administrative duties of the supervisory district, any and all expenditures associated with the board, the office of district superintendent, general administration, central support services, planning, and all other administrative activities. Such administrative budget shall also specify the amount of supplementary salary and benefits, if any, which the board determines should be paid to the district superintendent of schools and the board shall append to such budget a detailed statement of the total compensation to be paid the district superintendent of schools by the board, including a delineation of the salary, annualized cost of benefits and any in-kind or other form of remuneration to be paid, plus, commencing with the presentation of the budget for the nineteen hundred ninety-seven--ninety-eight school year, a list of items of expense eligible for reimbursement on expense accounts in the ensuing school year and a statement of the amount of expenses paid to the district superintendent of schools in the prior

year for purposes of carrying out his or her official duties.

(2) The board of cooperative educational services shall provide copies of such tentative budgets and attachments to the trustees or board of education of each component school district of the board of cooperative educational services at least ten days prior to the annual meeting held pursuant to paragraph o of this subdivision. Such trustees or boards of education shall make such budgets available to the residents of their respective school districts upon request.

(3) The board of cooperative educational services shall comply with any reasonable requests for additional information not contained in such budgets which may be requested prior to the annual meeting held pursuant to paragraph o of this subdivision.

(4) The board of cooperative educational services shall give public notice of the annual meeting held pursuant to paragraph o of this subdivision by publishing a notice once each week within the two weeks preceding the annual meeting held as provided in paragraph o of this subdivision, the first publication to be at least fourteen days before such meeting, in two newspapers if there be two, or in one newspaper if there shall be but one, having general circulation within the board of cooperative educational services. If no newspaper shall have general circulation therein, said notice shall be posted in at least twenty of the most public places in the board of cooperative educational services at least fourteen days before such meeting. Such notice shall state that the tentative budgets will be presented by the board of cooperative educational services to the trustees or board of education of each component school district of the board of cooperative educational services in attendance at such meeting. Such notice shall also include a summary of the tentative administrative, capital and program budgets in a form prescribed by the commissioner. The summary of the administrative budget shall include, but shall not be limited to, the salary and benefits of supervisors and administrative personnel of the board of cooperative educational services and the total compensation payable to the district superintendent of schools. Such notice shall also indicate when a copy of the tentative budgets will be available for inspection by the public during regular business hours at one or more locations specified in the notice.

(5) The trustees or board of education of each component school

district of the board of cooperative educational services shall adopt a public resolution which shall approve or disapprove such tentative administrative budget at a regular or special meeting to be held within the component district on the date designated pursuant to subdivision two-a of this section as the date for election of members of the board of cooperative educational services, or in the case of the board of education of a central high school district on the regular business day next following such designated date.

If the resolutions adopted by the trustees or boards of education of a majority of the component school districts of the board of cooperative educational services actually voting approve the tentative administrative budget, the board of cooperative educational services may adopt the tentative administrative budget without modification. If a majority of the component school districts actually voting fail to adopt resolutions approving such tentative administrative budget, or if the number of component school districts approving the budget equals the number of school districts disapproving the budget, the board of cooperative educational services shall prepare and adopt a contingency administrative budget which shall not exceed the amount of the administrative budget of the board of cooperative educational services for the previous school year except to accommodate expenditure increases attributable to supplemental retirement allowances payable pursuant to section five hundred thirty-two of this chapter and section seventy-eight of the retirement and social security law.

(6) Notwithstanding any other provision of this section, any component school district which will be transferred to a new supervisory district as of July first next succeeding the date designated for the vote on the tentative administrative budget shall vote on the administrative budget of the board of cooperative educational services to which it will be transferred, as if such transfer had already occurred. Where the commissioner has issued an order for the merger of two or more supervisory districts to take effect on July first, in the school year immediately preceding the merger, the boards of cooperative educational services to be merged shall jointly prepare a program, administrative and capital budget for the merged board of cooperative educational services and shall jointly conduct a vote on the tentative

administrative budget of the merged board of cooperative educational services in accordance with this paragraph as if the merger was already in effect. In the event such a merger does not take effect on July first, the commissioner shall be authorized to order the boards of cooperative educational services to be merged to develop program, administrative and capital budgets and conduct a vote on administrative budgets in the manner prescribed by this section on dates other than those specified in this section.

(7) Each component school district shall transmit the resolution either approving or disapproving the board of cooperative educational services' tentative administrative budget no later than one business day after the adoption of such resolution. The board of cooperative educational services shall, no later than the fifteenth day of May, adopt the final program, capital and administrative budgets for the ensuing year. Except as provided in paragraph d of this subdivision, subparagraph (a) of paragraph p of this subdivision, and subdivision one of section nineteen hundred fifty-one of this article, such administrative and capital budgets, when so adopted, after deducting state aid applicable thereto, shall be a charge against all of the component school districts in the supervisory district and each component school district's proportionate share shall be determined by the board of cooperative educational services according to weighted average daily attendance or according to true valuation or according to resident public school district enrollment as defined in paragraph n of subdivision one of section thirty-six hundred two of this chapter except that only one method shall be applied among the component districts of a board of cooperative educational services in any year, unless otherwise provided by law. In a merged supervisory district in the county of Suffolk each component school district's proportionate share of such administrative and capital budgets may be determined according to weighted average daily attendance, according to true valuation, or according to using the weighted average daily attendance for a certain percentage of the cost and true valuation for a certain percentage of administrative and capital costs. Such costs, in a merged supervisory district in the county of Suffolk, apportioned by using weighted average daily attendance and true valuation shall be subject to adjustment by the board of cooperative educational services in a manner that will

minimize the annual change in costs for the greatest number of component districts. Such percentages shall be established by the board of cooperative educational services upon the approval of the component districts subject to the final approval of the commissioner. It is further provided that such administrative budget approved by the board shall be subject to review by the commissioner to determine: (i) the level of administrative savings achieved by the merger and (ii) if such administrative savings equals or exceeds the level identified by the merger planning task force appointed by the district superintendent. If the board of cooperative educational services determines to change the method of apportioning administrative costs and capital expenses from that followed in the previous year, such determination may be made only if the board of cooperative educational services has conducted a hearing at a regular or special meeting of such board which all members of boards of education and school trustees have been invited to attend, such hearing to be held at least thirty days prior to the annual meeting of members of boards of education and school trustees. In the Putnam/North Westchester board of cooperative educational services, each component district's proportionate share of such administrative and capital budgets may also be determined by using the weighted average daily attendance for a certain percentage and the true valuation for a certain percentage. Such percentages shall be applied according to clause (i) of this subparagraph.

(i) The three methods of apportionment of administrative and capital expenses are as follows: (1) in accordance with the ratio which the component school district's total full or true valuation in effect at the time of the adoption of the budget bears to the total true or full valuation of all of the component school districts within the board of cooperative educational services, (2) by dividing the total amount of such administrative and capital expenses by the total weighted average daily attendance of pupils residing in all component school districts contained within the board of cooperative educational services and attending a public school and multiplying by the weighted average daily attendance of such resident pupils in each of the component school districts, or (3) by dividing the total amount of such administrative and capital expenses by the total resident public school district enrollment of all component school districts contained within the board

of cooperative educational services and multiplying by the resident public school district enrollment of the component school districts. In addition, in a merged supervisory district in the county of Suffolk, where a combination of the first and second methods could be applied as provided in the opening paragraph of this subparagraph may be utilized. In the Putnam/North Westchester board of cooperative educational services, where a combination of the first and second methods is utilized, the percentages shall be used as follows: for the two thousand five-two thousand six school year, ninety percent using true valuation and ten percent using the weighted average daily attendance; for the two thousand six-two thousand seven school year, eighty percent using true valuation and twenty percent using the weighted average daily attendance; for the two thousand seven-two thousand eight school year, seventy percent using true valuation and thirty percent using the weighted average daily attendance; for the two thousand eight-two thousand nine school year, sixty percent using true valuation and forty percent using the weighted average daily attendance; and for the two thousand nine-two thousand ten school year and any school year thereafter, fifty percent using true valuation and fifty percent using the weighted average daily attendance.

(ii) If the board of cooperative educational services chooses to apportion administrative costs and capital expenses according to full or true valuation, special school districts authorized to receive state aid in accordance with chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended, shall have their full value for purposes of this section computed by multiplying the resident weighted average daily attendance by the state average full valuation per pupil as established by the commissioner for the year in which the budget is adopted. The school authorities of each component school district shall add such amount to the budget of such component districts and shall pay such amount to the treasurer of the board of cooperative educational services and shall be paid out by the treasurer upon the orders of the board of cooperative educational services issued and executed in pursuance of a resolution of said board.

c. Make or cause to be made surveys to determine the need for cooperative educational services in the supervisory district and present

the findings of their surveys to local school authorities. Each board of cooperative educational services shall prepare long range program plans, including special education and career education program plans, to meet the projected need for such cooperative educational services in the supervisory district for the next five years as may be specified by the commissioner, and shall keep on file and make available for public inspection and review by the commissioner such plans and thereafter annual revisions of such plans on or before the first day of December of each year, provided that such plans may be incorporated into a board of cooperative educational services district-wide comprehensive plan.

d. (1) Aidable shared services. At the request of component school districts, and with the approval of the commissioner, provide any of the following services on a cooperative basis: school nurse teacher, attendance supervisor, supervisor of teachers, dental hygienist, psychologist, teachers of art, music, physical education, career education subjects, guidance counsellors, operation of special classes for students with disabilities, as such term is defined in article eighty-nine of this chapter; pupil and financial accounting service by means of mechanical equipment; maintenance and operation of cafeteria or restaurant service for the use of pupils and teachers while at school, and such other services as the commissioner may approve. Such cafeteria or restaurant service may be used by the community for school related functions and activities and to furnish meals to the elderly residents of the district, sixty years of age or older. Utilization by elderly residents or school related groups shall be subject to the approval of the board of education. Charges shall be sufficient to bear the direct cost of preparation and serving of such meals, exclusive of any other available reimbursements.

* (2) Certain services prohibited. Commencing with the nineteen hundred ninety-seven--ninety-eight school year, the commissioner shall not be authorized to approve as an aidable shared service pursuant to this subdivision any cooperative maintenance services or municipal services, including but not limited to, lawn mowing services and heating, ventilation or air conditioning repair or maintenance or trash collection, or any other municipal services as defined by the commissioner. On and after the effective date of this paragraph, the

commissioner shall not approve, as an aidable shared service, any new cooperative maintenance or municipal services for the nineteen hundred ninety-six--ninety-seven school year, provided that the commissioner may approve the continuation of such services for one year if provided in the nineteen hundred ninety-five--ninety-six school year. No service provided to an out-of-state school district pursuant to subparagraph ten of paragraph h of this subdivision shall be eligible for aid.

* NB Effective until July 1, 2029

* (2) Certain services prohibited. Commencing with the nineteen hundred ninety-seven--ninety-eight school year, the commissioner shall not be authorized to approve as an aidable shared service pursuant to this subdivision any cooperative maintenance services or municipal services, including but not limited to, lawn mowing services and heating, ventilation or air conditioning repair or maintenance or trash collection, or any other municipal services as defined by the commissioner. On and after the effective date of this paragraph, the commissioner shall not approve, as an aidable shared service, any new cooperative maintenance or municipal services for the nineteen hundred ninety-six--ninety-seven school year, provided that the commissioner may approve the continuation of such services for one year if provided in the nineteen hundred ninety-five--ninety-six school year.

* NB Effective July 1, 2029

(2-a) Cost effectiveness of instructional and non-instructional technology. Notwithstanding any other provision of this section to the contrary, expenditures incurred pursuant to purchase and/or installation contracts entered into on or after January fifteenth, two thousand, for the following categories of instructional and non-instructional technology purchase and installation:

(i) computer equipment,

(ii) conduits,

(iii) wiring,

(iv) powering and testing of hardware installations,

(v) all costs associated with lease or purchase of local or wide area network hardware located on district property, and

(vi) incidental costs for original purchase and installation of hardware, including installation of basic operating systems software required for hardware testing,

shall not be considered an aidable shared service unless the component school district is able to demonstrate that such shared service would be more cost-effective than would otherwise be possible if such services were to be purchased without the involvement of a board of cooperative educational services. Any aid that may be payable for such shared service pursuant to subdivision five of this section shall be excluded in the demonstration and determination of cost-effectiveness and cost savings pursuant to this subdivision. The commissioner shall issue guidelines to advise component school districts in their determination of cost-effectiveness. Notwithstanding any other provision of law, if a component school district determines that any instructional and non-instructional technology purchase and installation from the board of cooperative educational services are not cost effective, as determined pursuant to this paragraph, the commissioner shall, upon request, assist the school district to enter into a cooperative service agreement (CO-SER) with another BOCES, which is cost effective in the provision of such technology purchases and installations.

(3) Requests for shared services; operating plan; required notice. Requests for such shared services shall be filed by component school districts with the board of cooperative educational services not later than the first day of February of each year, provided that such requests shall not be binding upon the component school district. The board of cooperative educational services shall submit its proposed annual operating plan for the ensuing school year to the department for approval not later than the fifteenth day of February of each year. Such board shall, through its executive officer, notify each component school district on or before the tenth day of March concerning the services which have been approved by the commissioner to be made available for the ensuing school year. Such notice shall set forth the local uniform cost of each such service, based on (i) anticipated participation in the ensuing school year, or (ii) participation in the current year, or (iii) a two or three year average including participation in the current year, which unit cost shall be the same for all participating component districts and shall be based upon a uniform methodology approved annually by at least three-quarters of the participating component school districts after consultation by local school officials with their respective boards; provided, however, such unit cost shall be subject to

final adjustment for programs for students with disabilities based on actual participation in accordance with regulations of the commissioner. Notwithstanding the determination of the local uniform unit cost methodology selected in accordance with this paragraph, each board of cooperative education services shall annually report to the commissioner the budgeted unit cost and, when available, the actual unit cost of such programs and services, in accordance with both the local uniform unit cost methodology and a statewide uniform unit cost methodology prescribed by the commissioner by regulation, where the budgeted statewide unit cost shall be based on the anticipated participation in the ensuing year and the actual statewide unit cost shall be based on actual participation through the end of each year.

(4) Contracts for shared services; allocation of costs. Each component school district shall on or before the first day of May following such notification notify the board of cooperative educational services of its intention to participate or not to participate in such shared services and the specific services which such district elects to utilize. Each participating component school district shall be required to pay the board of cooperative educational services for the cost of the services set forth in such notification, except for adjustments caused by subsequent unanticipated changes in the district's enrollment. The board of cooperative educational services shall enter into contracts with its component school districts for such requested services. A copy of each executed contract for such purpose shall be filed with the commissioner by the board of cooperative educational services on or prior to the first day of August of each year. Notwithstanding the provisions of paragraph b of this subdivision, any component school district which does not elect to participate in any such specific cooperative services authorized under this paragraph shall not be required to pay any share of the moneys provided in the budget as salaries of teachers or other personnel employed in providing such service, for equipment and supplies for such service or for transportation of pupils to and from the place where such service is maintained. Provided, further, that a board of cooperative educational services may allocate the cost of such services to component school districts in accordance with terms agreed upon between such board and three-quarters of the boards of education and trustees of local school districts participating in the service.

(5) Operating plan and budget; unanticipated shared services. The board of cooperative educational services shall submit to the commissioner on or before the first day of June an operating plan and budget based upon the request for services which it has received from its component school districts. Such submission shall include the budgeted unit cost of programs and services based on both the local and the statewide uniform unit cost methodologies for each program and service offered by the board of cooperative educational services. A board of cooperative educational services which receives requests for unanticipated shared services subsequent to the adoption of its budget shall submit an amended operating plan including such additional shared services to the commissioner, together with a statement from the chief school administrator of each school district which has requested such services indicating the availability of funds in the budget of the school district to pay for such district's share of the cost of such additional services. Such amended plan shall be submitted in the manner and form prescribed by regulations of the commissioner. The board of cooperative educational services shall allocate the cost of providing such additional shared services among the component school districts which have requested such services, and shall contract with the component school districts for such services. A copy of each contract for this purpose shall be filed by the board of cooperative educational services with the commissioner not more than thirty days from its execution. An annual program report and evaluation for each school year as prescribed by the commissioner, shall be submitted by the board of cooperative educational services to the commissioner on or before the first day of September following such school year.

e. Upon the recommendation of the district superintendent, employ such administrative assistants, teachers, supervisors, clerical help and other personnel as may be necessary to carry out its program.

f. Receive all reimbursements from public funds on account of the cooperative educational services performed under its jurisdiction, and allocate the costs of cooperative educational activities and shared services including administrative and clerical costs against the component school districts and receive and disburse the same, and to

apportion surpluses and assessments for services on the basis of participation to those components and to those school districts outside the board of cooperative educational services contracting for such programs, and to apportion surpluses and assessments for administrative expenses to all component districts. All such apportionments shall be made annually.

g. Borrow money in anticipation of revenue due the board of cooperative educational services.

h. (1) Arrange cooperative educational services with and if necessary make contracts covering same with other public agencies for shared services and to produce educational television materials and programs, and to own or lease television facilities and to enter into appropriate contracts concerning the same.

(2) To enter into contracts with the United States of America, the State of New York, any school district, community college, public institution of higher education, independent institution of higher education eligible for aid under section sixty-four hundred one of this chapter, public libraries, or public agency in relation to the program of the board of cooperative educational services, and any such school district, community college, institution of higher education, or public agency is hereby authorized and empowered to do and perform any and all acts necessary or convenient in relation to the performance of any such contracts.

(3) To enter into contracts with school districts which are component districts in the board of cooperative educational services for the education by such component school district or districts of children who reside within the board of cooperative educational services in the program of the board of cooperative educational services, and for all purposes of this chapter in such event such children shall be deemed attending classes maintained by the board of cooperative educational services. School districts are hereby authorized and empowered to do and perform any and all acts necessary or convenient in relation to the performance of any such contracts.

(4) To enter into contracts with nonpublic schools to provide data processing services for pupil personnel records and other administrative

records of the nonpublic schools and the processing of fingerprints utilized in criminal history record checks for those nonpublic schools that elect to require such criminal history record checks pursuant to paragraph (a) of subdivision thirty of section three hundred five of this chapter.

(5) To enter into contracts with the United States of America, the state of New York, any community college, agricultural and technical college or other public agency for the purpose of providing career education programs to such agencies. Any such proposed contract shall be subject to the review and approval of the commissioner, who may only approve such proposed contract when, in his opinion, such contract will result in a more economical utilization of existing career and career education resources than would be achieved were such contract not approved. The commissioner shall issue a finding in writing in making all determinations pursuant to this article.

(6) To enter into contracts with not-for-profit corporations to participate in federal programs relating to career training and experience. Any such proposed contract shall be subject to review and approval of the commissioner, who may approve such proposed contract only when in his opinion such contract will result in increased or improved career opportunities. The commissioner shall issue a finding in writing in making all determinations pursuant to this subparagraph.

(7) To enter into contracts with the state of New York, any community college, agricultural and technical college, or public agency for the purpose of providing electronic data processing services to such agencies. Any such proposed contract shall be subject to the review and approval of the commissioner, who may only approve such proposed contract when, in his opinion, such contract will not disrupt the level of services provided to component school districts and will result in a more economical utilization of existing board of cooperative educational services computer facilities. The commissioner shall issue a finding in writing in making all determinations pursuant to this subparagraph.

(8) To enter into contracts with the commissioner of the office of children and family services pursuant to subdivision six-a of section thirty-two hundred two of this chapter to provide to such office, for the benefit of youth in its custody, any special education programs, related services, career and technical education services and music, art

and foreign language programs provided by the board of cooperative educational services to component school districts. Any such proposed contract shall be subject to the review and approval of the commissioner to determine that it is an approved cooperative educational service. Services provided pursuant to such contracts shall be provided at cost, and the board of cooperative educational services shall not be authorized to charge any costs incurred in providing such services to its component school districts.

* (10) To enter into contracts of no more than five years and subject to the sunset date of this subparagraph, with out-of-state schools for: (a) special education; and/or (b) career and technical education services; and/or (c) for the use of existing products that demonstrate how to map the next generation standards to assessments; and/or (d) providing access to existing webinars or online courses relating to implementation of the next generation standards; for providing professional development to educators; and/or (e) technology products developed for the use of school districts located in New York state, including computer programs and software packages that help students learn and assist districts in achieving greater efficiencies. For purposes of this subparagraph, an out-of-state school shall mean a public elementary or secondary school or a degree granting institution of higher education, located outside of New York state; provided further for purposes of providing services authorized in clauses (c), (d) and (e) of this subparagraph, out-of-state shall also include schools located outside the continental United States. Any contract shall be approved by the commissioner, the board of cooperative educational services and the district superintendent of schools, provided such services are made available to any school district within the supervisory district and that the requirements of this subparagraph are met. Contracts must be executed by the board of cooperative educational services and the trustees or boards of education of such out-of-state schools and shall only authorize out-of-state students to participate in an instructional program if such services are available to all eligible students in New York state schools in the component districts and the number of participating out-of-state students only comprises up to five percent of the total number of the total enrolled students in the instructional program at the board of cooperative educational services

and that the board of cooperative educational services spends no more than thirty percent of its employees' time on services to out-of-state schools pursuant to this subparagraph. To be approved by the commissioner, the contract and any business plan, shall demonstrate that any services provided to out-of-state schools pursuant to this subparagraph shall not result in any additional costs being imposed on component school districts and that any payments received by the board of cooperative educational services for services provided in this subparagraph that exceed any cost to the board of cooperative educational services for providing such services shall be applied to reduce the costs of aidable shared services allocated to component school districts pursuant to paragraph d of this subdivision and shall also be applied to reduce the approved cost of services pursuant to subdivision five of this section. Services provided by a board of cooperative educational services to component districts at the time of approval of a contract under this paragraph shall not be reduced or eliminated solely due to a board of cooperative educational services' performance of services to out-of-state schools pursuant to this paragraph.

* NB Repealed July 1, 2029

(11) To enter into contracts with individual public libraries or public library systems for the purpose of providing high-speed telecommunications services including, but not limited to, high-speed internet services. Any such proposed contract shall be subject to the review and approval of the commissioner, who may only approve such proposed contract when, in such commissioner's opinion, such contract: (a) will result in a more economical utilization of existing boards of cooperative educational services high-speed telecommunications services or resources than would be achieved were such contract not approved; (b) will not disrupt the level of services to component school districts; and (c) will result in a more economical utilization of existing library resources. The commissioner shall issue a finding, in writing, making any determination pursuant to this subparagraph. Such services to public libraries and library systems shall be provided at cost and shall not be eligible for aid pursuant to subdivision five of this section.

(12) To enter into contracts with preschool special education program providers approved pursuant to section forty-four hundred ten of this

chapter to process services relating to online application systems for educators.

(13) To establish, upon local interest from one or more component school districts and subject to approval by the BOCES board of education, an agriculture program that is designed to provide students with the skills required to work in, and help sustain New York's agriculture industry. Such program may include, but not be limited to, a partnership with farms and other agriculture entities in the state that provide students with hands-on experience combined with other educational opportunities.

i. Make such reports as are required by the commissioner of education.

j. Appoint one of its members as president, one of its members or another qualified voter in a district within the supervisory district as clerk and another qualified voter in a district within the supervisory district as treasurer. The duties of the clerk and treasurer shall be the same as those established by statute and regulations of the commissioner of education for clerks and treasurers of union free school districts.

k. Designate a depositary within the territorial limits of any component district for the deposit of money in the manner provided by section ten of the general municipal law. The receipt, deposit, investment and disbursement of moneys, and all procedures relating thereto, including, but not limited to the requirements for signatures, the appointment of a claims auditor to approve claims for purchases, and the optional use of claim forms, and the establishment of an internal audit function, shall be subject to the laws relating to union free school districts.

m. At the request of officials of school districts, created by legislative act, within the territory of a board of cooperative educational services, provide services as outlined in paragraph d of this subdivision. For such districts, there shall be apportioned from state funds to the board of cooperative educational services a sum equal to one-half the total cost of the approved services provided to such

school district.

n. In those counties where taxes other than those on real property are applied to school purposes, the tax rate shall be deemed to be that which would result if such taxes had not been applied to school purposes.

o. A meeting of members of the boards of education and school trustees of the component districts shall be held during the month of April on or before the fifteenth day of April, on a date and at a place and hour designated by the president of the board of cooperative educational services. The tentative administrative capital and program budgets of the board of cooperative educational services shall be available for inspection of the boards of education and school trustees at such meeting. Notice of the date, time and place of such meeting shall be given to each of the members of the boards of education and trustees and to the clerk of each of the component school districts by mail addressed to the last known address of such persons at least fourteen days prior to the meeting.

p. * (a) To rent suitable land, classrooms, offices or buildings upon or in which to maintain and conduct such cooperative educational services and administrative offices for a period not to exceed ten years for leases entered into with public entities and twenty years for leases entered into with non-public entities and to improve, alter, equip and furnish such land, classrooms, offices or buildings in a suitable manner for such purposes, provided that: (1) before executing any lease, the board shall adopt a resolution determining that such agreement is in the best financial interests of the supervisory district and stating the basis of that determination; (2) the rental payment shall not be more than the fair market value as determined by the board and provided to the commissioner; (3) The board discloses any conflict of interest pursuant to subparagraph (c) of this paragraph, or any other potential or perceived conflict of interest, to the commissioner, and in the event of a conflict of interest or a potential or perceived conflict of interest, provides detailed documentation to the commissioner demonstrating that the cost of the lease is not more than fair market

value; and (4) upon the consent of the commissioner, renewal of such lease may be made for a period of up to ten years. Nothing contained herein shall prevent the board from entering into a lease agreement which provides for the cancellation of the same by such board upon: (i) a substantial increase or decrease in pupil enrollment; or (ii) a substantial change in the needs and requirements of a board of cooperative educational services with respect to facilities; or (iii) any other change which substantially affects the needs or requirements of a board of cooperative educational services or the community in which it is located. No lease or other contract for the occupancy of such land, classrooms, offices or buildings shall be enforceable against the board of cooperative educational services unless and until the same shall have been approved in writing by the commissioner. In the case of a lease longer than ten years, the commissioner's written approval must include a finding that the proposed lease complies with all requirements of this paragraph and would be more cost-effective than a lease of ten years or fewer.

* NB Effective until July 1, 2029

* (a) To rent suitable land, classrooms, offices or buildings upon or in which to maintain and conduct such cooperative educational services and administrative offices for a period not to exceed ten years and to improve, alter, equip and furnish such land, classrooms, offices or buildings in a suitable manner for such purposes (1) before executing any lease, the board shall adopt a resolution determining that such agreement is in the best financial interests of the supervisory district and stating the basis of that determination; (2) the rental payment shall not be more than the fair market value as determined by the board; and (3) upon the consent of the commissioner, renewal of such lease may be made for a period of up to ten years. Nothing contained herein shall prevent the board from entering into a lease agreement which provides for the cancellation of the same by such board upon: (i) a substantial increase or decrease in pupil enrollment; or (ii) a substantial change in the needs and requirements of a board of cooperative educational services with respect to facilities; or (iii) any other change which substantially affects the needs or requirements of a board of cooperative educational services or the community in which it is located. No lease or other contract for the occupancy of such land,

classrooms, offices or buildings shall be enforceable against the board of cooperative educational services unless and until the same shall have been approved in writing by the commissioner.

* NB Effective July 1, 2029

(b) To lease unneeded facilities to public or private agencies, individuals, partnerships, or corporations, with the approval of the commissioner of education, and for a term not to exceed five years, which shall be renewable with the approval of the commissioner of education.

* (c) if any member of the board of education of the board of cooperative educational services, officer or employee of the board of cooperative educational services has a financial interest, either direct or indirect, in any lease to which the board of cooperative educational services is, or is to be, a party, such interest shall be disclosed to the board of education of such board of cooperative educational services in writing and shall be set forth in the minutes of the board of education of the board of cooperative educational services. The member, officer or employee having such interest shall not participate in any action by the board of cooperative educational services with respect to such lease.

* NB Repealed July 1, 2029

q. To provide transportation for pupils to and from classes maintained by such board of cooperative educational services at the request of one or more school districts. School districts and boards of cooperative educational services are authorized to enter into contracts with one or more school districts, private contractors, and one or more boards of cooperative educational services and any municipal corporation and authority to provide such transportation. Boards of cooperative educational services may operate joint or regional transportation systems for the transportation authorized by articles seventy-three and eighty-nine of this chapter. Such transportation, except when provided by a political subdivision or a board of cooperative educational services, shall be subject to the requirements of subdivision fourteen of section three hundred five of the education law.

r. With the approval of the district superintendent of schools and of

the commissioner of education to furnish any of the educational services provided for in this section or any other section of law which authorizes such board to provide services to school districts outside of the supervisory district, upon such terms as may be agreed upon pursuant to contracts executed by such board of cooperative educational services and the trustees or boards of education of such school districts.

s. Provide workmen's compensation coverage as provided in the workmen's compensation law for all teachers and other employees for injuries incurred in actual performance of duty.

t. When authorized by the qualified voters of the board, to purchase or otherwise acquire buildings, sites or additions thereto, to purchase or otherwise acquire real property for any lawful purpose and to construct buildings thereon.

u. To purchase necessary furniture, equipment, implements, apparatus and supplies.

v. To accept gifts of real and personal property.

w. To furnish any of the services provided for in this section or any other section of law which authorizes such board to provide services to school districts outside of the board of cooperative educational services, with the approval of the commissioner of education and of the district superintendent of schools or superintendents of schools having jurisdiction of such school districts for a period of not to exceed five years, upon such terms as may be agreed upon pursuant to contracts executed by the board of cooperative educational services and the trustees or boards of education of such school districts.

x. To sell, when authorized by the qualified voters of the board of cooperative educational services, any real property the title of which is vested in the board of cooperative educational services and buildings thereon and appurtenances or any part thereof at such price and upon such terms as shall be prescribed in such resolution; also, when so authorized, to exchange real property belonging to the board of

cooperative educational services for the purpose of improving or changing school sites. The proceeds of such sale shall be applied as provided by the resolution authorizing such sale.

* y. To enter into agreements for the lease of personal property. Before executing any such agreement, the board shall adopt a resolution determining that such agreement is in the best financial interests of the board of cooperative educational services, which resolution shall state the basis for that determination. Such agreements shall be subject to the bidding requirements of the general municipal law. No agreement for the lease of personal property may be made for a term in excess of five years, beginning with the time of receipt of possession of the subject of the lease.

* NB There are 2 par. y's

* y. Notwithstanding any other provision of this section and with the consent of the commissioner, the board of cooperative educational services of the county of Oswego may enter into contracts with the county of Oswego to provide transportation for handicapped children in the county of Oswego to and from any facility or institution for educating handicapped children within or without such county.

* NB There are 2 par. y's

z. To furnish, with the approval of the commissioner of education, for an amount not less than the cost thereof, any of the instructional support services provided to component school districts, including but not limited to audio-visual materials and related media services, curricular materials, in-service education programs and pupil personnel services for the diagnosis of handicapping conditions, to any nonpublic, not-for-profit elementary or secondary school in the state of New York which provides the instruction required by section thirty-two hundred four and article seventeen of this chapter, and which is chartered by the regents or registered with or subject to examination and inspection by the state education department.

aa. Notwithstanding any other provision of law, a board of cooperative educational services may, with the prior written approval of the commissioner, contract to accept from a leasing company which has qualified as lowest bidder pursuant to the provisions of the general

municipal law a sum sufficient to purchase data processing equipment from the manufacturer thereof, pay such sum to the manufacturer of said equipment, receive the equipment and title thereto and convey the same to the leasing company with a simultaneous lease of the equipment from such leasing company to the board of cooperative educational services for a specified period of years. Before any such agreement shall be executed, the board of cooperative educational services shall adopt a resolution determining that such agreement is in the best financial interest of the board. Such lease may be renewed for a further specified period of years with the prior approval of the commissioner of education.

bb. Boards of cooperative educational services may provide academic and other programs and services in the school year on a cooperative basis, including summer programs and services. (1) Requests to provide such programs and services shall be filed annually with the commissioner for approval.

(2) The commissioner may approve such programs and services only if they (a) are requested by two or more component school districts; (b) will provide additional opportunities for pupils; (c) will be expected to result in a cost savings to the two or more component school districts requesting the programs and services; (d) will provide greater opportunity for pupils, including those with handicapping conditions, to earn credit for academic subjects and (e) will insure a greater or more appropriate use of facilities by boards of cooperative educational services.

(3) Such programs and services may include, but shall not be limited to (a) expansion of itinerant teaching services in advanced academic subject courses; (b) academic course offerings at regular board of cooperative educational services centers or at leased sites during the school year or summer school periods, as requested by component districts; (c) block scheduling to enable students to attend classes at a board of cooperative educational services center for an entire school day; (d) satellite offerings of specific concentrations or specializations sponsored by boards of cooperative educational services at local schools, with cross-contracting for services; (e) expanded use of interactive television and other technologies to offer academic

courses on site or at component school districts; and (f) programs of academic intervention services approved by the commissioner designed to fulfill the academic intervention services requirement imposed by the regulations of the commissioner, provided that in approving such programs and services for the two thousand--two thousand one school year or thereafter, the commissioner shall assure that the program or service results in a cost savings to all participating districts, disregarding any aid pursuant to subdivision five of this section.

(4) Such programs or services if approved by the commissioner, shall be eligible for aid pursuant to subdivision five of this section.

(5) A teacher whose position in a school district is abolished as the result of a takeover of an academic program by a board or boards of cooperative educational services shall be accorded the rights provided by section thirty hundred fourteen-a of this chapter.

(6) To implement a program or service approved under this paragraph, a school district may transport pupils to the site of a board of cooperative educational services program in those cases where a pupil otherwise would be entitled to transportation but for the fact that the program is at the board of cooperative educational services and not at a school of the district. Under these circumstances, for those purposes of article seventy-three of this chapter, the board of cooperative educational services site shall be considered a school.

cc. Upon approval by a vote of the board of cooperative educational services, establish and maintain a program of reserves not to exceed three per centum of the annual budget of the district to cover property loss and liability claims. Separate funds shall be established for property losses and for liability claims, and the separate identity of each such fund shall be maintained whether its assets consist of cash or investments or both. The money in such funds shall be deposited and secured in the manner provided by section ten of the general municipal law. The moneys so deposited shall be accounted for separate and apart from all other funds of the district, in the same manner as provided in subdivision ten of section six-c of the general municipal law. The moneys in such funds may be invested in the manner provided by section eleven of the general municipal law. Any interest earned or capital gain realized on the money so deposited shall accrue and become part of such

funds. Such reserve funds shall not be reduced to amounts less than the total of the amounts estimated to be necessary to cover incurred but unsettled claims or suits including expenses in connection therewith other than by payments for losses for which such reserve amounts were established, except that such board may authorize use of such funds other than amounts allocated for unsettled claims or suits including expenses in connection therewith to pay premiums for insurance policies purchased to insure subsequent losses in areas previously self-insured, in the event of dissolution of the self-insurance plan.

dd. Provide for activities and services pertaining to the arts at the request of one or more school districts. Such activities and services shall be eligible for aid and shall include, but not be limited to, programs with, and performances by, artists or organizations approved by the commissioner of education. Boards of cooperative educational services are authorized to enter into contracts with one or more school districts, or boards of cooperative educational services.

ee. Upon approval by a vote of the board of cooperative educational services and of the boards of education of a majority of the school districts participating in the instructional program of such board, establish a career education instructional equipment reserve fund for the replacement and purchase of advanced technology equipment used in instructional programs conducted by the board of cooperative educational services. Subject to a limitation imposed by regulation of the commissioner on the amount of money which may be maintained in equipment reserve funds established pursuant to this paragraph, moneys for such funds shall be obtained by including depreciation expenses for the career education instructional equipment used in providing instructional services on a cooperative basis in the computation of the cost of such services pursuant to paragraph d of this subdivision. Proceeds from the sale of career education instructional equipment used in the instructional programs of the board and any income earned on money deposited in a reserve fund shall become part of such fund. The moneys in such funds shall be deposited and secured in the manner provided by section ten of the general municipal law. The moneys so deposited shall be accounted for separate and apart from all other funds of the

district, in the same manner as provided in subdivision ten of section six-c of the general municipal law. The moneys in such funds may be invested by the board of cooperative educational services in the manner provided by section eleven of the general municipal law. In the event a career education instructional equipment reserve fund is liquidated, the moneys in such fund shall be allocated to the school districts participating in the instructional programs of the board of cooperative educational services in proportion to the value of the contributions to the fund made by the participating districts. The commissioner may promulgate regulations pertaining, but not limited, to the amount of money to be retained in such reserve funds, the types of equipment for which depreciation expenses may be charged and for which expenditures may be made from the reserve fund, and required documentation of transactions relating to such funds.

ff. In its discretion, to purchase insurance against personal injuries incurred by an authorized participant in a school volunteer program, including but not limited to, those authorized participants who assist on school buses, school sponsored transportation to and from school, or on school sponsored field trips or any other school sponsored activity; provided, however, that the injuries were incurred while the authorized participant was functioning either within the scope of his or her authorized volunteer duties or under the direction of the board of education, trustee, or board of cooperative educational services, or both.

gg. Notwithstanding any other provision of law, a board of cooperative educational services may provide training for employment to adults on a space available basis, with consideration given to occupations and industries in demand, and establish reduced adult tuition rates for such training. For the purposes of this section, training for employment for adults shall be offered through state approved sequences or parts thereof of secondary career education instruction. Adults may participate in such instruction and be awarded certificates of completion, but they may not earn credit based on their participation towards a high school diploma. Pursuant to section forty-six hundred two of this chapter, a board of cooperative educational services may

establish such reduced rates for participation of adults provided that participation is limited to assigned instructional staff and currently used facilities in scheduled secondary career education programs, and provided further that such rates may not be less than fifty percent of the tuition rates charged to school districts for the participation of secondary students in the same programs, unless waived by the commissioner based on application of the board of cooperative educational services. This participation of adults at reduced tuition rates shall be in accordance with terms agreed upon by the board of cooperative educational services and the component school districts receiving such services but in no case shall such rates result in extraordinary costs assigned to such component school districts. Boards of cooperative educational services which provide such training to adults shall submit to the commissioner annually a report which shall include but not be limited to the number of adults served, referral source, training sequences or parts thereof taken by adult participants, the tuition rates charged to them, and the gross revenues realized therefrom. For the purpose of this paragraph, "adult" shall mean any person under the age of twenty-one who has received a high school diploma or any person twenty-one years of age or older, whether or not they have received a high school diploma.

hh. Provide for activities and services pertaining to environmental education at the request of more than one school district. Such activities and services each of which shall not exceed three weeks duration to be eligible for aid and shall include programs with and performances by individuals or organizations with special skills essential to the activity or service, but not appropriate to full time boards of cooperative educational services staff. Boards of cooperative educational services are authorized to enter into contracts with individuals, public agencies, and not-for-profit corporations to carry out the provisions of this paragraph, subject to the approval of the commissioner.

ii. Enter into agreements with one or more financing agencies to provide for the acceptance by such board of credit cards as a means of payment of course fees or tuition when required for instructional

programs offered by such board of cooperative educational services. Any such agreement shall govern the terms and conditions upon which a credit card proffered as a means of payment of such fees or tuition shall be accepted or declined and the manner in and conditions upon which the financing agency shall pay to such board the amount of such fees or tuition paid by means of a credit card pursuant to such agreement. Any such agreement may provide for the payment by such board to such financing agency of fees for the services provided by such financing agency. For purposes of this paragraph, the following terms shall have the following meanings:

(1) "Credit card" means any credit card, credit plate, charge plate, courtesy card, debit card or other identification card or device issued by a person to another person which may be used to obtain a cash advance or a loan or credit or to purchase a lease property or services on the credit of the person issuing the credit card or a person who has agreed with the issuer to pay obligations arising from the use of a credit card issued to another person.

(2) "Financing agency" means any agency defined as such in subdivision eighteen of section four hundred one of the personal property law;

(3) "Person" means an individual, partnership, corporation or any other legal or commercial entity.

jj. To contract to furnish any of the services provided for in this section to component school districts of the board of cooperative educational services, with the approval of the commissioner, for a period not to exceed five years, upon such terms as may be agreed upon pursuant to such contracts executed by the board of cooperative educational services and the trustees or boards of education of such school districts, provided that any such contract entered into, extended or amended on or after July first, nineteen hundred ninety-six shall be consistent with the requirements of paragraph d of this subdivision and subdivision one of section nineteen hundred fifty-one of this article regarding the allocation of costs to component school districts based upon the local uniform unit cost of each such service.

kk. For the nineteen hundred ninety-seven--ninety-eight school year and thereafter, the board of cooperative educational services (BOCES)

shall prepare a BOCES report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed administrative budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the board of cooperative educational services, on a school by school or program by program basis, and measures of the fiscal performance of the supervisory district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all boards of cooperative educational services. Such report card shall include any information required by the commissioner.

ll. a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the commissioner for purposes of clearance for employment.

b. Upon the recommendation of the district superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate forty-five days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny

clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

c. Upon the recommendation of the district superintendent, the board may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to paragraph b of this subdivision must also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance but shall terminate twenty business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted, the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An unforeseen emergency vacancy shall be defined as: (i) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (ii) when no other qualified person is available to fill the vacancy temporarily; and (iii) when emergency conditional appointment is necessary to maintain services which the district is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of subparagraph (i) of this paragraph shall not apply if the board finds that the district has been unable to fill the

vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

d. Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

mm. Shall upon commencement and termination of employment of an employee by the board, provide the commissioner with the name of and position held by such employee.

nn. Notwithstanding any other provision of this section and with the consent of the commissioner, the Madison-Oneida board of cooperative educational services may enter into a contract or contracts not to exceed a total period of two years with the Madison Cortland ARC to provide transportation maintenance and repair services on buses owned and operated by the Madison Cortland ARC. The Madison-Oneida board of cooperative educational services shall not charge any portion of costs incurred pursuant to this paragraph to its component school districts.

oo. Notwithstanding any other provision of law, a board of cooperative educational services is authorized to enter into a memorandum of understanding with the trustees or board of education of a non-component school district, including city school districts of cities with one hundred twenty-five thousand inhabitants or more, to participate in a recovery high school program operated by the board of cooperative educational services for a period not to exceed five years upon such terms as such trustees or board of education and the board of cooperative educational services may mutually agree, provided that such agreement may provide for a charge for administration of the recovery high school program including capital costs, but participating non-component school districts shall not be liable for payment of administrative expenses as defined in paragraph b of this subdivision. Costs allocated to a participating non-component school district pursuant to a memorandum of understanding shall be aidable pursuant to subdivision five of this section to the same extent and on the same

basis as costs allocated to a component school district.

4-a. The board of cooperative educational services shall develop a plan to ensure that all instructional materials to be used in the programs of the board of cooperative educational services are available in a usable alternative format for each student with a disability, as defined in section forty-four hundred one of this chapter, and for each student who is a qualified individual with a disability as defined in the rehabilitation act of nineteen hundred ninety-three (29 U.S.C. 701) as amended, in accordance with his or her educational needs and course selection, at the same time as such instructional materials are available to non-disabled students. As part of such plan, the board of cooperative educational services shall amend its procurement policies to give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. For purposes of this subdivision, "alternative format" shall mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a disabled student enrolled in a program of the board of cooperative educational services, including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file in an approved format, as defined in the regulations of the commissioner. When an electronic file is provided, the plan shall specify how the format will be accessed by students and/or how the district shall convert to an accessible format. Such plan shall identify the needs of students enrolled in a program of the board of cooperative educational services for alternative format materials. Such plan shall also specify ordering timelines to ensure that alternative format materials are available at the same time as regular format materials. Such plans shall include procedures to address the need to obtain materials in alternative format without delay for disabled students who enroll in a program of a board of cooperative educational services during the school year.

5. a. Upon application by a board of cooperative educational services, there shall be apportioned and paid from state funds to each board of cooperative educational services an amount which shall be the product of the approved cost of services actually incurred during the base year

multiplied by the sharing ratio for cooperative educational services aid which shall equal the greater of: (i) an amount equal to one minus the quotient expressed as a decimal to three places without rounding of eight mills divided by the tax rate of the local district computed upon the actual valuation of taxable property, as determined pursuant to subdivision one of section thirty-six hundred two of this chapter and notwithstanding section three thousand six hundred three, expressed in mills to the nearest tenth as determined by the commissioner, provided, however, that where services are provided to a school district which is included within a central high school district or to a central high school district, such amount shall equal one minus the quotient expressed as a decimal to three places without rounding of three mills divided by the tax rates, expressed in mills to the nearest tenth, of such districts, as determined by the commissioner or (ii) the aid ratio of each school district for the current year, which shall be such component school district's board of cooperative educational services aid ratio and which shall be not less than thirty-six percent converted to decimals and shall be not more than ninety percent converted to decimals. For the purposes of this paragraph, the tax rate of the local district computed upon the actual valuation of taxable property shall be the sum of the amount of tax raised by the school district plus any payments in lieu of taxes received by the school district pursuant to section four hundred eighty-five of the real property tax law, divided by the actual valuation of the school district, provided, however that the tax rate for a central high school district shall be the sum of the amount of tax raised by the common and union free school districts included within the central high school district for the support of the central high school district plus any payments in lieu of taxes received for the support of the central high school district pursuant to section four hundred eighty-five of the real property tax law, divided by the actual valuation of the central high school district. The tax rate for each common or union free school district which is included within a central high school district shall be the sum of the amount raised for the support of such common or union free school district plus any payments in lieu of taxes received for the support of the school district pursuant to section four hundred eighty-five of the real property tax law, exclusive of the amount raised for the central high

school district, divided by the actual valuation of such common or union free school district.

b. The cost of services herein referred to shall be the amount allocated to each component school district by the board of cooperative educational services to defray expenses of such board, including approved expenses from the testing of potable water systems of occupied school buildings under the board's jurisdiction as required pursuant to section eleven hundred ten of the public health law provided that such expenses for testing of potable water systems are not reimbursable from another state or federal source, except that that part of the salary paid any teacher, supervisor or other employee of the board of cooperative educational services which is, (i) for aid payable in the two thousand twenty-five--two thousand twenty-six school year and prior school years in excess of thirty thousand dollars, (ii) for aid payable in the two thousand twenty-six--two thousand twenty-seven school year in excess of forty thousand dollars, (iii) for aid payable in the two thousand twenty-seven--two thousand twenty-eight school year in excess of fifty thousand dollars, and (iv) for aid payable in the two thousand twenty-eight--two thousand twenty-nine school year and thereafter, in excess of sixty thousand dollars, shall not be such an approved expense, and except also that administrative and clerical expenses shall not exceed ten percent of the total expenses for purposes of this computation. Any gifts, donations or interest earned by the board of cooperative educational services or on behalf of the board of cooperative educational services by the dormitory authority or any other source shall not be deducted in determining the cost of services allocated to each component school district. Any payments made to a component school district by the board of cooperative educational services pursuant to subdivision eleven of section six-p of the general municipal law attributable to an approved cost of service computed pursuant to this subdivision shall be deducted from the cost of services allocated to such component school district. The expense of transportation provided by the board of cooperative educational services pursuant to paragraph q of subdivision four of this section shall be eligible for aid apportioned pursuant to subdivision seven of section thirty-six hundred two of this chapter and no board of cooperative

educational services transportation expense shall be an approved cost of services for the computation of aid under this subdivision. Transportation expense pursuant to paragraph q of subdivision four of this section shall be included in the computation of the ten percent limitation on administrative and clerical expenses.

c. The "tax rate" as herein referred to shall not include a special tax levied for debt service in an existing district of a central school district or a consolidated district.

d. Nothing in this act shall prevent school districts or boards of cooperative educational services with the approval of the commissioner of education from providing cooperative educational services for which no application for state aid is to be made.

e. Any aid apportioned in accordance with section two hundred thirteen of the education law to a board of cooperative educational services in connection with the production of educational television materials and programs, or the acquisition by purchase, lease or otherwise of television facilities or operational expenses in connection therewith shall not be utilized in connection with computing the apportionment to such board of cooperative educational services. Any aid apportioned or paid by the state to a board of cooperative educational services for experimental or special programs shall not be utilized in connection with computing the apportionment to such board of cooperative educational services.

f. The sum of the amounts determined for each component school district as the apportionment to the board of cooperative educational services pursuant to the provisions of this section shall not be less than the amount which would have been apportioned during the nineteen hundred sixty-seven--sixty-eight school year under the provisions of this subdivision as in effect on December thirty-first, nineteen hundred sixty-six to the board of cooperative educational services of which the district was a component member for which such apportionment was made, except that such minimum apportionment shall be reduced in any year in which the expenditures of the component district for board of

cooperative educational purposes fall below the expenditure on which the nineteen hundred sixty-seven--sixty-eight apportionment to the board of cooperative educational services was based, such reduction to be made on a proportionate basis.

g. Any payment required by a board of cooperative educational services to the dormitory authority or any payment required by a board of cooperative educational services to acquire or construct a school facility of the board of cooperative educational services, and any payments for rental of facilities by a board of cooperative educational services shall, for the purposes of apportionment of public moneys to the board of cooperative educational services by the state of New York, be deemed to be an administrative or capital expense, as designated by the commissioner, but the entire amount of such payment shall be utilized in making such apportionment and the limitation of ten percent of the total expenses contained in this subdivision shall not be applicable. Any expense designated by the commissioner as a capital expense shall be included in the capital budget of the board of cooperative educational services and, except as otherwise provided in this paragraph, shall be aided in the same manner as an administrative expense. Any such payment shall not be considered part of the total expenses of the board for purposes of determining the administrative and clerical expenses not to exceed ten percent otherwise eligible for aid under this subdivision, and such payments shall be considered for the purpose of apportionment during the current school year such payment is made. The apportionment for such payments shall be determined by multiplying the amount of such payment allocated to each component school district in the board of cooperative educational services by the aid ratio, and shall be not more than ninety percent converted to decimals, of each such component computed pursuant to subdivision three of section thirty-six hundred two and used to apportion aid to that district in that current school year; provided, however, the apportionment for the construction, acquisition, reconstruction, rehabilitation, or improvement of board of cooperative educational services facilities, including payments to the dormitory authority and payments under any lease agreement, shall be based upon the cost of the board of cooperative educational services school facilities but not to

exceed the cost allowance set forth in subdivision six of section thirty-six hundred two of the education law and payments for rental facilities shall be subject to the approval of the commissioner.

h. Each board of cooperative educational services receiving a payment pursuant to paragraph a of this subdivision and section thirty-six hundred nine-d of this chapter shall be required to set aside from such payment an amount not less than the amount of state aid received pursuant to paragraph a of this subdivision in the base year that was attributable to cooperative services agreements (CO-SERs) for career education, as determined by the commissioner, and shall be required to use such amount to support career education programs in the current year.

5-a. Financial assistance for school districts first joining a board of cooperative educational services (BOCES). a. Eligibility. Any school district first joining a BOCES on or after July first, nineteen hundred ninety-five and prior to July second, nineteen hundred ninety-seven shall be eligible to apply to the commissioner for financial assistance pursuant to the provisions of this subdivision and subdivision five of this section.

b. Financial assistance. Financial assistance shall mean an interest free loan available upon application in the current year which shall not exceed the product of (i) the applicable percent defined in paragraph c of this subdivision and (ii) the sum of the local share and any repayment due for the prior year loan. Such local share shall equal the positive remainder resulting when aid payable on behalf of the district in the current year pursuant to subdivision five of this section is subtracted from the district's BOCES expenses which are or would be aidable in the current year or the next year pursuant to such subdivision five. The annual application for such a loan shall be in a form prescribed by the commissioner and shall accompany the submission of the final set of state aid forms required of the BOCES each year and shall be certified by the district superintendent of the BOCES. The amount of the loan in any year shall be determined by the commissioner and the payment and repayment of the loan shall be in accordance with

the provisions of paragraph d of this subdivision.

c. Applicable percent. The applicable percent shall be determined by the number of years that an eligible district has been a component district of a BOCES. In the first year, such percent shall be equal to the district's BOCES and building aid ratio for aid payable in the first year in which the district joins the BOCES, each year thereafter, such percent shall be reduced by ten percent until such percent would drop below ten percent at which time it shall be deemed to be zero.

d. Payment and repayment. Notwithstanding any inconsistent provisions of section thirty-six hundred nine-a of this chapter, the loan amounts determined by the commissioner pursuant to paragraph b of this subdivision shall be paid to each eligible school district on or before June fifteenth, commencing with the first year of eligibility, but only to the extent that the repayment of the base year loan has been secured. Notwithstanding any inconsistent provision of law, the state comptroller shall deduct the amount of any base year loan from any monies due such school district in March of the current year. Should the amount of any monies due such school district in March be insufficient to repay the total amount of the base year loan to the school district, the state comptroller shall deduct any balance due the state from any other monies payable to such district. Should the total amount of monies due to or on behalf of such school district be insufficient to repay the total amount of the base year loan determined in paragraph b of this subdivision, such school district shall make a direct payment to the state before March first of the current year and such payment shall be credited to the general fund local assistance account of the department.

6. The board of cooperative educational services is hereby created a body corporate. All property which is now vested in, or shall hereafter be transferred to the board of cooperative educational services, shall be held by them as a corporation.

7. In the event that two or more entire supervisory districts for which boards of cooperative educational services have been established shall become a single supervisory district by the redistricting of

supervisory districts pursuant to section twenty-two hundred one of this chapter, the boards of cooperative educational services theretofore established shall nevertheless remain in existence until August first next following such redistricting for the purpose of carrying out the programs for the current school year. For all other purposes, from and after the effective date of such redistricting such boards of cooperative educational services shall constitute a single board of cooperative educational services for the supervisory district as then constituted in the same manner as though such board had been established for such supervisory district pursuant to subdivision one of this section, and shall have all of the powers and duties of such boards under this chapter. The members of such boards shall continue to serve until the expiration of the terms of office for which they were elected. No election shall be held to fill vacancies on such board as the terms of members expire until such date as the terms of sufficient members have expired to cause the membership of such board to be not less than five nor more than fifteen, such number to be determined at the annual meeting of the trustees and members of boards of education of such supervisory district held in the month of April following such redistricting. Thereafter members of such board shall be elected annually to fill vacancies occurring by expiration of term. Notwithstanding any other provision of law, a board of cooperative educational services may fill a vacancy on such board at the annual board election immediately following such annual meeting and may accept nominations pursuant to subdivision two-a of this section in anticipation that one or more vacancies will exist once such annual meeting so establishes the number of the membership of the board, provided that the election ballot shall state that nominations have been accepted in anticipation of possible vacancies and that the clerk of the board of cooperative educational services will advise the component boards in writing of the actual number of vacant offices to be filled at the election, if any, no later than one business day after the annual meeting. Should such a supervisory district for which a board of cooperative educational services has been established be divided by the commissioner in the redistricting thereof, on August first next following such redistricting, after paying all outstanding obligations of such board, any balance of funds remaining in the treasury of such

board shall be allocated to the credit of the component school districts in accordance with the ratio which the proportion of the cost allocated to each component school district bears to the total cost of services of such board of cooperative educational services during the last full school year of its operation. In the event that a board of cooperative educational services shall have been established for the supervisory district of which such component district is then a part, the amount of such balance allocated to such district shall be paid to the board of cooperative educational services established for such supervisory district and any member of the board of cooperative educational services for such divided district who resides in the territory so transferred shall on and after the date of such redistricting become a member of the board of cooperative educational services of the supervisory district to which the school district in which he or she resides has been transferred and shall serve as such member until the expiration of the term of office for which he or she was elected. In the event that there is no board of cooperative educational services for any component district the amount of such balance allocated to such district shall be paid to the treasurer of such district. In such event the state aid authorized by subdivision five of this section for the last year of operation of such board of cooperative educational services shall be distributed to the component school districts in the amounts which would have accrued to such board of cooperative educational services by reason of their participation.

8. Notwithstanding any other provision of this chapter, with the approval of the commissioner of education, at the request of boards of education of union free school districts having a population of four thousand five hundred or more and employing a superintendent of schools, where such school districts lie within towns included in the supervisory district or supervisory districts comprising the territory served by a board of cooperative educational services, such union free school districts may upon the consent of the board of cooperative educational services be included as component districts for the purposes of this section and shall have all of the rights and obligations of such component districts under this section. Notwithstanding any other provision of this chapter, and with the consent of the commissioner,

likewise, at the request of the board of education of any city school district, having a population of less than one hundred twenty-five thousand inhabitants, such city school district may, upon the consent of the board of cooperative educational services, be included as a component district for the purpose of this section and shall have all the rights and obligations of such component districts under this section.

8-a. Notwithstanding any other provision of this section and with the consent of the commissioner, the city school district of the city of Syracuse may, upon consent of the board of cooperative educational services for the sole supervisory district for Onondaga and Madison counties, be included as a component district for the sole purpose of operating a combined program and/or constructing a combined facility for children with developmental disabilities in the city of Syracuse and the county of Onondaga. Such city school district shall add an amount to its budget and levy, collect and pay the same to such board of cooperative educational services to defray the proportional expenses of constructing and operating such facility for such children. Such city school district shall not be liable for payment of administrative expenses as provided for in paragraph b of subdivision four of this section nor shall such city school district be eligible for the payment of state aid under this section except such city school district shall receive state aid based on its proportionate share of building expenses related to this program as determined by the commissioner.

Such city school district shall continue to receive aid under subdivision five of section thirty-six hundred two for the attendance of children in this program.

8-b. Notwithstanding any other provisions of this section and with the consent of the commissioner, city school districts of cities in excess of one hundred twenty-five thousand inhabitants but less than one million inhabitants, upon consent of the board of cooperative educational services approved by the commissioner may be included as a component district of such board of cooperative educational services for the sole purpose of purchasing student information system services

consistent with standards established by the commissioner from such board of cooperative educational services. Each such city school district shall add an amount to its budget and shall levy, collect and pay the costs of such program to such board of cooperative educational services to defray their portion of the expenses of such a program. Such city school district shall not be liable for payment of administrative expenses as provided for in paragraph b of subdivision four of this section nor shall such city school district be eligible for payment of state aid under this section.

8-c. Notwithstanding any other provision of this section, any school district not a component of the board of cooperative educational services of the supervisory district serving its geographic area, including a city school district in a city having a population in excess of one hundred twenty-five thousand inhabitants, upon consent of the board of cooperative educational services and with the approval of the commissioner, may be treated in the same manner as a component school district of the board of cooperative educational services of the supervisory district serving its geographic area, or an adjoining board of cooperative educational services in the case of a city school district in a city having one million inhabitants or more, for the sole purpose of purchasing instructional support services, as defined by the commissioner. Each such school district shall add an amount to its budget and shall levy, collect and pay the costs of such program to such board of cooperative educational services to defray its portion of the expenses of such program, including a charge for administration not to exceed the restricted indirect cost rate, provided that the board of cooperative educational services shall not charge any portion of the administrative costs incurred pursuant to this subdivision to its component school districts. Such school districts shall not be liable for payment of administrative expenses as provided for in paragraph b of subdivision four of this section and subdivision one of section nineteen hundred fifty-one of this article. In the case of city school districts in a city with a population in excess of one hundred twenty-five thousand inhabitants, such participation shall be in addition to the participation authorized by subdivisions eight-a and eight-b of this section. In the case of a city school district in a city with a

population of one hundred twenty-five thousand inhabitants or more, in lieu of participation as a component district of an adjoining board of cooperative educational services, the city school district may opt to provide such support services as shared services directly or in collaboration with one or more institutions of higher education. The approved costs of such services shall be eligible for state aid in accordance with the provisions of subdivision twenty of section thirty-six hundred two of this chapter, and shall not be eligible for aid pursuant to subdivision five of this section.

8-d. Notwithstanding the provision of any law, rule, or regulation to the contrary, the city school district of the city of Rochester, upon the consent of the board of cooperative educational services of the supervisory district serving its geographic region, may purchase from such board as a non-component school district, services required by article nineteen of the education law.

9. No person shall be eligible to be elected to the office of member of a board of cooperative educational services who is an employee of a school district in the supervisory district.

9-a. No person shall be eligible to hold the office of member of a board of cooperative educational services who does not reside within the boundaries of a component school district of any such board.

10. Notwithstanding any other provisions of this chapter or of any other general or special law to the contrary, if and when two or more supervisory districts shall be combined into a new supervisory district pursuant to the provisions of section twenty-two hundred one of this chapter, as a result of which the boards of cooperative educational services for such supervisory districts shall become a single board of cooperative educational services for such redistricted supervisory district, such single board of cooperative educational services for such redistricted supervisory district shall, in such case, allocate the appropriate amounts of payments required to be made to the dormitory authority for rental of facilities or otherwise to the school districts contained, respectively, in such former boards of cooperative

educational services for such supervisory districts, as if such boards continued to exist in law for the sole purpose of making such payments.

11. With the approval of the commissioner, one or more boards of cooperative educational services and one or more school districts may enter into an agreement or agreements to provide for sharing costs of construction of or leases for facilities acquired for the purpose of housing services to be provided by a board or boards of cooperative educational services for provision of which services such facilities are constructed or leased, provided, however that no new agreements for the sharing of costs of construction or leases of facilities may be entered into pursuant to this subdivision on or after July first, two thousand three. No such agreement may be for a longer term than is required to retire any obligations issued by one or more of the parties to such agreement for the purpose of acquiring such facilities, or to pay the dormitory authority in full for the acquisition of such facilities.

13. a. A board of cooperative educational services and the component school districts of such board of cooperative educational services may enter into an agreement providing for the acquisition from the dormitory authority of facilities designed to house services to be provided by such board of cooperative educational services and for the sharing of the cost of such acquisition. Such agreement in addition to providing for all other matters deemed necessary and proper shall (i) set forth the cost of such acquisition which shall be the amount certified by the dormitory authority as sufficient to pay the principal of, the redemption premium, if any, and interest to the earliest of either the maturity date or the next redemption date on all obligations of the dormitory authority issued in relation to providing such facilities, including all incidental expenses in relation thereto, and (ii) provide for an allocation and apportionment of the cost of such acquisition among the component school districts on such equitable basis as the parties thereto shall determine and agree, and the proportion of the total cost to be provided by each such district in accordance with such allocation and apportionment. In those cases where construction of such facilities shall not have been completed, the amount so certified by the dormitory authority shall include the amount estimated to be necessary

by the dormitory authority to complete such construction by it acting for and on behalf of such board of cooperative educational services; provided, however, that such agreement shall provide that such board shall pay to the dormitory authority any additional amounts thereafter determined and certified by the dormitory authority to be necessary in order to complete the construction of such facilities. Existing contracts awarded by the dormitory authority for the construction of such facilities shall not be modified, nor shall any work not covered thereby be authorized, without the prior consent of an officer of such board authorized to so act by a resolution of such board. Such agreement shall be executed by all the component school districts of such board of cooperative educational services whose allocation of administrative expenses would include a portion of the amounts required to be paid the dormitory authority for the rental of such facilities.

b. The acquisition of such facilities is hereby declared and determined to be a school district purpose and an object or purpose for which each such component school district is hereby authorized to expend money and contract indebtedness. The period of probable usefulness of such object or purpose is hereby determined to be thirty years. Each such component school district is hereby authorized to finance its share of the cost of the acquisition of such facilities together with costs incidental to such financing, including, but not limited to legal fees, printing, engraving and publication of notices, either from any current funds legally available therefor, or by the issuance of obligations pursuant to the local finance law; provided, however, that (i) no approval of the voters of such component school district shall be required, (ii) the voting of a special tax or a tax to be collected in installments shall not be a condition precedent to the adoption of a bond resolution for such object or purpose, (iii) a majority vote of the entire voting strength of the board of education shall be sufficient for adoption of such a bond resolution, which bond resolution may be adopted at a regular meeting, or a special meeting of the board of education called on not less than twelve hours oral or written notice, which may be held either within or outside of such district, (iv) any such bond resolution shall take effect immediately and shall not be subject either to a mandatory or permissive referendum, and (v) no such bond resolution

shall be adopted prior to the execution by the board of cooperative educational services and the component school districts of such board of cooperative educational services of the agreement required by paragraph a of this subdivision.

c. Nothing herein contained shall be construed to permit any school district in a city (as defined in paragraph two-b of section 2.00 of the local finance law) to contract indebtedness for such object or purpose in excess of the limitation prescribed by paragraph b of section 104.00 of such law, without a compliance with the provisions of paragraph c thereof. A school district, other than a school district in a city, may issue bonds or bond anticipation notes for such object or purpose in excess of the limitation prescribed by paragraph d of such section 104.00, without complying with the requirements of subparagraphs one through three of such paragraph. Notwithstanding any other provision of law to the contrary, a special act school district, as defined in subdivision eight of section four thousand one of this chapter, shall not be deemed a component school district of the board of cooperative educational services for purposes of this subdivision.

d. Upon certification by the dormitory authority of the receipt by it of the amount set forth in the agreement as the cost of the acquisition of such facilities, title thereto shall vest in the board of cooperative educational services without any further action or deed or conveyance, which title shall be held by the board of cooperative educational services for the benefit and on behalf of all the component school districts of such board executing such agreement.

e. The validity of any obligations issued by any school district in accordance with this subdivision shall not be affected or impaired by any omission, defect or irregularity in any previous acts or proceedings by the board of cooperative educational services, or by any of the component school districts of such board of cooperative educational services in relation to the authorization of such facilities or the construction and financing thereof by the dormitory authority.

f. State aid on account of the acquisition of such facilities shall be

paid to each component school district based upon its respective debt service or share thereof paid pursuant to the agreement herein provided for, and upon its respective aid ratio.

g. Notwithstanding any provision of law, the dormitory authority, any board of cooperative educational services and any component school district thereof, are all hereby authorized and empowered to perform any and all acts and to enter into any and all agreements necessary or desirable to effectuate the purposes of this subdivision.

14. a. All provisions of this subdivision shall be applicable only if any agreement or agreements referred to herein shall be entered into by a board of cooperative educational services and all of the component school districts of the board of cooperative educational services. A board of cooperative educational services and the component school districts of such board of cooperative educational services may enter into an agreement providing for the acquisition or construction, including new construction, additions or reconstruction of facilities designed to house services to be provided by such board of cooperative educational services and for the sharing of the cost of such acquisition or construction. Such agreement in addition to providing for all other matters deemed necessary and proper shall (i) set forth the cost of such acquisition or construction and costs incidental thereto and (ii) provide for an allocation and apportionment of the costs of such acquisition or construction among the component school districts on such equitable basis as the parties thereto shall determine and agree, and the proportion of the total cost to be provided by each such district in accordance with such allocation and apportionment. Such agreement shall be executed by all the component school districts of such board of cooperative educational services and such board of cooperative educational services. Such agreement may provide that each component school district of such a board of cooperative educational services shall issue an agreed upon amount of its obligations in a total amount sufficient to acquire or construct such facilities, or that all component districts of such board shall together issue joint obligations pledging the full faith and credit for all component districts jointly and that each such district shall pay a specified share of annual debt

service on such joint obligations in accordance with the provisions of article five-g of the general municipal law and applicable provisions of the local finance law.

b. The acquisition or construction of such facilities is hereby declared and determined to be a public purpose and a school district purpose and a specific object or purpose for which each such component school district is hereby authorized to expend money and contract indebtedness. The period of probable usefulness of such specific object or purpose is hereby determined to be thirty years. Each such component school district is hereby authorized to finance its share of the cost of the acquisition or construction of such facilities, together with costs incidental thereto, either from any current funds legally available therefor or by the issuance of obligations pursuant to the local finance law; provided, however, that (i) no approval of the voters of such component school district shall be required, (ii) the voting of a special tax or a tax to be collected in installments shall not be a condition precedent to the adoption of a bond resolution for such specific object or purpose, (iii) a majority vote of the entire voting strength of the board of education shall be sufficient for adoption of such a bond resolution, which bond resolution may be adopted at a regular meeting, or a special meeting of the board of education called on not less than twenty-four hours oral or written notice to the members of such board as provided in section sixteen hundred six of the education law, which meeting may be held either within or outside of such district, (iv) any such bond resolution shall take effect immediately and shall not be subject to either a mandatory or permissive referendum, and (v) no such bond resolution shall be adopted prior to the execution by the board of cooperative educational services and all of the component school districts of such board of cooperative educational services of the agreement required by paragraph a of this subdivision.

c. No further approval of the voters of such board of cooperative educational services or any component district thereof shall be required other than that required by paragraph t of subdivision four of this section.

d. Such agreement shall further provide that title to the facility shall vest in the board of cooperative educational services which title shall be held by the board of cooperative educational services for the benefit and on behalf of all the component school districts of such board executing such agreement.

e. Nothing herein contained shall be construed to permit any school district in a city (as defined in paragraph two-b of section 2.00 of the local finance law) to contract indebtedness for such specific object or purpose in excess of the limitation prescribed by paragraph b of section 104.00 of such law, without complying with the provisions of paragraph c thereof. A school district, other than a school district in a city, may not issue bonds or bond anticipation notes for such specific object or purpose in excess of the limitation prescribed by paragraph d of such section 104.00, without complying with the requirements of subparagraphs one through three of such paragraph. Notwithstanding any other provision of law to the contrary, a special act school district, as defined in subdivision eight of section four thousand one of this chapter, shall not be deemed a component school district of the board of cooperative educational services for purposes of this subdivision.

f. State aid on account of the acquisition or construction of such facilities shall be paid to each component school district based upon its respective debt service or share thereof paid pursuant to the agreement herein provided for, and upon its respective aid ratio. Any such computation of state aid shall further be based upon the cost of such acquisition, or construction, and including incidental costs, to the board of cooperative educational services but not to exceed the cost allowance set forth in subdivision six of section thirty-six hundred two of this chapter.

18. Accountability of personal property. On or before January first, nineteen hundred ninety-seven, each board of cooperative educational services shall develop and adopt a formal policy on personal property accountability, including the acquisition, sale and disposal of personal property. Such policy shall be approved by the commissioner consistent

with regulations adopted for such purpose, which shall include but not be limited to (a) procedures for the acquisition of personal property both by purchase and by gift, (b) procedures for the periodic inventory of personal property, and (c) procedures for the sale of valuable personal property to the highest bidder, except however that vehicles received at no cost for use in an authorized welfare to work program may be transferred at no cost or at cost of repairs, where repairs have been made to the vehicle at the board of cooperative education services, to participants who have met all the program requirements. Each such board shall periodically review and update such policy, provided that any amendments of the policy shall be subject to approval of the commissioner.

19. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal guardian.

* 20. (a) The use of artificial intelligence systems, as defined by section one hundred three-e of the state technology law, shall not affect the: (i) existing rights of employees pursuant to an existing collective bargaining agreement; or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result

in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or (ii) transfer of existing duties and functions currently performed by employees of the board of cooperative educational services to an artificial intelligence system.

(c) The use of such artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment and civil service status. The collective bargaining unit membership status of all existing employees of the board of education shall be preserved and protected.

* NB Repealed July 1, 2028

§ 1951. Budget of board of cooperative educational services. 1. The final administrative and capital budgets of the board of cooperative educational services as adopted shall be a charge against all of the school districts contained in the board of cooperative educational services, provided, however, that any component school district which does not elect to participate in any specific educational service authorized to be furnished by the board of cooperative educational services shall not be required to pay any share of the moneys provided in the program budget as salaries of teachers or other personnel employed in providing such service, for equipment and supplies for such service or for transportation of pupils to and from the place where such service is maintained, provided, however, expenditures for the board of cooperative educational services program, including office and central administrative expenses, traveling expenses and salaries and benefits of supervisors and all other central administrative personnel necessary to carry out its program shall be deemed administrative expenses which shall be a charge upon all component school districts notwithstanding the fact that such a component school district elects to not participate in any specific program offered by the board of cooperative educational services. Each school district's proportionate share of administrative and capital expenses shall be determined in accordance with subparagraph seven of paragraph b of subdivision four of section nineteen hundred fifty of this article. The board shall allocate the cost of other

services to participating component school districts in accordance with terms agreed upon between such board and the boards of education and trustees of each component school district using the local uniform unit cost of each such service, based on (i) anticipated participation in the ensuing school year, or (ii) participation in the current year, or (iii) a two or three year average including participation in the current year, which unit cost shall be the same for all participating component school districts and shall be computed in accordance with a uniform methodology approved annually by at least three-quarters of the participating component school districts after consultation by local school officials with their respective boards; provided, however, such unit cost shall be subject to final adjustment for programs for students with disabilities based on actual participation in accordance with regulations of the commissioner. The school authorities of each school district in the board of cooperative educational services shall add such amount to the budget of such school district and shall pay such amount to the treasurer of the board of cooperative educational services, and shall be paid out by the treasurer upon orders of the board issued and executed pursuant to the resolution of said board.

2. a. If the board of cooperative educational services determines to submit a proposition to authorize the purchase or acquisition of sites or additions thereto and real property and to construct buildings thereon and to purchase buildings and construct additions thereto, or to authorize the sale of any real property the title to which is vested in the board of cooperative educational services and buildings thereon and appurtenances or any part thereof, or to authorize the exchange of real property held by the board of cooperative educational services for the purpose of improving or changing school sites, to the qualified voters of the board of cooperative educational services, then the board shall call a meeting and submit to the qualified voters of the board of cooperative educational services such a proposition. The board shall cause a notice of such meeting to be given by public notice of the time and place of such meeting once in each week within the four weeks next preceding such meeting, the first publication to be at least twenty-five days before said meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, having general circulation

within the board of cooperative educational services, but if no newspaper shall then have general circulation therein, the said notice shall be posted in at least twenty of the most public places in said board of cooperative educational services twenty-five days before the time of such meeting. Such notice shall contain a statement of the proposition or propositions to be submitted at such meeting.

b. Such notice and all other notices and reports required to be published in newspapers under the provisions of this chapter shall be printed at the rates and for the fees prescribed in section eight thousand seven of the civil practice law and rules. In the event that the publishers of one or both of the newspapers having general circulation in such district shall refuse to print and publish the notices or reports at the rates and for the fees so prescribed, publication in such newspaper or newspapers so refusing may be omitted, in which case the notices or reports shall be posted as required by this section in lieu of such publication.

c. A person shall be entitled to vote at any meeting of the voters of the board of cooperative educational services who is:

(1) A citizen of the United States.

(2) Eighteen years of age.

(3) A resident within the board of cooperative educational services for a period of thirty days next preceding the meeting at which he offers to vote.

No person shall be deemed to be ineligible to vote at any such meeting, by reason of sex, who has the other qualifications required by this paragraph.

d. If a person offering to vote at any meeting of the voters of the board of cooperative educational services shall be challenged as unqualified by any legal voter of such board at such meeting, the chairman presiding at such meeting shall require the person so offering to make the following declaration: "I do declare and affirm that I am, and have been, for the thirty days last past, an actual resident of this board of cooperative educational services and that I am qualified to

vote at this meeting." Every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration his vote shall be rejected.

e. A person who shall wilfully make a false declaration of his right to vote at a meeting of the voters of a board of cooperative educational services after his right to vote thereat has been challenged, shall be deemed guilty of a misdemeanor. Any person not qualified to vote at such meeting, who shall vote thereat, shall thereby forfeit ten dollars, to be sued for by the supervisor for the benefit of the board.

f. In all propositions arising at said meeting, the vote thereon shall be by ballot.

g. If the board of cooperative educational services shall so determine, voting machines may be used for recording the vote at such meeting. Before any such machine is used at any such meeting, the inspectors of election shall examine it and see that all the counters are set at zero (000) and that the ballot labels are properly placed, and that the machine is in all respects in proper condition for use. The use of such machine shall be deemed a compliance with any provision of law requiring the vote to be by ballot. The board of cooperative educational services may purchase the necessary voting machine or machines; or if the county board of elections shall consent thereto, such machines belonging to the county or belonging to the town in which any part of said board of cooperative educational services shall be located may be used at any such meeting, the expense of delivery and returning and setting up, and any other expense connected therewith shall be defrayed by the board of cooperative educational services; but such machines belonging to the county shall not be so used at the time or times when they may be required under the election law.

h. The board of cooperative educational services shall appoint a qualified voter of the board of cooperative educational services as the chairman of any such meeting. The clerk of the board of cooperative educational services shall give written notice of appointment to the person so appointed. If the person appointed as chairman refuses to

accept such appointment, or fails to serve, the board of cooperative educational services may appoint a qualified voter of the board of cooperative educational services to fill the vacancy. The meeting shall be called to order by the chairman.

i. If the clerk of the board of cooperative educational services shall not be present, the board may appoint a qualified voter of the board of cooperative educational services to act as clerk of the meeting. The board shall appoint qualified voters of the board of cooperative educational services as assistant clerks of the meeting. The clerk of the board of cooperative educational services shall give a written notice of appointment to the persons so appointed as assistant clerks. If a person appointed as assistant clerk refuses to accept such appointment, or fails to serve, the board may appoint a qualified voter of the board of cooperative educational services to fill the vacancy. Each assistant clerk shall be entitled to compensation at a rate to be fixed by the board for each day actually and necessarily spent upon the duties of his office. The clerk and assistant clerk or clerks of the meeting shall keep an accurate and true written record of all proceedings of the meeting and shall file such written record with the clerk of the board of cooperative educational services within twenty-four hours after the meeting.

j. The board shall appoint two qualified voters of the board of cooperative educational services for each ballot box to be used to act as inspectors of election at such meeting. The clerk of the board of cooperative educational services shall give written notice of appointment to the persons so appointed. If a person appointed as inspector of election refuses to accept such appointment, or fails to serve, the board may appoint a qualified voter of the board of cooperative educational services to fill the vacancy. Additional inspectors of election may be appointed in the same manner when, in the opinion of the board, special circumstances exist requiring the services of such additional inspectors. The inspectors of election shall, before the polls are opened, organize by naming one of their number as chief inspector of election. Each inspector of election shall be entitled to compensation at a rate to be fixed by the board for each day actually

and necessarily spent upon the duties of his office.

k. A poll list containing the name and legal residence of every person whose vote shall be received shall be kept by the clerk and assistant clerk or clerks of the meeting.

l. The board shall at the expense of the board of cooperative educational services provide a suitable box or boxes in which the ballots, folded so as to conceal the marking thereon, shall be deposited as they are received, and shall in like manner provide a voting booth or booths and the voters shall be required to enter such booth or booths for the purpose of marking their ballots.

m. The board shall cause printed ballots to be prepared, setting forth the proposition or propositions to be voted upon, in the form applicable to the submission of a proposition to the meeting of a union free school district.

n. All qualified voters entitled to vote who are in the place where the meeting is held at or before the time of closing the polls shall be allowed to vote.

o. Immediately upon the close of the polls the inspectors of election shall canvass the ballots in the same manner as ballots are canvassed at a meeting of a union free school district. The chairman of the meeting shall declare to the meeting the result of each ballot as announced to him by the inspectors of election, and those propositions receiving a majority of the votes of the voters present and voting shall be deemed approved.

p. The meeting of the voters of the board of cooperative educational services shall be conducted in the same manner as a meeting of the voters of a union free school district.

q. If the board shall so determine it may cause the board of cooperative educational services to be divided into election districts provided that in each such election district the number of qualified

voters shall at least equal seven hundred. If such resolution be adopted it shall divide the board of cooperative educational services into such number of election districts as the board may determine, provided that if circumstances will permit there shall be a schoolhouse in each election district or in as many such election districts as possible. The election districts so formed shall continue in existence until modified by resolution of the board. Such resolution shall accurately describe the boundaries of each such district by street, alley and highway or otherwise. Meetings of the voters of the board of cooperative educational services shall be held thereafter in such election districts. The board shall designate the place within each election district where the meetings shall be held. When the board of cooperative educational services is divided into election districts, the board shall cause the meeting to be held in each election district pursuant to the provisions of this subdivision and shall appoint a chairman of the meeting, clerks and assistant clerks of the meeting and inspectors of election for each election district. The board shall designate the election district in which the clerk of the board of cooperative educational services shall be present. Where the board of cooperative educational services has been divided into election districts, the inspectors of election shall make a written report of the results of the ballot, signed by all such inspectors, to the chief inspector of election of each election district. The chief inspector of election of each election district shall within twenty-four hours file such written report with the clerk of the board of cooperative educational services. The board shall thereupon within twenty-four hours tabulate and declare the results of the ballot.

r. All disputes concerning the validity of any meeting of the voters of a board of cooperative educational services or of any of the acts of the officers of such meeting shall be referred to the commissioner of education for determination and his decisions in the matter shall be final and not subject to review. The commissioner may in his discretion order a new meeting.

s. The board of cooperative educational services shall provide absentee ballots to qualified voters. The commissioner shall adopt

regulations for the purposes of implementing the provisions of this paragraph which shall include, but not be limited to, creating the procedure for which such absentee ballots shall be submitted; providing that such absentee ballots shall be, as nearly as practicable, in the same form as those voted at the district election; requiring that any absentee ballot applicant is or will be, on the day of the vote, a qualified voter of the board of cooperative educational services and that he or she will be on such date over eighteen years of age, a citizen of the United States and has or will have resided in said district for thirty days next preceding such date; and providing instructions as to the proper marking thereof.

t. The board of cooperative educational services shall provide early mail ballots to qualified voters. The commissioner shall adopt regulations for the purposes of implementing the provisions of this paragraph which shall include, but not be limited to, creating the procedure for which such early mail ballots shall be submitted; providing that such early mail ballots shall be, as nearly as practicable, in the same form as those voted at the district election; requiring that any early mail ballot applicant is or will be, on the day of the vote, a qualified voter of the board of cooperative educational services and that he or she will be on such date over eighteen years of age, a citizen of the United States and has or will have resided in said district for thirty days next preceding such date; and providing instructions as to the proper marking thereof.

3. a. For the nineteen hundred ninety-seven--ninety-eight school year and thereafter, the commissioner shall prescribe, in consultation with the comptroller of the state of New York and within the general taxonomy of accounts established by the comptroller pursuant to section thirty-six of the general municipal law, a uniform and specific taxonomy for service programs and activities of boards of cooperative educational services. In developing such prescribed taxonomy, the commissioner shall consider the recommendations of an advisory panel of district superintendents of schools or their representatives as appointed by the commissioner for such purpose.

b. In developing and adopting a budget for the nineteen hundred ninety-seven--ninety-eight school year pursuant to this article, each board of cooperative educational services may use the same locally selected specific taxonomy for service programs and activities as used for the nineteen hundred ninety-six--ninety-seven school year within the general taxonomy of accounts established by the comptroller pursuant to section thirty-six of the general municipal law, provided that all such accounts shall be converted to the uniform and specific taxonomy prescribed by the commissioner pursuant to paragraph a of this subdivision by October first, nineteen hundred ninety-seven and provided that copies of the approved program, capital and administrative budgets as converted to such uniform and specific taxonomy shall be submitted to the commissioner on or before October first, nineteen hundred ninety-seven.

c. In developing and adopting a budget pursuant to this article for the nineteen hundred ninety-eight--ninety-nine school year and thereafter, each board of cooperative educational services shall use the uniform and specific taxonomy for service programs and activities prescribed by the commissioner pursuant to paragraph a of this subdivision.

§ 1952. Technologies network ties program. 1. There is hereby established a model technologies network ties program to pilot innovative uses of technology for interactive instruction and administrative purposes, in order to determine the feasibility of developing a statewide technologies network ties program.

2. The commissioner shall develop a plan, subject to the approval of the director of the budget, for the allocation of such funds as may be made available for this program, including competitive grants to school districts and boards of cooperative educational services for interactive instruction. Such plan shall include a listing of the school districts, boards of cooperative educational services and library network systems selected to take part in the pilot program.

3. Objectives of the program shall include the development of a network consisting of a structure which will electronically link all participating agencies and allow for the transfer of administrative and instructional data between and among the participating sites. The commissioner, in consultation with appropriate consultants and representatives of participating districts and boards of cooperative educational services, will be responsible for determining the appropriate communication standards and protocols for the selection of hardware and software to be used in all facets of the project.

4. The commissioner shall adopt regulations to implement the provisions of this section.

ARTICLE 40-A
SHARED PERSONNEL

Section 1980. Definitions.
1981. Shared personnel between school districts.

§ 1980. Definitions. When used in this article, the following terms shall mean:

1. The term "board of education" shall mean the trustee, trustees or board of education of any common, union free, central, central high or city school district, or a board of cooperative educational services.

2. The term "school district" shall mean any common, union free, central, central high or city school district, or a board of cooperative educational services.

3. The term "district superintendent" shall mean the chief administrative officer of a supervisory district as defined in article forty-five of this chapter.

§ 1981. Shared personnel between school districts. 1. Notwithstanding

any other provision of law, school authorities of any school district may arrange to share the services of a superintendent, associate superintendent, assistant superintendent or any other employee with districtwide administrative or supervisory responsibilities with one or more other school districts.

2. a. Any such shared personnel who are not in a position for which tenure may be granted pursuant to this chapter shall be considered to be employed by all participating school districts. Any decisions regarding the appointment or compensation of such shared personnel shall be made with the consent of a majority of each of the boards of education of each participating school district. Compensation and benefits of such shared personnel shall be provided by each participating school district, based on an agreed-upon formula.

b. Each agreement to share personnel who are in a position for which tenure may be granted pursuant to this chapter shall designate a participating district as the principal employing district. Any such shared personnel shall be considered to be employed by the principal employing district; provided that any decisions regarding the probationary appointment and compensation package of such shared personnel shall be made with the consent of a majority of each of the boards of education of each participating district. Decisions regarding the termination, discipline or tenure of such shared personnel shall be made by the principal employing district in consultation with all other participating districts, and services rendered by such shared personnel under such agreement in any other participating district shall be deemed to have been rendered in the principal employing district for all purposes under this chapter, including tenure credit, seniority and discipline.

(i) The agreement to share personnel shall allow other participating districts to be substituted as the principal employing district. Notwithstanding any other provision of law, upon substitution of a new principal employing district, the shared employee shall be considered an employee of the new principal employing district with the same tenure status he or she maintained in such prior principal employing district. For any such shared employee for salary, sick leave and any other

purposes, the length of service credited in such prior principal employing district shall be credited as employment time with such new principal employing district.

(ii) Where the principal employing district abolishes the position of a shared employee and creates a new position for the performance of similar duties, in determining the right of the employee under subdivision one of section three thousand thirteen or subdivision one of section twenty-five hundred ten to appointment to such new position, the new position shall be deemed similar if more than forty percent of the functions of the new position were performed by the shared employee in the shared position.

(iii) Where a participating district other than the principal employing district determines to discontinue the services of a shared employee pursuant to the terms of the agreement to share personnel, the employee shall retain his or her tenure rights in the principal employing district only.

3. School authorities of any school district sharing personnel pursuant to this section shall retain the right to promulgate educational or administrative policies pertaining to their respective school district pursuant to law, rule or regulation.

4. All agreements to share personnel pursuant to this section shall be subject to the approval and oversight of the district superintendent, if any, or by the commissioner or his designee if there is no local district superintendent.

5. The commissioner may promulgate rules and regulations to implement the provisions of this article.

ARTICLE 41
DISTRICT MEETINGS

PART I
GENERAL PROVISIONS

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§ 2001. Notice of first meeting of district. 1. Whenever any school district shall be formed, or two or more common school districts are

consolidated as provided in section fifteen hundred twelve, the district superintendent of schools, or any one or more of such district superintendents within whose districts it may be, shall prepare a notice describing such district and appointing a time and place for the first district meeting, and deliver such notice to a taxable inhabitant of the district.

2. It shall be the duty of such inhabitant to notify every other inhabitant of the district qualified to vote at the meeting, by delivering to him a copy of the notice of such meeting, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting.

3. In case such meeting shall not be held, and in the opinion of the district superintendent or superintendents it shall be necessary to hold such meeting before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the district, who shall serve it as provided in subdivision two of this section.

4. Every taxable inhabitant, to whom a notice of any district meeting shall be delivered for service pursuant to any provision of part one of this article, who shall refuse or neglect to serve the same, shall forfeit five dollars to be sued for by the supervisor for the benefit of the district.

§ 2002. Time and place of annual meeting. 1. The annual meeting and election of each school district shall be held on the third Tuesday of May in each year, provided, however that such annual meeting and election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances. Unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the schoolhouse, or any building owned or leased by the district, at seven-thirty p.m. in

the case of a school district that is not divided into election districts and conducts its election or vote by recording the ayes or noes of the qualified voters attending, or, in the case of all other districts, during at least six consecutive hours after six a.m., two of which hours shall be after six p.m. as determined by resolution of the trustees or board of education, provided, however, that the trustees or board of education of any school district that conducted its annual meeting at seven-thirty p.m. in nineteen hundred ninety-seven may conduct its annual election and budget vote at such time in nineteen hundred ninety-eight. If a district possesses more than one schoolhouse or building, or leases more than one building, it shall be held in the one usually employed for that purpose, unless the trustees or board of education designate another, provided that if the school district is divided into election districts such annual meeting and election shall be held at such place in each election district as the board of education may designate. If the district possesses no schoolhouse or building, or does not lease a building, or if the schoolhouse or building shall not be accessible or adequate, then the annual meeting and election shall be held at such place as the trustees or board of education, or the clerk, shall designate in the notice.

2. The use of any building owned or leased by a school district, as described in subdivision one of this section, shall comply with the accessibility provisions set out in subdivisions one-a and one-b of section 4-104 of the election law.

§ 2003. Notice of annual meeting in common school district. 1. The district clerk of each common school district shall give notice of the availability of the statement of expenditures pursuant to the provisions of section sixteen hundred eight of this chapter and shall also give notice of the time and place of the annual meeting by publishing a notice four times within the seven weeks next preceding such annual meeting, the first publication to be at least forty-five days before said meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, having general circulation within such district. But if no newspaper shall then have general circulation

therein, the said notice shall be posted in at least twenty of the most public places in said district forty-five days before the time of such meeting.

2. Such notice shall also state that petitions nominating candidates for the office of member of the board of trustees must be filed with the clerk of the district between the hours of nine a.m. and five p.m., not later than the thirtieth day preceding the school meeting or election at which the candidates so nominated are to be elected.

3. Such notice and all other notices and reports required to be published in newspapers under the provisions of this chapter shall be printed at the rates and for the fees prescribed in the civil practice law and rules. In the event that the publishers of one or both of the newspapers having general circulation in such district shall refuse to print and publish the notices or reports at the rates and for the fees so prescribed, publication in such newspaper or newspapers so refusing may be omitted, in which case the notices or reports shall be posted as required by this section in lieu of such publication.

§ 2004. Notice of annual meeting in union free school district. 1. The clerk of each union free school district shall give notice of the availability of the statement of expenditures pursuant to the provisions of section seventeen hundred sixteen of this chapter and shall also give notice of the time and place of the annual meeting and the notice required by section seventeen hundred sixteen of this chapter by publishing a notice four times within the seven weeks next preceding such district meeting, the first publication to be at least forty-five days before said meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, having general circulation within such district. But if no newspaper shall then have general circulation therein, the said notice shall be posted in at least twenty of the most public places in said district forty-five days before the time of such meeting.

2. Such notice shall also state that petitions nominating candidates

for the office of member of the board of education must be filed in the office of the clerk of the district between the hours of nine a.m. and five p.m., not later than the thirtieth day preceding the school meeting or election at which the candidates so nominated are to be elected.

5. If the district has personal registration of voters pursuant to section two thousand fourteen of this chapter, and has not been divided into election districts pursuant to section two thousand seventeen of this chapter, such notice shall also state:

a. the place and hour or hours at which the board of registration shall meet to prepare the register of the school district and any person shall be entitled to have his name placed upon such register, provided that at such meeting of the board of registration, he is known or proven to the satisfaction of such board of registration, to be then or thereafter entitled to vote at the school meeting or election for which such register is prepared,

b. that the register prepared pursuant to section two thousand fourteen of this chapter will be filed in the office of the clerk of the district; that such register will be open for inspection by any qualified voter of the district and the hours during which such register will be open for inspection on each of the five days prior to and the day set for the meeting or election, except Sundays.

6. If the district has been divided into election districts pursuant to section two thousand seventeen of this chapter, such notice shall also state:

a. the place and hour or hours in each election district at which the members of the board of registration shall meet to prepare the register of the school district for each election district and any person shall be entitled to have his name placed upon such register, provided that at such meeting of the members of the board of registration he is known or proven to the satisfaction of such members to be then or thereafter entitled to vote at the school meeting or election for which such register is prepared,

b. the place in each election district where the meeting or election shall be held,

c. that the register prepared pursuant to section two thousand fourteen of this chapter will be filed in the office of the clerk of the district; that such register will be open for inspection by any qualified voter of the district and the hours during which such register will be open for inspection on each of the five days prior to and the day set for the meeting or election, except Sundays,

d. if the district is divided into election districts and voting machines are used, that a statement of estimated expenses for the ensuing year will be completed and copies made available at each schoolhouse in the district in which school is maintained during certain designated hours on each day other than a Saturday, Sunday or holiday during the fourteen days immediately preceding such meeting, together with the text of any resolution which will be presented to the voters.

7. Such notice shall also state that applications for early mail and absentee ballots for election of board members may be applied for at the office of the clerk of the district. Such notice, in such case, shall further state that a list of all persons to whom early mail and absentee ballots shall have been issued, will be available in the said office of the clerk on each of the five days prior to the day of the election except Sundays, and that such list will also be posted at the polling place or places at the election of members of the board of education.

8. Such notice and all other notices and reports required to be published in newspapers under the provisions of this chapter shall be printed at the rates and for the fees prescribed in section fifteen hundred fifty-one of the civil practice act. In the event that the publishers of one or both of the newspapers having general circulation in such district shall refuse to print and publish the notices or reports at the rates and for the fees so prescribed, publication in such newspaper or newspapers so refusing may be omitted, in which case the notices or reports shall be posted as required by this section in lieu

of such publication.

§ 2005. Special meeting to transact business of annual meeting. Whenever the time for holding the annual meeting in a school district shall pass without such meeting being held, a special meeting, to be held on the date specified for a school budget revote pursuant to subdivision three of section two thousand seven of this part, shall thereafter be called by the trustees or by the clerk of such district for the purpose of transacting the business of the annual meeting; and if no such meeting be called by the trustees or the clerk within ten days after such time shall have passed, the district superintendent of the supervisory district in which said school district is situated or the commissioner of education may order any inhabitant of such district to give notice of such meeting in the manner provided in section two thousand one of this part, and the officers of the district shall make to such meeting the reports required to be made at the annual meeting, subject to the same penalty in case of neglect; and the officers elected at such meeting shall hold their respective offices only until the next annual meeting and until their successors are elected and shall have qualified. Notice of such annual meeting shall comply with the requirements of section two thousand three or section two thousand four of this part by publishing such notices once in each week within the two weeks next preceding such special meeting, the first publication to be at least fourteen days before such meeting and any required posting to be fourteen days before the time of such meeting. If the qualified voters at such special district meeting defeat the school district budget, the trustees or board of education shall adopt a contingency budget pursuant to section two thousand twenty-three of this part. Notwithstanding any other provision in law, the trustees or board of education following the adoption of a contingency budget may call a special district meeting for a second vote on the proposed budget pursuant to the requirements of subdivision three of section two thousand seven or subdivision three of section two thousand six of this chapter.

§ 2006. Special meeting in common school district. 1. A special district meeting of a common school district shall be held whenever called by the trustees or whenever called for by petition of the voters pursuant to subdivision three of this section. The notice thereof shall state the purposes for which it is called, and no business shall be transacted at such special meeting, except that which is specified in the notice; and the district clerk, or, if the office be vacant, or the clerk be sick or absent, or shall refuse to act, a trustee, or some taxable inhabitant, by order of the trustees, shall serve the notice upon each inhabitant of the district qualified to vote at district meetings, at least six days before the day of the meeting, in the manner prescribed in section two thousand one of this part or the trustees shall give notice of the time and place of such special meeting, and the notice shall be published once in each week within the four weeks next preceding the special meeting, the first publication to be at least twenty-two days before said meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, having general circulation within such common school district. But if no newspaper shall then have general circulation therein, the said notice shall be posted in at least twenty public places in said district twenty-two days but not more than twenty-eight days before the time of such meeting.

2. The inhabitants of a district may, at any annual meeting, adopt a resolution prescribing some other mode of giving notice of special meetings, which resolution and the mode prescribed thereby shall continue in force until rescinded or modified at some subsequent annual meeting.

3. Whenever the voters shall have defeated the budget of the school district at the annual meeting and election, the trustees may call a special district meeting for a school budget revote to be held on the third Tuesday of June, provided, however that such budget revote shall be held on the second Tuesday in June if the commissioner at the request of a local school board certifies no later than March first that such vote would conflict with religious observances. The trustees shall give the notices required by subdivision one of section two thousand three of this part and this section by publishing such notices once in each week

within the two weeks next preceding such special meeting, the first publication to be at least fourteen days before such meeting, with any required posting to be fourteen days before the time of such meeting.

§ 2007. Special meeting in union free school district. 1. The board of education in a union free school district shall have power to call special meetings of the inhabitants of the district whenever they shall deem it necessary and proper, in the manner prescribed in section two thousand four of this chapter. The notice of each special meeting shall state the purposes for which it is called, and no business shall be transacted at such special meeting, except that which is specified in the notice.

2. In a union free school district whose limits correspond with those of any incorporated village, the board of education shall have power to call special meetings of the inhabitants of the district for the purposes mentioned in section four hundred sixteen in the manner prescribed in said section two thousand four of this chapter.

3. a. Notwithstanding the provisions of subdivisions one and two of this section, and of section two thousand four of this part, whenever the voters of the district shall have defeated the budget of the district, in whole or in part, or whenever the board of education shall have rejected all bids for a contract or contracts for public work, transportation or purchase, and whenever in either such case the board of education shall deem it necessary and proper to call a special meeting to take appropriate action, the board of education shall be authorized to give the notices required by subdivision one of section two thousand four of this part by publishing such notices once in each week within the two weeks next preceding such special meeting, the first publication to be at least fourteen days before such meeting and any required posting to be fourteen days before the time of such meeting.

b. A school budget revote called pursuant to paragraph a of this subdivision shall be held on the third Tuesday of June, provided, however that such budget revote shall be held on the second Tuesday in

June if the commissioner at the request of a local school board certifies no later than March first that such vote would conflict with religious observances.

c. Notwithstanding the provisions of section two thousand fourteen of this part, where a school district shall have adopted personal registration, the board of registration shall meet on such day or days as shall be fixed by the board of education, the last day of which, however, shall not be more than seven nor less than two days preceding any school district meeting notices for which shall have been given as provided in this subdivision.

4. The board of education in a union free school district shall, in each case when a special district meeting is required or permitted to elect members of such board of education, call such meeting for at least six consecutive hours between the hours of seven o'clock in the forenoon and nine o'clock in the afternoon, at least two of which hours shall be after six o'clock in the afternoon, and notice shall be given in the manner prescribed in section two thousand four of this chapter for meetings held over the hours.

§ 2008. Call of special district meeting by district superintendent. 1. When the clerk and all the trustees of a school district shall have removed from the district, or their offices shall be vacant, so that a special meeting can not be called, as hereinbefore provided, the district superintendent may in like manner give notice of, and call a special district meeting.

2. Upon the filing with the trustee or board of education of a petition requesting such officers to call a special district meeting, which petition shall state the purpose thereof and shall be signed by twenty-five qualified voters or five percent of the number of voters who voted in the previous annual election of the members of the board of education or trustees, said number to be determined by the number of persons recorded on the poll list as having voted at such election, whichever shall be greater, such trustee or board of education shall

proceed to call such meeting by giving notice thereof within twenty days thereafter unless it shall appear

(a) that the purpose for which such meeting is sought to be called is not within the power of the voters of the district, or

(b) that such purpose is illegal, or

(c) that a bond or note resolution has been adopted and such petition is not filed within twenty days after publication of notice of such resolution pursuant to section 81.00 of the local finance law, or

(d) that other valid reason exists for refusing to call such meeting which reason when appealed to the commissioner of education shall be deemed by him to be sufficient cause for such refusal.

3. Notwithstanding any other provision of law to the contrary, any proposition submitted by the voters that requires the expenditure of money shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 2009. Additional requirements of notice where tax to be authorized to be levied in installments. Where any proposition is to be submitted to an annual or special district meeting or election authorizing a tax to be levied in installments as a condition precedent to the issuance of obligations of the district the notice of the meeting shall, in addition to complying with the requirements of this article, also comply with the requirements of section four hundred sixteen of this chapter and applicable provisions of the local finance law.

§ 2010. Effect of want of due notice of district meetings. The proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent.

§ 2011. Duty to attend district meetings. Whenever any district meeting shall be duly called, it shall be the duty of the inhabitants

qualified to vote thereat, to assemble at the time and place fixed for the meeting.

§ 2012. Qualifications of voters at district meetings. A person shall be entitled to vote at any school meeting or election for the election of school district officers, and upon all other matters which may be brought before such meeting or election, who is: 1. A citizen of the United States.

2. Eighteen years of age.

3. A resident within the district for a period of thirty days next preceding the meeting or election at which he offers to vote.

4. No person shall have the right to register for or vote at any school meeting or election who would not be qualified to register for or vote at an election in accordance with the provisions of section 5-106 of the election law.

No person shall be deemed to be ineligible to vote at any such meeting or election, by reason of sex, who has the other qualifications required by this section; and notwithstanding the foregoing provisions of this section, no Indian eighteen years of age or over who, having been born in the United States to a member of an Indian tribe, or having been naturalized or otherwise acquired citizenship, shall have resided on an Indian reservation in the state for a period of thirty days next preceding the meeting or election at which he offers to vote or the spouse of such Indian shall be deemed ineligible to vote at any such meeting or election of the school district where the majority, as determined by the commissioner, of the Indian children of such reservation are being educated under a contract pursuant to subdivision two of section forty-one hundred one of this chapter, except that the parents or guardians of Indian children of such reservation who are being educated in the schools of a district other than the district which educates the majority of such children, shall be eligible to vote only in the district where their children are being so educated.

§ 2014. Registration of voters. 1. In any union free school district, the board of education may upon its own motion provide for the personal registration of voters at school meetings or elections in such district as provided in this section.

In such event, the board of education in such district shall immediately designate four qualified voters of such district to constitute a board of registration for such district to serve until the thirtieth day following the next annual meeting or election of such district. Thereafter, the board of education of such district shall annually designate, not later than the thirtieth day following the annual meeting or election of such district, four qualified voters of such district to constitute a board of registration for such district. Such members of the board of registration so appointed shall serve until the thirtieth day after the annual meeting or election of such district in the following year. In the event that a vacancy shall occur on the board of registration, the board of education at any time may designate a qualified voter of such district as a member of the board of registration for such district to fill the vacancy.

Each member of the board of registration shall be entitled to compensation at a rate to be fixed by the board of education for each day actually and necessarily spent upon the duties of his office.

2. The board of registration of such district shall meet during the annual meeting or election of such district at the place where such annual meeting or election is held for the purpose of preparing a register for meetings or elections held subsequent to such annual meeting or election. Such board of registration of such district shall, in addition, meet on such day or days as shall be fixed by the board of education, the last day of which, however, shall not be more than fourteen nor less than five days preceding each school meeting or election in such district at such place in the school district, and at such hours, as the board of education shall by resolution designate, which hours shall include at least four consecutive hours between seven

o'clock in the morning and eight o'clock in the evening, for the purpose of preparing a register for such meeting or election provided, however, that at any annual meeting the majority of the voters may adopt a resolution authorizing the registration of voters during the hours for enrollment of children for a school term; provided further, however, that such voters may also authorize registration during certain specified hours of the school day, at the office of the district clerk or business office of the school district by the district clerk, assistant district clerk or a member of the board of registration. Such registration shall not take place less than five days preceding any school meeting or election. Such registration shall be effective to include the next annual meeting and shall take place at the school or schools within the district designated in the resolution. The register shall, so far as practical, be in the same form as the register of voters in an election district for general elections in a city or village having five thousand inhabitants or more, under the election law. The register shall be arranged alphabetically by the surnames, and the place of residence by street and number or otherwise of each person named on the list shall be given, or if none, some description accurately locating such place of residence shall be given on such register. In addition, the register shall have a column or columns in which the inspectors of election may indicate whether each person named on the list shall have voted in any election or elections or at any meeting or meetings. The district clerk of such district shall attend with the board of registration. The board of registration and the district clerk, shall, for the annual meeting or election of the school district, prepare a register of the qualified voters of such school district who shall present themselves personally for registration. Such board of registration shall in like manner prepare a register for each special school meeting or election within such school district, except that the register prepared at the last annual meeting or election and the register or registers for any subsequent special meeting, meetings, election, or elections in such school district shall be used by them as the basis therefor. The register so prepared shall include all persons who shall have presented themselves personally for registration in accordance herewith and may include all persons who shall have been previously registered hereunder for any annual or special meeting or

election and who shall have voted at any annual or special meeting or any election held or conducted during the four calendar years prior to the year in which such register is being prepared; and the board of registration shall remove from the register all persons who are known to be deceased, who have moved out of the school district or who are otherwise not qualified as school district electors. The district clerk shall furnish the necessary blank books and blanks at the expense of such school district. School meetings and elections in such school district shall be thereafter conducted in the manner provided by this chapter, except that no person shall be entitled to vote thereat whose name does not appear upon the register of the school district in which he claims to be entitled to vote. In all cases, the board of education shall cause the district clerk to give the notice required by subdivision four of section two thousand four of this chapter.

3. The board of education may, upon its own motion and at least two months prior to a school district meeting or election at which the same is to be effective, revoke the provisions for personal registration adopted as provided in this section. However, the board of education may not thereafter provide for personal registration unless authorized by the voters at a district meeting or election.

4. Whenever any union free school district in which personal registration of voters at school meetings or elections therein is required as provided in subdivision one of this section shall have been divided into election districts pursuant to section two thousand seventeen of this chapter, the board of education shall appoint a board of registration pursuant to the provisions of subdivision one of this section consisting of as many members as shall provide two for each election district, shall designate a place in each such election district and shall designate two members of the board of registration to attend thereat for the purpose of preparing a register for such election district. At the same time, the board of education shall designate the registration place at which the district clerk shall attend. The provisions of subdivisions one, two and three of this section shall apply with respect to the registration of voters in such union free school districts, except as may be inconsistent with the foregoing

provisions of this subdivision, and except that the notice provided to be given by the district clerk in subdivision two of this section and subdivision five and six of section two thousand four of this chapter shall describe each of the election districts as required in subdivision two of section two thousand seventeen and subdivision six of section two thousand four of this chapter.

5. The provisions of this section shall not apply with respect to any person registered to vote pursuant to the provisions of section three hundred fifty-two of the election law.

6. In any case where a union free school district has provided for the registration of voters during specified hours of the school day at the office of the district clerk, assistant clerk or a member of the board of registration, such school district's board of registration, at the discretion of the board of education, may not be required to meet prior to the annual meeting or election, or prior to a special meeting or special election pursuant to subdivision two of this section, solely for the purposes of registering voters.

§ 2015. Register to be filed; addition to and correction of register; challenges. 1. The register prepared as provided in section two thousand fourteen of this chapter shall, immediately upon its completion and not less than five days prior to the time set for the school meeting or election at which it is to be used, be filed in the office of the clerk of the district, and thereafter shall at all reasonable times be open to inspection by any qualified voter of such school district on each day up to and including the day set for the meeting or election, except Sundays.

2. The name of no voter may be placed upon a register unless such voter appears before the board of registration except if a qualified voter is a resident of a school district and his name appears on a register as a resident of another district, a written sworn statement may be filed by such voter with the clerk of the district showing his correct residence and the name of such voter shall thereupon be stricken

from such register and placed upon the proper register.

3. A qualified voter may, upon the examination of such list, file a written challenge of the qualifications as a voter of any person whose name appears on such list.

4. Statements and challenges shall be received and preserved by the clerk of the district or other person designated by the board of education, and immediately upon receiving any such sworn statement of a voter, applying to have his name placed upon the register or any challenge as to a name already thereon, the clerk shall file such statement or challenge or copy thereof, with the register and hold the same open for inspection by any qualified voter of the district. Upon the face of such statement or challenge, the clerk shall write clearly what action was taken with reference thereto, immediately upon such action being taken.

5. The clerk of the district shall cause a copy of the register of such school district to be delivered on the day of the meeting or election before the opening of the polls to the inspectors of election at each voting place within the district at the place or places where the meeting or election is to be held. If there be not more than one voting place, the clerk shall produce the register at the place of the meeting or election, at the opening thereof. The inspectors of election at each voting place shall indicate on the copy of the register delivered to them, and opposite the name of each person so registered, whether each such person did vote in such election or at such meeting.

§ 2016. Review of registration procedure by supreme court or county judge. 1. The supreme court or a justice thereof, or the county judge within the county in which the school district is wholly or partly situated, in a proceeding instituted by any qualified voter who, at the meeting of the board of registration provided for in section two thousand fourteen, made to the board of registration satisfactory proof that he was or would be entitled to vote at the meeting or election for which the board of registration was at such meeting convened to prepare

a register, and to whom such registration had been refused by such board of registration shall, by order, compel the registration of such voter; and in a proceeding instituted by any qualified voter shall by order direct to be stricken from the register any names unlawfully thereon, and shall order such board of registration, if necessary, to reconvene for such purposes not less than two nor more than four days before the day of the meeting or election. Written notice of an application under this section must be given to the board of registration, by service thereof on two of the members thereof.

2. Such court, justice or judge in a proceeding instituted by any qualified voter whose application to vote has been denied by the inspectors of election shall compel by order the reception of the vote within the hours established by law.

3. An affidavit by any officer or employee of the board of education or any police officer, sheriff or deputy sheriff that he or she visited the premises claimed by the applicant as his or her residence, and that he or she interrogated an incarcerated individual, housedweller, keeper or caretaker, owner, proprietor, or landlord thereof or therein, as to the applicant's residence therein or thereat, and that he or she was informed by one or more of such persons, naming them, that they knew the persons residing upon such premises and that the applicant did not reside upon such premises thirty days before the meeting or election shall be presumptive evidence against the right of the voter to register from such premises.

§ 2017. Division of union free school district into election districts. 1. In any union free school district having personal registration of voters pursuant to section two thousand fourteen of this chapter, the board of education may upon its own motion divide the school district into election districts, and shall upon the petition of twenty-five qualified voters of the district, or five percent of the voters who voted in the previous annual election of the members of the board of education, whichever is greater, cause to be submitted at an annual or special meeting, a proposition to divide such school district

into election districts provided, however, that in each election district the number of qualified voters shall at least equal three hundred.

2. If it is determined to divide the district into election districts, the board of education shall immediately thereafter and not less than thirty days prior to an annual or special meeting or election, within such district, adopt a resolution dividing the school district into such number of election districts as the board of education may determine. The school district shall be so divided that if circumstances will permit, there shall be a schoolhouse in each election district or in as many of such election districts as possible. The election districts so formed shall continue in existence until modified by resolution of the board of education. Such resolution shall accurately describe the boundaries of each such district by streets, alleys and highways, or otherwise. School meetings and elections shall thereafter be held so far as may be possible in the public schoolhouses within any such school election district. The board of education shall designate the place within each election district where the meeting or election shall be held.

§ 2018. Nomination of candidates for the office of member of the board of education in all union free school districts or for the office of member of the board of trustees in all common school districts which have elected to vote for trustees at a time or place separate from the annual meeting. a. In all union free school districts candidates for the office of member of the board of education shall be nominated by petition. Each vacancy upon the board of education to be filled shall be considered a separate specific office. A separate petition shall be required to nominate a candidate to each separate office. Each petition shall be directed to the clerk of the school district, shall be signed by at least twenty-five qualified voters of the district, or two percent of the voters who voted in the previous annual election of the members of the board of education, whichever is greater, such number to be determined by the number of persons recorded on the poll list as having voted at such election shall state the residence of each signer, shall

state the name and residence of the candidate and shall describe the specific vacancy on the board of education for which the candidate is nominated, which description shall include at least the length of the term of office and the name of the last incumbent, if any. In the event that any such nominee shall withdraw his candidacy prior to the election, such person shall not be considered a candidate unless a new petition nominating such person in the same manner and within the same time limitations applicable to other candidates is filed with the clerk of the district. Each petition shall be filed in the office of the clerk of the district between the hours of nine a.m. and five p.m., not later than the thirtieth day preceding the school meeting or election at which the candidates nominated are to be elected. No person shall be nominated by petition for more than one separate office.

b. At any school election in such district, the electors may adopt a proposition providing that, in all subsequent elections, vacancies upon the board of education shall not be considered separate specific offices and that the nominating petitions shall not describe any specific vacancy upon the board of education for which the candidate is nominated. Such procedure shall be followed with respect to all nominations and elections in subsequent years until and unless such proposition is repealed by the electors of the district at a regular election by the adoption of a proposition to repeal the same.

c. In all common school districts, candidates for the office of member of the board of trustees shall be nominated by petition. Such petition shall not describe any specific vacancy on the board of trustees. Each petition shall be directed to the clerk of the school district and shall be signed by at least twenty-five qualified voters of the district or two percent of the voters who voted in the previous annual election of the members of the board of trustees, whichever is greater. Such a petition shall state the residence of each signer, and shall contain the name and residence of the candidate.

d. If a candidate for whom a nominating petition for the office of member of a board of education has been duly filed withdraws such petition, dies or becomes otherwise ineligible to hold such office at a

time which is later than fifteen days before the last day for the filing of nominating petitions as provided in subdivision a of this section, the time for filing nominating petitions for such office shall be extended to five p.m. on the fifteenth day after the day on which such candidate withdrew, died, or otherwise became ineligible to hold such office, provided that no such nominating petition may be filed after five p.m. on the seventh day preceding the date of the election.

§ 2018-a. Absentee ballots for school district elections. 1. The board of education of any union free, central or central high school district which elects school board members by ballot and provides for personal registration of voters, shall provide for absentee ballots for the election of members of the board of education and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda, in accordance with the provisions of this section.

1-a. In counties with a population of one million or more, the board of education of any union free, central or central high school district which elects school board members by ballot and provides for personal registration of voters shall provide for absentee ballots for the election of members of the board of education and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda, in accordance with the provisions of this section.

2. a. A qualified voter may vote as an absentee voter under this section if on the occurrence of an election such voter expects to be:

(1) absent from their county of residence; or

(2) unable to appear personally at the polling place because of illness or physical disability, or duties related to the primary care of one or more individuals who are ill or physically disabled, or because such voter will be or is a patient in a hospital; or

(3) a resident or patient of a veteran's administration hospital; or

(4) absent from such voter's voting residence because such voter is detained in jail awaiting action by a grand jury or awaiting trial, or

confined in jail or prison after a conviction for an offense other than a felony, provided that such voter is qualified to vote in the election district of such voter's residence.

b. Each person entitled to vote as an absentee voter pursuant to this section and desirous of obtaining an absentee ballot shall make written application therefor to the district clerk. Application forms for use pursuant to this section shall be in a form prescribed by the state board of elections. The use of any application which is on a form prescribed by the state board of elections shall be acceptable.

c. The application for an absentee ballot when filed must contain in each instance the following information:

(1) Applicant's full name, date of birth, and residence address, including the street and number, if any, rural delivery route, if any, mailing address if different from the residence address and an address to which the ballot shall be mailed.

(2) A statement that the applicant is a qualified and registered voter.

(3) A statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:

(a) absent from their county of residence; provided, however, if the applicant expects to be absent from such county for a duration covering more than one election and seeks an absentee ballot for each election, such applicant shall state the dates when they expect to begin and end such absence; or

(b) unable to appear at a polling place because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled; or

(c) a resident or patient of a veteran's administration hospital; or

(d) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where such applicant is so detained or confined.

d. Such application shall include the following statement to be signed

by the voter.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of application for absentee ballots, I shall be guilty of a misdemeanor.

Date.....Signature of Voter .....

e. An applicant whose ability to appear personally at the polling place of the school district of which he or she is a qualified voter is substantially impaired by reason of permanent illness or physical disability and whose registration record has been marked "permanently disabled" by the board of elections pursuant to the provisions of the election law shall be entitled to receive an absentee ballot pursuant to the provisions of this section without making separate application for such absentee ballot, and the board of registration upon being advised by the board of elections on or with the list of registered voters that the registration record of a voter is marked "permanently disabled" shall send an absentee ballot to such voter at his or her last known address with a request to the postal authorities not to forward same but to return same in five days in the event that it cannot be delivered to the addressee. The board of education shall determine whether such ballot shall be sent by first class or by certified mail. All such ballots shall be mailed in the same manner as determined by the board of education. The board of registration shall make an appropriate entry on the registration indicating the fact that an absentee ballot has been sent and the date of mailing.

f. An application must be received by the district clerk no earlier than the thirtieth day before the election for which an absentee ballot is sought. If the application requests that the absentee ballot be mailed, such application must be received not later than seven days before the election. If the applicant or his or her agent delivers the application to the district clerk in person, such application must be received not later than the day before the election. The district clerk shall examine each application and shall determine from the information contained therein whether the applicant is qualified under this section

to receive an absentee ballot.

g. No later than six days before the election for which an application has been received and for which the district clerk has determined the applicant to be qualified to vote by absentee ballot the district clerk shall mail, by regular mail, an absentee ballot to each qualified applicant who has applied before such day and who has requested that such absentee ballot be mailed to him or her at the address set forth in his or her application. If the applicant or his or her agent delivers the application to the district clerk in person after the seventh day before the election and not later than the day before the election, the district clerk shall forthwith deliver such absentee ballots for those applicants whom he or she determines are qualified to make such applications and to receive such ballots to such applicants or the agents named in the applications when such applicants or agents appear in the district clerk's office.

3. If, upon examining the application required under the provisions of subdivision two of this section, and upon such inquiry as it deems proper, the board of registration shall be satisfied that the applicant is a qualified voter of the district, and entitled to vote by absentee ballot, such board shall place his name upon the register, thereupon the applicant shall be issued or mailed an absentee voter's ballot and the board of registration shall make an appropriate entry on the register indicating that an absentee ballot has been applied for by, and issued to, the applicant.

4. Ballots for absentee voters shall be, as nearly as practicable, in the same form as those to be voted at the district election; if the vote at such election shall be by ballot, the absentee ballot shall conform to the regular ballot; if the vote of such election shall be by voting machine, the absentee ballot shall conform as closely as possible to the manner in which the names of the candidates, the questions and the propositions appear on the voting machines, except that the absentee ballot shall also contain a space for a write-in or write-ins. Such absentee ballots shall also contain instructions as to the proper marking thereof, in accordance with the provisions of sections two

thousand thirty-two and two thousand thirty-four of this chapter. On the back of such absentee ballots shall be printed the words "Official Ballot, Absentee Voter."

5. a. The board of registration shall enclose each absentee voter's ballot in an envelope which shall be labelled:

ELECTION MATERIAL

PLEASE EXPEDITE

On one side of such envelope shall be printed:

OFFICIAL BALLOT, ABSENTEE VOTER

for

School District Election

Name of Voter .....
Residence (street and number, if any) .....
City (or Town) of .....
County of .....
School district .....
School Election District (if applicable) .....

The date of the election and name of the school district shall be printed, and the name of the voter, residence, school district and school election district (if applicable) shall be written in by the board of registration.

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I am a citizen of the United States, and will be at least eighteen years of age, on the date of the school district election; that I will have been a resident of this state and of the school district and school election district, if any, shown on the reverse side of this envelope for thirty days next preceding the said election and duly registered in the school district and school election district, if any, shown on the reverse side of this envelope and that I am or on such date will be, a qualified voter of said school district; that I will be unable to appear personally on the day of said school

district election at the polling place of the said district in which I am or will be a qualified voter because of the reason stated on my application heretofore submitted; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this school district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this school district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to register and vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be guilty of a misdemeanor.

Date.....Signature of Voter .....

c. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must reach the office of the clerk of the school district not later than five P.M. on the day of the election in order that his vote may be canvassed.

d. A person who shall make any material false statement in the statement of absentee voter appearing on the reverse side of the envelope as provided in this subdivision, shall be guilty of a

misdemeanor.

6. The board of registration shall make a list of all persons to whom absentee voter's ballots shall have been issued and file such list in the office of the clerk where it shall be available for public inspection during regular office hours until the day of the election. Any qualified voter may, upon examination of such list, file a written challenge of the qualifications as a voter of any person whose name appears on such list, stating the reasons for such challenge. A challenge to an absentee ballot may not be made on the basis that the voter should have applied for an early mail ballot. Such written challenge shall be transmitted by the clerk to the inspectors of election on election day.

7. a. The board of registration shall be authorized to call upon the commissioner of police and the officers and members of the police force for such assistance in the enforcement of the provisions of this section as such board shall require, and such commissioner and officers and members of the police force shall be authorized to render such assistance.

b. The board of registration may require any person to attend before it at the office of the clerk of the school district and be examined by the board as to any matter in relation to which such board is charged with a duty under this section, and may issue a subpoena therefor. Each member of such board shall be authorized to administer any oath that may be required or authorized by law in this connection.

8. No absentee voter's ballot shall be canvassed, unless it shall have been received in the office of the clerk of the school district not later than five P.M. on the day of the election.

9. The clerk of the district shall, on the day of the election, transmit all absentee voters' envelopes, received by him in accordance with subdivision eight of this section, to the inspectors of election.

10. If, at the school district election, any absentee voters'

envelopes shall have been received at the polling place, the inspectors of election immediately after the closing of the polls shall examine them, and shall compare the signature, if any, on each envelope with the signature, if any, on the register, of the person of the same name who registered from the same address. If the signatures are found to correspond, the inspectors shall certify thereto by signing their initials opposite the name of the voter at the appropriate place in the register. If a person whose name is on an envelope as a voter, shall have already voted in person at such school district election, or if his name, residence and signature, as stated on the envelope, are not on the register, or if there is no signature on the envelope, this envelope shall be laid aside unopened and be returned unopened to the clerk of the district. If such person is found to be registered and has not so voted in person, and if no objection is made, or if an objection made be not sustained, the envelope shall be opened and the ballot withdrawn without unfolding and deposited in the proper box or boxes. At the time of the deposit of such ballot, the inspectors shall enter the words "absentee vote" at an appropriate place in the register.

11. During such examination any qualified voter present in the polling place may object to the voting of the ballot contained in any envelope upon the ground or grounds (a) that the person named thereon is not a qualified voter of the school district, or school election district (where applicable), or (b) that he was within the county or city while the polls of the election were open, except where the applicant is a patient in a hospital located within the county or city or detained or confined in a jail located within the county or city and except where the ballot was obtained upon the ground of inability to appear personally at the polling place on the day of the school district election because of illness or physical disability, or (c) that he was able to appear personally while the polls were open, in cases where the ballot was obtained upon the ground that the voter was a patient in a hospital located within the county or city or detained or confined in a jail located within the county or city or upon the ground of inability to appear personally at the polling place on the day of the election because of illness or physical disability, or (d) that he was not entitled to cast such ballot. An inspector shall make such an objection

if he shall know or suspect that the person named on such envelope is not such a qualified voter or was so within the school district or was able so to appear personally, or was not entitled to cast such ballot. The election inspectors shall forthwith proceed to determine each objection including any written challenge transmitted to them by the district clerk as provided in subdivision six of this section. Unless the inspectors, by majority vote, shall sustain the objection, the chairman, or if he refuses, another inspector shall endorse upon the envelope the objection and the words "not sustained," shall sign such endorsement, and shall open the envelope and deposit the ballot as provided in this section. Should the inspectors, by majority vote, sustain such objection, the objection and word "sustained" shall be similarly endorsed upon the envelope, the envelope shall not be opened nor the ballots therein canvassed, and such envelope shall be returned unopened to the clerk of the district. If the inspectors of election shall have received an envelope endorsed with the name of a person who to the knowledge of the inspectors is deceased on the day of the election, the inspectors shall return such envelope unopened to the clerk of the district with the words "deceased--objection sustained" endorsed on the envelope.

12. If the inspectors of election shall have received an envelope, and upon opening the same no ballot shall be found therein, the inspectors shall make a memorandum showing that the ballot is missing. When the casting of absentee voters' ballots shall have been completed, the inspectors shall ascertain the number of such ballots which have been deposited in the ballot box by deducting from the number of envelopes opened the number of missing ballots, and shall make a separate return thereof in duplicate. The number of absentee voters' ballots deposited in the ballot box shall be added to the number of other ballots deposited in the ballot box in order to determine the number of all ballots to be accounted for in the ballot box. Such ballots shall then be counted or canvassed by the inspectors of election along with the other ballots cast at such school district election, or, where voting machines are used, shall be added to the votes recorded on such machines.

13. Where the district shall have been divided into school election districts pursuant to the provisions of this chapter, the provisions of this section shall be applicable, provided that any reference in this section to the term "board of registration" shall in such case refer to the board of registration appointed by the board of education for each school election district, except that paragraph b of subdivision seven of this section shall apply according to its terms.

§ 2018-b. Absentee ballots for school district elections by poll registration. 1. Notwithstanding the provisions of sections two thousand fourteen and two thousand eighteen-a of this article, the trustees or the board of education of any common, union free, central or central high school district which does not provide for the personal registration of voters for school district meetings and elections but which elects trustees or school board members by ballot, shall provide for absentee ballots for the election of the trustees or members of the board and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda.

1-a. Notwithstanding the provisions of sections two thousand fourteen and two thousand eighteen-a of this article, in any county with a population of one million or more, the trustees or the board of education of any common, union free, central or central high school district which does not provide for the personal registration of voters for school district meetings and elections but which elects trustees or school board members by ballot shall provide for absentee ballots for the election of the trustees or members of the board and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda.

2. a. An applicant for such an absentee ballot shall submit an application setting forth:

(1) such applicant's full name, date of birth and residence address, including the street and number, if any, or town and rural delivery route, if any, mailing address if different from the residence address and an address to which the ballot shall be mailed;

(2) that such applicant is or will be, on the day of the school district election, a qualified voter of the school district;

(3) a statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:

(a) a resident or patient in a hospital, including a veteran's administration hospital, or unable to appear personally at the polling place on such day because of illness or physical disability, or duties related to the primary care of one or more individuals who are ill or physically disabled; or

(b) absent from the county of such applicant's residence; provided, however, if the applicant expects to be absent from such county for a duration covering more than one election and seeks an absentee ballot for each election, such applicant shall state the dates when they expect to begin and end such absence; or

(c) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where such applicant is so detained or confined.

b. Such application must be received by the district clerk or designee of the trustees or school board at least seven days before the election if the ballot is to be mailed to the voter, or the day before the election, if the ballot is to be delivered personally to the voter.

c. Such application shall include the following statement to be signed by the voter.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of application for absentee ballots, I shall be guilty of a misdemeanor.

Date..... Signature of Voter .....

d. The clerk of the school district or a designee of the trustees or school board shall request registration lists from the board of elections pursuant to subdivision three of section 5-612 of the election

law for those voters whose registration record has been marked "permanently disabled". An applicant whose ability to appear personally at the polling place of the school district of which such applicant is a qualified voter is substantially impaired by reason of permanent illness or physical disability and whose registration record has been marked "permanently disabled" as determined by the board of elections pursuant to the provisions of this chapter and who has previously applied for an absentee ballot shall be entitled to receive subsequent absentee ballots pursuant to the provisions of this section without making separate application for such absentee ballot, and the clerk of the school district or a designee of the trustees or school board shall send an absentee ballot to such voter at such voter's last known address with a request to the postal authorities not to forward same but to return same in five days in the event that it cannot be delivered to the addressee. The clerk of the school district or a designee of the trustees or school board shall determine whether such ballot shall be sent by first class or by certified mail. All such ballots shall be mailed in the same manner as determined by the trustees or the board of education.

3. If, upon examining the application required under the provisions of subdivision two of this section, and upon such inquiry as it deems proper, the clerk of the school district or designee of the trustees or school board shall be satisfied that the applicant is a qualified voter of the district, and entitled to vote by absentee ballot, such clerk of the school district or designee of the trustees or school board shall cause to be issued or mailed to the applicant an absentee voter's ballot and the clerk of the school district or designee of the trustees or school board shall make an appropriate entry on the poll list pursuant to section two thousand twenty-nine of this part.

4. The clerk of the school district or a designee of the trustees or school board shall also mail an absentee ballot to every qualified voter otherwise eligible for such ballot, who requests an absentee ballot from such clerk or trustees or school board designee in a letter which is signed by the voter and received by the clerk or trustees or school board designee not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested

and which states the address where the voter resides and to which the ballot is to be mailed. The clerk or designee of the trustees or school board shall enclose with such ballot a form of application for absentee ballot. The absentee ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the clerk of the school district or designee of the trustees or school board with such ballot.

5. Ballots for absentee voters shall be, as nearly as practicable, in the same form as those to be voted at the district election; if the vote at such election shall be by ballot, the absentee ballot shall conform to the regular ballot; if the vote of such election shall be by voting machine, the absentee ballot shall conform as closely as possible to the manner in which the names of the candidates, the questions and the propositions appear on the voting machines, except that the absentee ballot shall also contain a space for a write-in or write-ins. On the back of such absentee ballots shall be printed words "Official Ballot, Absentee Voter."

6. a. The clerk of the school district or designee of the trustees or school board shall enclose each absentee voter's ballot in an envelope which shall be labelled:

ELECTION MATERIAL
PLEASE EXPEDITE

On one side of such envelope shall be printed:

OFFICIAL BALLOT, ABSENTEE VOTER
for
School District Election

Name of Voter .....
Residence (street and number, if any) .....
City (or Town) of .....
County of .....
School District .....
School Election District (if applicable) .....

The date of the election and name of the school district shall be printed, and the name of the voter, residence, school district and school election district (if applicable) shall be included.

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF ABSENTEE VOTER

I do declare that I am a citizen of the United States, and will be at least eighteen years of age on the date of the school district election; that I will have been a resident of this state and of the school district and school election district, if any, shown on the reverse side of this envelope for thirty days next preceding the said election and that I am or on such date will be, a qualified voter of said school district; that I will be unable to appear personally on the day of said school district election at the polling place of the said district in which I am or will be a qualified voter because of the reason stated on my application heretofore submitted; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this school district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this school district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or have received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of absentee voter, I shall be

guilty of a misdemeanor.

Date.....Signature of Voter .....

c. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must reach the office of the clerk of the school district or designee of the trustees or school board not later than five P.M. on the day of the election in order that his vote may be canvassed.

d. A person who shall make any material false statement in the statement of the absentee voter appearing on the reverse side of the envelope as provided in this subdivision, shall be guilty of a misdemeanor.

7. The clerk of the school district or designee of the trustees or school board shall make a list of all persons to whom absentee voter's ballots shall have been issued and maintain such list where it shall be available for public inspection during regular office hours until the day of the election. Any qualified voter may, upon examination of such list, file a written challenge of the qualifications as a voter of any person whose name appears on such list, stating the reasons for such challenge. A challenge to an absentee ballot may not be made on the basis that the voter should have applied for an early mail ballot. Such written challenge shall be transmitted by the clerk or the designee of the trustees or school board to the inspectors of election on election day.

8. a. The clerk of the school district or designee of the trustees or school board shall be authorized to call upon the commissioner of police and the officers and members of the police force for such assistance in the enforcement of the provisions of this section as such trustees or board shall require, and such commissioner and officers and members of the police force shall be authorized to render such assistance.

b. The clerk of the school district or designee of the trustees or school board may require any person to attend before it at the office of the clerk of the school district or the office of the designee of the trustees or school board and be examined by the trustees or board as to any matter in relation to which such trustees or board is charged with a duty under this section, and may issue a subpoena therefor. Each member of such trustees or board shall be authorized to administer any oath that may be required or authorized by law in this connection.

9. No absentee voter's ballot shall be canvassed, unless it shall have been received in the office of the clerk of the school district or designee of the trustees or school board not later than five P.M. on the day of the election.

10. The clerk of the district or designee of the trustees or school board shall, on the day of the election, transmit all absentee voters' envelopes, received by him in accordance with subdivision eight of this section, to the inspectors of election.

11. If a person whose name is on an envelope as a voter shall have already voted in person at such school district election, or if there is no signature on the envelope, this envelope shall be laid aside unopened and be returned unopened to the clerk of the district or designee of the trustees or school board. If such person has not so voted in person, and if no objection is made, or if an objection made be not sustained, the envelope shall be opened and the ballot withdrawn without unfolding and deposited in the proper box or boxes.

12. If the inspectors of election shall have received an envelope, and upon opening the same no ballot shall be found therein, the inspectors shall make a memorandum showing that the ballot is missing. When the casting of absentee voters' ballots shall have been completed, the inspectors shall ascertain the number of such ballots which have been deposited in the ballot box by deducting from the number of envelopes opened the number of missing ballots, and shall make a separate return thereof in duplicate. The number of absentee voters' ballots deposited in the ballot box shall be added to the number of other ballots to be

accounted for in the ballot box. Such ballots shall then be counted or canvassed by the inspectors of election along with the other ballots cast at such school district election, or, where voting machines are used, shall be added to the votes recorded on such machines.

§ 2018-c. Additional voting procedures. a. A school district may require all persons offering to vote at any school district meeting or election for which registration is not required, to provide one form of proof of residency. Such form, to be determined by the school district, may include, but is not limited to, a driver's license, a non-driver identification card, a utility bill, or a voter registration card. Upon offer of proof of residency, a school district may also require all persons offering to vote to provide their signature, printed name, and address.

b. As an alternative to voting procedures provided for in section twenty hundred fourteen of this article and subdivision a of this section, a school district may require all persons offering to vote at any school district meeting or election to provide their signature, printed name, and address.

§ 2018-d. Military voters. 1. As used in this section, the following terms shall have the following meanings:

(a) "Military service" means the military service of the state, or of the United States, including the army, navy, marine corps, air force, coast guard, space force, merchant marine and all components thereof, and the coast and geodetic survey, the public health service, the national guard when in the service of the United States pursuant to call as provided by law, and the cadets or midshipmen of the United States Military Academy, United States Naval Academy, United States Air Force Academy, United States Merchant Marine Academy and United States Coast Guard Academy.

(b) "Military voter" means a qualified voter of the state of New York who is in actual military service, as defined in paragraph (a) of this subdivision, and by reason of such military service is absent from his

or her district on the day of registration or election, or a voter who is discharged from such military service within thirty days of an election and the spouse, parent, child or dependent of such voter accompanying or being with him or her, if a qualified voter and a resident of the same school district.

(c) "Military ballot" means the ballot prepared, printed and supplied for use by the military for the election of members of the board of education and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda.

(d) "Military address" means the mailing address of a military voter other than his or her residence address in his or her school district.

(e) "Appropriate school board of education" means the board of education in whose jurisdiction the military voter resides as a qualified voter.

2. A military voter may designate a preference to receive a military ballot by mail, facsimile transmission or electronic mail. Such designation shall remain in effect until revoked or changed by the military voter. If a military voter does not designate a preference, the board of education shall transmit the military ballot application or military ballot by mail. If a military voter designates a preference for facsimile transmission or electronic mail but does not provide the necessary facsimile number or e-mail address, the board of education shall transmit the voter registration application, military ballot application or military ballot by mail and request the omitted information. All communications to the military voter shall include the mailing address of the board of education.

3. Irrespective of the preferred method of transmission designated by a military voter, a military voter's original military ballot application and military ballot must be returned by mail or in person.

4. Ballots for military voters shall be mailed or otherwise distributed by the board of education, in accordance with the preferred method of transmission, as soon as practicable, but not later than twenty-five days before any election as provided in this article, and

fourteen days before any election as provided in article fifty-three of this title.

5. The military voter shall mark the military ballot provided for in this article in the same manner as an absentee ballot. After marking the ballot, he or she shall fold such ballot and enclose it in the inner affirmation envelope bearing the military voter's affirmation on the outside of the envelope and seal the envelope. He or she shall then sign the affirmation, with the blanks properly filled in. The inner affirmation envelope containing the military ballot shall then be inserted in the outer envelope addressed to the appropriate board of education, which shall be mailed or personally delivered to the appropriate board of education within the time limits provided by this article.

6. The board of education shall cause all military ballots received by it before the close of the polls on election day and showing a cancellation mark of the United States postal service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government or are signed and dated by the voter and one witness thereto, with a date which is ascertained to be not later than the day before election and which must be received in the office of the clerk of the school district not later than five p.m. on the day of the election in order to be canvassed.

7. The board of inspectors shall thereafter process such ballots in the same manner as provided in sections two thousand eighteen-a and two thousand eighteen-b of this article for the canvassing of absentee ballots.

8. The board of education shall determine, three days before the first day for distribution of military ballots, the names of all candidates duly nominated for public office and the amendments, referenda, propositions and questions to be voted for on such ballots. If at a later date the nomination of any candidate named on a military ballot is found invalid, the ballot shall still be valid, but no vote cast for any such candidate on such ballot shall be counted at the election. The

failure of any school board to include the name of any candidate or any proposition or question on the military ballot shall in no way affect the validity of the election with respect to the office for which the nomination was made or the validity of the military ballot as to any other matter.

9. The department is authorized to take such steps and do such things as, in its opinion, are necessary to make effective the provisions of any other section, in order to utilize fully any federal or other facilities in the distribution of military ballots.

10. The provisions of this section shall be liberally construed for the purpose of providing military voters the opportunity to vote. The department shall have power to adopt and promulgate regulations to effectuate the provisions of this section.

§ 2018-e. Early mail ballots for school district elections. 1. The board of education of any union free, central or central high school district which elects school board members by ballot and provides for personal registration of voters, shall provide for early mail ballots for the election of members of the board of education and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda, in accordance with the provisions of this section.

1-a. In counties with a population of one million or more, the board of education of any union free, central or central high school district which elects school board members by ballot and provides for personal registration of voters shall provide for early mail ballots for the election of members of the board of education and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda, in accordance with the provisions of this section.

2. a. A qualified voter may vote as an early mail voter under this section.

b. Each person entitled to vote as an early mail voter pursuant to this section and desirous of obtaining an early mail ballot shall make written application therefor to the district clerk. Application forms for use pursuant to this section shall be in a form prescribed by the state board of elections. The use of any application which is on a form prescribed by the state board of elections shall be acceptable.

c. The application for an early mail ballot when filed must contain in each instance the following information:

(1) Applicant's full name, date of birth, and residence address, including the street and number, if any, rural delivery route, if any, mailing address if different from the residence address and an address to which the ballot shall be mailed.

(2) A statement that the applicant is a qualified and registered voter.

d. Such application shall include the following statement to be signed by the voter:

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of application for early mail ballot, I shall be guilty of a misdemeanor.

Date.....Signature of Voter.....

e. An application must be received by the district clerk no earlier than the thirtieth day before the election for which an early mail ballot is sought. If the application requests that the early mail ballot be mailed, such application must be received not later than seven days before the election. If the applicant or their agent delivers the application to the district clerk in person, such application must be received not later than the day before the election. The district clerk shall examine each application and shall determine from the information contained therein whether the applicant is qualified under this section to receive an early mail ballot.

f. No later than six days before the election for which an application has been received and for which the district clerk has determined the applicant to be qualified to vote by early mail ballot the district clerk shall mail, by regular mail, an early mail ballot to each qualified applicant who has applied before such day and who has requested that such early mail ballot be mailed to him or her at the address set forth in their application. If the applicant or their agent delivers the application to the district clerk in person after the seventh day before the election and not later than the day before the election, the district clerk shall forthwith deliver such early mail ballots for those applicants whom he or she determines are qualified to make such applications and to receive such ballots to such applicants or the agents named in the applications when such applicants or agents appear in the district clerk's office.

3. If, upon examining the application required under the provisions of subdivision two of this section, and upon such inquiry as it deems proper, the board of registration shall be satisfied that the applicant is a qualified voter of the district entitled to vote by early mail ballot, such board shall place their name upon the register, thereupon the applicant shall be issued or mailed an early mail voter's ballot and the board of registration shall make an appropriate entry on the register indicating that an early mail ballot has been applied for by, and issued to, the applicant.

4. Ballots for early mail voters shall be, as nearly as practicable, in the same form as those to be voted at the district election; if the vote at such election shall be by ballot, the early mail ballot shall conform to the regular ballot; if the vote of such election shall be by voting machine, the early mail ballot shall conform as closely as possible to the manner in which the names of the candidates, the questions and the propositions appear on the voting machines, except that the early mail ballot shall also contain a space for a write-in or write-ins. Such early mail ballots shall also contain instructions as to the proper marking thereof, in accordance with the provisions of sections two thousand thirty-two and two thousand thirty-four of this part. On the back of such early mail ballots shall be printed the words

"Official Ballot, Early Mail Voter".

5. a. The board of registration shall enclose each early mail voter's ballot in an envelope which shall be labelled:

ELECTION MATERIAL
PLEASE EXPEDITE

On one side of such envelope shall be printed:

OFFICIAL BALLOT, EARLY MAIL VOTER
for
School District Election

Name of Voter .....
Residence (street and number, if any) .....
City (or Town) of .....
County of .....
School District .....
School Election District (if applicable) .....

The date of the election and name of the school district shall be printed, and the name of the voter, residence, school district and school election district (if applicable) shall be written in by the board of registration.

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF EARLY MAIL VOTER

I do declare that I am a citizen of the United States, and will be at least eighteen years of age, on the date of the school district election; that I will have been a resident of this state and of the school district and school election district, if any, shown on the reverse side of this envelope for thirty days next preceding the said election and duly registered in the school district and school election district, if any, shown on the reverse side of this envelope and that I am or on such date will be, a qualified voter of said school district; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or

offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this school district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this school district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to register and vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of early mail voter, I shall be guilty of a misdemeanor.
Date..... Signature of Voter.....

c. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must reach the office of the clerk of the school district not later than five P.M. on the day of the election in order that their vote may be canvassed.

d. A person who shall make any material false statement in the statement of early mail voter appearing on the reverse side of the envelope as provided in this subdivision, shall be guilty of a misdemeanor.

6. The board of registration shall make a list of all persons to whom early mail voter's ballots shall have been issued and file such list in the office of the clerk where it shall be available for public

inspection during regular office hours until the day of the election. Any qualified voter may, upon examination of such list, file a written challenge of the qualifications as a voter of any person whose name appears on such list, stating the reasons for such challenge. A challenge to an early mail voter may not be made on the basis that the voter should have applied for an absentee ballot. Such written challenge shall be transmitted by the clerk to the inspectors of election on election day.

7. a. The board of registration shall be authorized to call upon the commissioner of police and the officers and members of the police force for such assistance in the enforcement of the provisions of this section as such board shall require, and such commissioner and officers and members of the police force shall be authorized to render such assistance.

b. The board of registration may require any person to attend before it at the office of the clerk of the school district and be examined by the board as to any matter in relation to which such board is charged with a duty under this section, and may issue a subpoena therefor. Each member of such board shall be authorized to administer any oath that may be required or authorized by law in this connection.

8. No early mail voter's ballot shall be canvassed, unless it shall have been received in the office of the clerk of the school district not later than five P.M. on the day of the election.

9. The clerk of the district shall, on the day of the election, transmit all early mail voters' envelopes, received by them in accordance with subdivision eight of this section, to the inspectors of election.

10. If, at the school district election, any early mail voters' envelopes shall have been received at the polling place, the inspectors of election immediately after the closing of the polls shall examine them, and shall compare the signature, if any, on each envelope with the signature, if any, on the register, of the person of the same name who

registered from the same address. If the signatures are found to correspond, the inspectors shall certify thereto by signing their initials opposite the name of the voter at the appropriate place in the register. If a person whose name is on an envelope as a voter, shall have already voted in person at such school district election, or if their name, residence and signature, as stated on the envelope, are not on the register, or if there is no signature on the envelope, this envelope shall be laid aside unopened and be returned unopened to the clerk of the district. If such person is found to be registered and has not so voted in person, and if no objection is made, or if an objection made be not sustained, the envelope shall be opened and the ballot withdrawn without unfolding and deposited in the proper box or boxes. At the time of the deposit of such ballot, the inspectors shall enter the words "early mail vote" at an appropriate place in the register.

11. During such examination any qualified voter present in the polling place may object to the voting of the ballot contained in any envelope upon the ground or grounds that the person named thereon is not a qualified voter of the school district, or school election district (where applicable). An inspector shall make such an objection if he shall know or suspect that the person named on such envelope is not such a qualified voter. The inspectors of election shall forthwith proceed to determine each objection including any written challenge transmitted to them by the district clerk as provided in subdivision six of this section. Unless the inspectors, by majority vote, shall sustain the objection, the chairman, or if he refuses, another inspector shall endorse upon the envelope the objection and the words "not sustained," shall sign such endorsement, and shall open the envelope and deposit the ballot as provided in this section. Should the inspectors, by majority vote, sustain such objection, the objection and word "sustained" shall be similarly endorsed upon the envelope, the envelope shall not be opened nor the ballots therein canvassed, and such envelope shall be returned unopened to the clerk of the district. If the inspectors of election shall have received an envelope endorsed with the name of a person who to the knowledge of the inspectors is deceased on the day of the election, the inspectors shall return such envelope unopened to the clerk of the district with the words "deceased--objection sustained"

endorsed on the envelope.

12. If the inspectors of election shall have received an envelope, and upon opening the same no ballot shall be found therein, the inspectors shall make a memorandum showing that the ballot is missing. When the casting of early mail voters' ballots shall have been completed, the inspectors shall ascertain the number of such ballots which have been deposited in the ballot box by deducting from the number of envelopes opened the number of missing ballots, and shall make a separate return thereof in duplicate. The number of early mail voters' ballots deposited in the ballot box shall be added to the number of other ballots deposited in the ballot box in order to determine the number of all ballots to be accounted for in the ballot box. Such ballots shall then be counted or canvassed by the inspectors of election along with the other ballots cast at such school district election, or, where voting machines are used, shall be added to the votes recorded on such machines.

13. Where the district shall have been divided into school election districts pursuant to the provisions of this chapter, the provisions of this section shall be applicable, provided that any reference in this section to the term "board of registration" shall in such case refer to the board of registration appointed by the board of education for each school election district, except that paragraph b of subdivision seven of this section shall apply according to its terms.

§ 2018-f. Early mail ballots for school district elections by poll registration. 1. Notwithstanding the provisions of sections two thousand fourteen and two thousand eighteen-e of this part, the trustees or the board of education of any common, union free, central or central high school district which does not provide for the personal registration of voters for school district meetings and elections but which elects trustees or school board members by ballot, shall provide for early mail ballots for the election of the trustees or members of the board and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda.

1-a. Notwithstanding the provisions of sections two thousand fourteen and two thousand eighteen-e of this part, in any county with a population of one million or more, the trustees or the board of education of any common, union free, central or central high school district which does not provide for the personal registration of voters for school district meetings and elections but which elects trustees or school board members by ballot shall provide for early mail ballots for the election of the trustees or members of the board and school district public library trustees, the adoption of the annual budget and school district public library budget and referenda.

2. a. An applicant for such an early mail ballot shall submit an application setting forth (1) their name and residence address, including the street and number, if any, or town and rural delivery route, if any; (2) that they are or will be, on the day of the school district election, a qualified voter of the school district in which he resides in that he is or will be, on such date, over eighteen years of age, a citizen of the United States and has or will have resided in the district for thirty days next preceding such date. Such application must be received by the district clerk or designee of the trustees or school board at least seven days before the election if the ballot is to be mailed to the voter, or the day before the election, if the ballot is to be delivered personally to the voter.

b. Such application shall include the following statement to be signed by the voter.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of application for early mail ballot, I shall be guilty of a misdemeanor.
Date ..... Signature of Voter .....

3. If, upon examining the application required under the provisions of subdivision two of this section, and upon such inquiry as it deems proper, the clerk of the school district or designee of the trustees or

school board shall be satisfied that the applicant is a qualified voter of the district, and entitled to vote by early mail ballot, such clerk of the school district or designee of the trustees or school board shall cause to be issued or mailed to the applicant an early mail voter's ballot and the clerk of the school district or designee of the trustees or school board shall make an appropriate entry on the poll list pursuant to section two thousand twenty-nine of this part.

4. The clerk of the school district or a designee of the trustees or school board shall also mail an early mail ballot to every qualified voter otherwise eligible for such ballot, who requests an early mail ballot from such clerk or trustees or school board designee in a letter which is signed by the voter and received by the clerk or trustees or school board designee not earlier than the thirtieth day nor later than the seventh day before the election for which the ballot is first requested and which states the address where the voter resides and to which the ballot is to be mailed. The clerk or designee of the trustees or school board shall enclose with such ballot a form of application for early mail ballot. The early mail ballot of a voter who requested such ballot by letter, rather than application, shall not be counted unless a valid application form, signed by such voter, is received by the clerk of the school district or designee of the trustees or school board with such ballot.

5. Ballots for early mail voters shall be, as nearly as practicable, in the same form as those to be voted at the district election; if the vote at such election shall be by ballot, the early mail ballot shall conform to the regular ballot; if the vote of such election shall be by voting machine, the early mail ballot shall conform as closely as possible to the manner in which the names of the candidates, the questions and the propositions appear on the voting machines, except that the early mail ballot shall also contain a space for a write-in or write-ins. On the back of such early mail ballots shall be printed words "Official Ballot, Early Mail Voter".

6. a. The clerk of the school district or designee of the trustees or school board shall enclose each early mail voter's ballot in an envelope

which shall be labelled:

ELECTION MATERIAL
PLEASE EXPEDITE

On one side of such envelope shall be printed:

OFFICIAL BALLOT, EARLY MAIL VOTER
for
School District Election

Name of Voter .....
Residence (street and number, if any) .....
City (or Town) of .....
County of .....
School District .....
School Election District (if applicable) .....

The date of the election and name of the school district shall be printed, and the name of the voter, residence, school district and school election district (if applicable) shall be included.

b. On the reverse side of such envelope shall be printed the following statement:

STATEMENT OF EARLY MAIL VOTER

I do declare that I am a citizen of the United States, and will be at least eighteen years of age on the date of the school district election; that I will have been a resident of this state and of the school district and school election district, if any, shown on the reverse side of this envelope for thirty days next preceding the said election and that I am or on such date will be, a qualified voter of said school district; that I have not qualified, or do I intend to vote, elsewhere than as set forth on the reverse side of this envelope; that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this school district election, and have not made any promise to influence the giving or withholding of any such votes; that I have not made or become

directly or indirectly interested in any bet or wager depending upon the result of this school district election; and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned or restored to all the rights of a citizen, without restriction as to the right of suffrage, or have received a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law removing my disability to vote.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of early mail voter, I shall be guilty of a misdemeanor.
Date ..... Signature of Voter .....

c. The envelope shall be gummed, ready for sealing, and shall have printed thereon, on the side opposite the statement, instructions as to the duties of the voter after the marking of the ballot, which instructions shall include a specific direction stating that the envelope must reach the office of the clerk of the school district or designee of the trustees or school board not later than five P.M. on the day of the election in order that their vote may be canvassed.

d. A person who shall make any material false statement in the statement of the early mail voter appearing on the reverse side of the envelope as provided in this subdivision, shall be guilty of a misdemeanor.

7. The clerk of the school district or designee of the trustees or school board shall make a list of all persons to whom early mail voter's ballots shall have been issued and maintain such list where it shall be available for public inspection during regular office hours until the day of the election. Any qualified voter may, upon examination of such list, file a written challenge of the qualifications as a voter of any person whose name appears on such list, stating the reasons for such challenge. A challenge to an early mail ballot may not be made on the basis that the voter should have applied for an absentee ballot. Such

written challenge shall be transmitted by the clerk or the designee of the trustees or school board to the inspectors of election on election day.

8. a. The clerk of the school district or designee of the trustees or school board shall be authorized to call upon the commissioner of police and the officers and members of the police force for such assistance in the enforcement of the provisions of this section as such trustees or board shall require, and such commissioner and officers and members of the police force shall be authorized to render such assistance.

b. The clerk of the school district or designee of the trustees or school board may require any person to attend before it at the office of the clerk of the school district or the office of the designee of the trustees or school board and be examined by the trustees or board as to any matter in relation to which such trustees or board is charged with a duty under this section, and may issue a subpoena therefor. Each member of such trustees or board shall be authorized to administer any oath that may be required or authorized by law in this connection.

9. No early mail voter's ballot shall be canvassed, unless it shall have been received in the office of the clerk of the school district or designee of the trustees or school board not later than five P.M. on the day of the election.

10. The clerk of the district or designee of the trustees or school board shall, on the day of the election, transmit all early mail voters' envelopes, received by him in accordance with subdivision eight of this section, to the inspectors of election.

11. If a person whose name is on an envelope as a voter shall have already voted in person at such school district election, or if there is no signature on the envelope, this envelope shall be laid aside unopened and be returned unopened to the clerk of the district or designee of the trustees or school board. If such person has not so voted in person, and if no objection is made, or if an objection made be not sustained, the envelope shall be opened and the ballot withdrawn without unfolding and

deposited in the proper box or boxes.

12. If the inspectors of election shall have received an envelope, and upon opening the same no ballot shall be found therein, the inspectors shall make a memorandum showing that the ballot is missing. When the casting of early mail voters' ballots shall have been completed, the inspectors shall ascertain the number of such ballots which have been deposited in the ballot box by deducting from the number of envelopes opened the number of missing ballots, and shall make a separate return thereof in duplicate. The number of early mail voters' ballots deposited in the ballot box shall be added to the number of other ballots to be accounted for in the ballot box. Such ballots shall then be counted or canvassed by the inspectors of election along with the other ballots cast at such school district election, or, where voting machines are used, shall be added to the votes recorded on such machines.

§ 2019. Declaration in case of challenge of voter. If a person offering to vote at any school district meeting or election shall be challenged as unqualified, by any legal voter in such district, either at such meeting or election, or by the filing of a challenge pursuant to section two thousand fifteen of this chapter, the chairman presiding at such meeting or election shall require the person so offering, to make the following declaration: "I do declare and affirm that I am, and have been, for the thirty days last past, an actual resident of this school district and that I am qualified to vote at this meeting." Every person making such declaration shall be permitted to vote on all questions proposed at such meeting or election; but if any person shall refuse to make such declaration, his vote shall be rejected.

§ 2019-a. Voting by persons whose names are not in the registration poll ledgers. 1. Whenever a voter presents himself and offers to cast a ballot at any school district meeting or election, and the address at which he claims to live is in the election district in which he seeks to vote but his name cannot be found on the list of registered voters or in the registration poll ledger, he shall be permitted to vote only as

hereinafter provided:

a. He may present a court order requiring that he be permitted to vote. He shall be required to sign his full name on top of the first page of such order, together with his registration serial number, if any. The voter shall then be permitted to vote in the manner otherwise prescribed for voters whose names are found on the registration lists, whose registration poll records are found in the ledger; or

b. He may request, swear to and subscribe an affidavit stating that he has duly registered to vote, the address in such election district from which he registered, that he remains a duly qualified voter in such election district and that his registration poll record appears to be lost or misplaced, or that his name has been incorrectly omitted from the list of registered voters. Such affidavit shall be printed on an envelope and shall contain an acknowledgement that the affiant understands that any false statement made therein is perjury punishable according to law. The voter shall then be permitted to vote a paper ballot. Such ballot shall thereupon be placed in the envelope containing his affidavit, and the envelope sealed and returned to the board of education with other records of the meeting or election.

2. a. Before certifying the result of any school district meeting or election at which voters are required to sign their registration poll records or the list of registered voters before voting, the board of education shall proceed in the manner hereinafter prescribed to cast and canvass any ballots voted by voters whose registration poll records were missing or whose names did not appear on the list of registered voters on the day of such meeting or election. Each such ballot shall be retained in the original envelope containing the voter's affidavit and signature, in which it is delivered to the board of education until such time as it is to be cast and canvassed.

b. The board of education shall designate itself or such of its employees as it shall deem appropriate as a set of poll clerks to cast and canvass such ballots, and fix a time and place for their meeting for such purposes, provided that such meeting shall be no more than ten days

after any election at which such ballots are voted. The board may designate additional sets of poll clerks and if it designates more than one such set, shall apportion among all such sets the election districts from which such ballots have been received, provided that all such ballots from a single election district shall be assigned to a single set of clerks. Each such set of clerks shall be deemed a central board of inspectors for purposes of this section.

c. At least five days prior to the time fixed for such meeting, the board shall send notice by first class mail to each candidate entitled to have had watchers or challengers present at the polls in any election district from which any such ballot has been received, or, if such notice is sent prior to the day of the election, to each such candidate so entitled for each election district in the board's jurisdiction. Such notice shall state the time and place fixed by the board for such canvass.

d. Each such candidate shall be entitled to appoint such number of watchers or challengers to attend upon each central board of inspectors as such candidate was entitled to appoint at such election in any one election district for which such central board of inspectors is designated to act.

3. Upon assembling at the time and place fixed for such meeting, each central board of inspectors shall consider each affidavit envelope and ballot from the election districts assigned to it.

a. First, the central board of inspectors shall reject any ballot not found sealed in the envelope in which it was placed at the polling place, second the ballot of any voter for whom there is no registration poll record or central registration record in the office of the board of elections.

b. The central board of inspectors shall then proceed to consider, cast, and canvass the remaining envelopes and the ballots therein contained as nearly as practicable in the manner provided by this chapter for a board of inspectors to consider, cast, and canvass paper

ballots at school district meetings or elections.

c. Any person lawfully present may object to the refusal to cast or canvass any ballot on the grounds that the voter is a properly qualified voter of the election district, or to the casting or canvassing of any ballot on the grounds that the voter is not a properly qualified voter of the election district, or otherwise not entitled to cast such ballot. When any such objection is made, the board of education shall forthwith proceed to determine such objection and reject or cast such ballot according to such determination.

d. Upon completing the casting and canvassing of ballots as hereinabove provided for any election district, the central board of inspectors shall thereupon, as nearly as practicable in the manner provided in this section, verify the number of ballots so cast, tally the votes so cast, add such tally to the previous tally of all votes cast in such election district, and announce the result.

4. Whenever the ballot of any person, voted in an affidavit envelope in the manner prescribed by this section, is rejected under the provisions of this section on the grounds that such person is not a qualified voter of the election district wherein he sought to vote, the board of education shall immediately notify such person by first class mail directed to the address given in his affidavit, of the rejection of his ballot, together with the reason therefor and the appropriate information on the times and places where he may register or reregister. Where appropriate, a form of application for personal registration by mail pursuant to the election law shall be included with such notice.

§ 2020. Penalty for false declaration or unauthorized vote. 1. A person who shall wilfully make a false statement to a board of registration, or to any member or members thereof, or the clerk of the district, for the purpose of having his name placed upon the register, as provided for in section two thousand fifteen, shall be guilty of a misdemeanor.

2. A person who shall wilfully make a false declaration of his right to vote at a school district meeting or election after his right to vote thereat has been challenged, shall be deemed guilty of a misdemeanor.

3. Any person not qualified to vote at such meeting or election, who shall vote thereat, shall thereby forfeit ten dollars, to be sued for by the supervisor for the benefit of the district.

§ 2021. Powers of voters. The inhabitants entitled to vote, when duly assembled in any district meeting, shall have power, by a majority of the votes of those present and voting:

1. In common school districts, to appoint a chairman.

2. To appoint a clerk for the time if the district clerk is absent.

3. To adjourn from time to time as occasion may require, except that where a special district meeting shall have been called by a board of education for the purpose of voting upon an appropriation and the hours of voting shall have been fixed by the board as provided in subdivision three of section four hundred sixteen of this chapter, the meeting shall not be adjourned until after the vote shall have been taken and canvassed upon the proposition submitted.

4. To elect one or three trustees as provided in section sixteen hundred two and a district collector, and in any district which shall so determine, as hereinafter provided, to elect a treasurer, at their first meeting, and so often as such offices or any of them become vacated, except as hereinafter provided.

5. To adopt by a vote of a majority of such voters present and voting at the first meeting, or at any subsequent annual meeting, or at any special meeting duly called for that purpose, such vote to be ascertained by taking and recording the ayes and noes, a resolution to elect a treasurer of said district. If such resolution shall be adopted, such voters shall thereupon elect by ballot a treasurer for said

district. Any person elected treasurer at any meeting other than an annual meeting, shall hold office until the next annual meeting after such election, and until his successor shall be elected or appointed, and thereafter a treasurer shall be elected at each annual meeting for the term of one year.

6. To fix the amount in which the collector and treasurer shall give bonds for the due and faithful performance of the duties of their offices.

7. To designate a site for a schoolhouse, or for grounds to be used for playgrounds, or for agricultural, athletic center and social center purposes, or, with the consent of the district superintendent of schools within whose district the school district lies, to designate sites for two or more schoolhouses for the district. Such designation of a site for a schoolhouse, or for such grounds, can be made only at a special meeting of the district, duly called for such purpose by a written resolution in which the proposed site shall be described by metes and bounds, and which resolution must receive the assent of a majority of the qualified voters present and voting, to be ascertained by taking and recording the ayes and noes, or by ballot.

8. To vote a tax upon the taxable property of the district, to purchase, lease and improve such sites or an addition to such sites and grounds for the purposes specified in the preceding subdivision, to hire or purchase rooms or buildings for school rooms or schoolhouses, or to build schoolhouses; to keep in repair and furnish the same with necessary fuel, furniture and appurtenances, and to purchase such implements, apparatus and supplies as may be necessary to provide instruction in agriculture and other subjects, and for the organization and conduct of athletic, playground and other social center work.

9. To designate any former schoolhouse and appurtenances, or any part thereof, the title to which is vested in the board, as a public library building, and to vote a tax on the taxable property of the district, pursuant to section two hundred fifty-five of this chapter, to pay the cost of necessary alterations and equipment to convert such schoolhouse

or part thereof to library use.

10. To vote a tax, not exceeding twenty-five dollars in any one year, for the purchase of maps, globes, reproductions of standard works of art, blackboards and other school apparatus, and for the purchase of text-books and other school necessaries for the use of needy pupils of the district.

11. To vote a tax for the establishment of a school library and the maintenance thereof, or for the support of any school library already owned by said district, and for the purchase of books therefor, and such sum as they may deem necessary for the purchase of a bookcase or bookcases.

12. To vote a tax to supply a deficiency in any former tax arising from such tax being, in whole or in part, uncollectible.

13. To authorize the trustees to cause the schoolhouses, and their furniture, appurtenances and school apparatus to be insured by any insurance company created by or under the laws of this state, or any other insurance company authorized by law to transact business in this state.

14. To alter, repeal and modify their proceedings, from time to time, as occasion may require.

15. To vote a tax for the purchase of a book for the purpose of recording their proceedings.

16. To vote a tax to replace moneys of the district, lost or embezzled by district officers; and to pay the reasonable expenses incurred by district officers in defending suits or appeals brought against them for their official acts, or in prosecuting suits or appeals by direction of the district against other parties.

17. To vote a tax to pay whatever deficiency there may be in teachers' salaries after the public money apportioned to the district shall have

been applied thereto.

18. To vote a tax to pay and satisfy of record any judgments of a competent court which may have been or shall hereafter be obtained in an action against the trustees of the district for unpaid teachers' salaries, where the time to appeal from said judgments shall have lapsed, or there shall be no intent to appeal on the part of such district, or the said judgments are or shall be of the court of last resort.

19. To provide, by tax or otherwise, for the conveyance of pupils residing in a school district, (a) to the elementary or high schools, or both, maintained in such district and/or (b) to the elementary or high schools, or both, in any city or district with which an education contract shall have been made, and/or (c) to the elementary or high schools, or both, other than public, situated within the district or an adjacent district or city, whenever such district shall have contracted with the school authorities of any city, or with another school district, for the education therein of the pupils residing in such school district, or whenever in any school district pupils of school age shall reside so remote from the schoolhouse therein or the elementary or high school they legally attend, within or without the district, that they are practically deprived of school advantages during any portion of the school year.

20. To authorize the trustees or board of education, with the consent of the commissioner of transportation, to furnish lighting facilities and janitorial care for any highway underpass located within their distrct and supervision thereof during the time the same is used by pupils in arriving at or leaving the school premises, whenever such highway underpass has been constructed by the state and the use thereof is essential for the safety of pupils.

21. To vote a tax to provide funds which may be utilized to meet expenses during the first one hundred twenty days of the fiscal year following the fiscal year in which such tax is collected.

§ 2022. Vote on school district budgets and on the election of school district trustees and board of education members. 1. Notwithstanding any law, rule or regulation to the contrary, the election of trustees or members of the board of education, and the vote upon the appropriation of the necessary funds to meet the estimated expenditures, in any common school district, union free school district, central school district or central high school district shall be held at the annual meeting and election on the third Tuesday in May, provided, however, that such election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances. The sole trustee, board of trustees or board of education of every common, union free, central or central high school district and every city school district to which this article applies shall hold a budget hearing not less than seven nor more than fourteen days prior to the annual meeting and election or special district meeting at which a school budget vote will occur, and shall prepare and present to the voters at such budget hearing a proposed school district budget for the ensuing school year.

2. Except as provided in subdivision four of this section, nothing in this section shall preclude the trustees or board of education, in their discretion, from submitting additional items of expenditure to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this part; provided however that such propositions shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

2-a. Every common, union free, central, central high school district and city school district to which this article applies shall mail a school budget notice to all qualified voters of the school district after the date of the budget hearing, but no later than six days prior to the annual meeting and election or special district meeting at which a school budget vote will occur. The school budget notice shall compare the percentage increase or decrease in total spending under the proposed

budget over total spending under the school district budget adopted for the current school year, with the percentage increase or decrease in the consumer price index, from January first of the prior school year to January first of the current school year, and shall also include the information required by paragraphs a and b of this subdivision. The notice shall also set forth the date, time and place of the school budget vote, in the same manner as in the notice of annual meeting, and shall also include the district's tax levy limit pursuant to section two thousand twenty-three-a of this part, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this part, that would result from adoption of the proposed budget. Such notice shall be in a form prescribed by the commissioner.

a. Commencing with the proposed budget for the two thousand one--two thousand two school year, such notice shall also include a description of how total spending and the tax levy resulting from the proposed budget would compare with a projected contingency budget adopted pursuant to section two thousand twenty-three of this article, assuming that such contingency budget is adopted on the same day as the vote on the proposed budget. Such comparison shall be in total and by component (program, capital and administrative), and shall include a statement of the assumptions made in estimating the projected contingency budget.

b. Commencing with the proposed budget for the two thousand eight--two thousand nine school year, such notice shall also include, in a format prescribed by the commissioner, an estimate of the tax savings that would be available to an eligible homeowner under the basic school tax relief (STAR) exemption authorized by section four hundred twenty-five of the real property tax law if the proposed budget were adopted. Such estimate shall be made in the manner prescribed by the commissioner, in consultation with the office of real property services.

3. In all elections for trustees or members of boards of education or votes involving the expenditure of money, or authorizing the levy of taxes, the vote thereon shall be by ballot, or, in school districts that

prior to nineteen hundred ninety-eight conducted their vote at the annual meeting, may be ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

4. The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this part. In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision five of this section or resubmit to the voters the original or a revised budget pursuant to subdivision three of section two thousand seven of this part. Upon one defeat of such resubmitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision five of this section. Notwithstanding any other provision of law to the contrary, the school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice.

5. If the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision four of this section, the sole trustee, trustees or board of education, after applying thereto the public school moneys and other moneys received or to be received for that purpose, shall levy a tax for the sum necessary for teachers' salaries and other ordinary contingent expenses in accordance with the provisions of this subdivision and sections two thousand twenty-three and two thousand twenty-three-a of this article.

6. Notwithstanding the provisions of subdivision four of section eighteen hundred four and subdivision five of section nineteen hundred six of this title, subdivision one of section two thousand two of this article, subdivision one of this section, subdivision two of section twenty-six hundred one-a of this title and any other provision of law to the contrary, the annual district meeting and election of every common, union free, central and central high school district and the annual

meeting of every city school district in a city having a population of less than one hundred twenty-five thousand inhabitants that is scheduled to be held on the third Tuesday of May, two thousand three is hereby adjourned until the first Tuesday in June, two thousand three. The trustees or board of education of each such school district shall provide notice of such adjourned meeting to the qualified voters in the manner prescribed for notice of the annual meeting, and such notice shall provide for an adjourned budget hearing. The adjourned district meeting or district meeting and election shall be deemed the annual meeting or annual meeting and election of the district for all purposes under this title and the date of the adjourned meeting shall be deemed the statewide uniform voting day for all purposes under this title. Notwithstanding the provisions of subdivision seven of section sixteen hundred eight or subdivision seven of section seventeen hundred sixteen of this title or any other provision of law, rule or regulation to the contrary, in two thousand three the property tax report card shall be submitted to the department no later than twenty days prior to the date of the adjourned meeting and the department shall make its compilation available electronically at least seven days prior to such date.

7. Each school district shall post on its website, if any, a final annual budget and any multi-year financial plan adopted by the board of education or trustees.

§ 2022-a. Disaster; additional day for voting. 1. Upon request of a school district, or upon the determination of the commissioner, the commissioner may provide for an additional day of voting for the annual meeting and election if they determine that less than eight percent of qualified voters voted as a direct consequence of a disaster. For the purposes of this section, "disaster" shall include events such as a fire, earthquake, tornado, explosion, power failure, act of sabotage, enemy attack or other event that results in substantial damage to property or the possible or actual loss of life. The procedures applicable to a school's annual meeting and election shall thereafter be followed as far as applicable and practicable.

2. Such additional day of voting shall be held between seven and fourteen days after the original annual meeting and election, provided that when the commissioner determines it would not be feasible to hold the additional day of voting within fourteen days, they may authorize the district to schedule such additional day of voting as soon as may be feasible; provided, further, that where a disaster occurs on the date of a school budget revote pursuant to either section two thousand twenty-three-a or two thousand seven of this part, the district shall hold an additional day of voting no sooner than five days after the school budget revote, but no later than the last day of the month of June. The board of education shall determine the hours during which the polls shall remain open on such additional day for voting; provided, however, that in any event the polls shall remain open for not less than eleven hours.

3. The commissioner shall notify the board of education and county board of elections of such date. The clerk of the school district shall publish notice of the date of the additional day of voting not less than twice in each week preceding the date for the additional day for voting, in two newspapers having general circulation within such district if there are two, or in one newspaper if there is only one and notify all qualified voters by mail. Such notice shall also direct attention to any change of polling places, the original notice of disaster determination from the commissioner, and contain such other and additional information as in the judgment of the board of education shall be necessary and proper. The notice of the date of the additional day of voting shall be made available on the school district's website, if one exists.

4. Official ballots shall be provided at public expense at each polling place for such additional day of voting. In any election district in which voting machines were used upon the original day of voting, they shall be used for the additional day for voting. The original seal on such machines shall not be removed nor shall the machines be unlocked until the opening of the polls on the additional day for voting and the board of elections shall provide an additional seal to be used as soon as the polls are closed on such day. County boards of elections which have provided voting machines to school

districts for original days of voting shall continue to provide such voting machines until the additional day of voting is complete.

5. Only those persons qualified to vote upon the original date of the school district's annual meeting and election who did not vote on such date shall be entitled to vote on the additional day for voting. Voting on the additional day provided for in this section shall be accomplished solely by physically appearing at the polling place, and nothing contained in this section shall be construed to extend the time set by law for casting or canvassing an absentee, military, or special ballot; provided, however, that nothing contained herein shall be deemed to invalidate any absentee, military, or special ballot duly received on the original date of the annual meeting and election. Such additional day of voting shall not be considered a resubmission of such item to the voters.

§ 2023. Levy of tax for certain purposes without vote; contingency budget. 1. If the qualified voters shall neglect or refuse to vote the sum estimated necessary for teachers' salaries, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, or if they shall neglect or refuse to vote the sum estimated necessary for ordinary contingent expenses, including the purchase of library books and other instructional materials associated with a library and expenses incurred for interschool athletics, field trips and other extracurricular activities and the expenses for cafeteria or restaurant services, the sole trustee, board of trustees, or board of education shall adopt a contingency budget including such expenses and shall levy a tax, subject to the restrictions as set forth in subdivision four of this section and subdivision eight of section two thousand twenty-three-a of this part, for the same, in like manner as if the same had been voted by the qualified voters, subject to the limitations contained in subdivisions three and four of this section.

2. Notwithstanding the defeat of a school budget, school districts shall continue to transport students to and from the regular school program in accordance with the mileage limitations previously adopted by

the qualified voters of the school district. Such mileage limits shall change only when amended by a special proposition passed by a majority of the qualified voters of the school district. In cases where the school budget is defeated by such qualified voters of the school district, appropriations for transportation costs for purposes other than for transportation to and from the regular school program, and transportation that would constitute an ordinary contingent expense pursuant to subdivision one of this section, shall be authorized in the budget only after approval by the qualified voters of the district.

3. The administrative component of a contingency budget shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component.

4. a. The contingency budget shall not result in a tax levy greater than the tax levied for the prior school year.

b. The resolution of the trustee, board of trustees, or board of education adopting a contingency budget shall incorporate by reference a statement specifying the projected percentage increase or decrease in total spending for the school year, and explaining the reasons for disregarding any portion of an increase in spending in formulating the contingency budget.

c. Notwithstanding any other provision of law to the contrary, the trustees or board of education shall not be authorized to amend or revise a final contingency budget where such amendment or revision would result in total spending in excess of the spending limitation in paragraph (a) of this subdivision; provided that the trustees or board of education shall be authorized to add appropriations for the expenditure of gifts, grants in aid for specific purposes or for general use or insurance proceeds authorized pursuant to subdivision two of section seventeen hundred eighteen of this chapter in addition to that

which has been previously budgeted.

§ 2023-a. Limitations upon school district tax levies. 1. Generally. Unless otherwise provided by law, the amount of taxes that may be levied by or on behalf of any school district, other than a city school district of a city with one hundred twenty-five thousand inhabitants or more, shall not exceed the tax levy limit established pursuant to this section, not including any tax levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section.

2. Definitions. As used in this section:

a. "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

b. "Available carryover" means the amount by which the tax levy for the prior school year was below the applicable tax levy limit for such school year, if any, but no more than an amount that equals one and one-half percent of the tax levy limit for such school year.

c. "Capital local expenditures" means the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law. The commissioner of taxation and finance shall, as appropriate, promulgate rules and regulations which may provide for adjustment of capital local expenditures to reflect a school district's share of additional budgeted capital expenditures made by a board of cooperative educational services.

d. "Capital tax levy" means the tax levy necessary to support capital local expenditures, if any.

e. "Coming school year" means the school year for which tax levy limits are being determined pursuant to this section.

f. "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the current year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, with the result expressed as a decimal to four places.

g. "Prior school year" means the school year immediately preceding the coming school year.

h. "School district" means a common school district, union free school district, central school district, central high school district or a city school district in a city with less than one hundred twenty-five thousand inhabitants.

i. "Tax levy limit" means the amount of taxes a school district is authorized to levy pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the school district arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior school year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for

expenditures for the coming fiscal year for school district employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of this chapter, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for school district employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points; and

(iv) a capital tax levy.

2-a. Tax base growth factor. a. No later than February fifteenth of each year, the commissioner of taxation and finance shall identify those school districts for which tax base growth factors must be determined for the coming school year, and shall notify the commissioner of the tax base growth factors so determined, if any.

b. The commissioner of taxation and finance shall calculate a quantity change factor for the coming school year for each school district based upon the physical or quantity change, as defined by section twelve hundred twenty of the real property tax law, reported to the commissioner of taxation and finance by the assessor or assessors pursuant to section five hundred seventy-five of the real property tax law. The quantity change factor shall show the percentage by which the full value of the taxable real property in the school district has changed due to physical or quantity change between the second final assessment roll or rolls preceding the final assessment roll or rolls upon which taxes are to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied. The commissioner of taxation and finance shall, as appropriate, promulgate rules and regulations regarding the calculation of the quantity change factor which may adjust the calculation based on the development on tax exempt land.

c. After determining the quantity change factor for a school district, the commissioner of taxation and finance shall proceed as follows:

(i) If the quantity change factor is negative, the commissioner of taxation and finance shall not determine a tax base growth factor for the school district.

(ii) If the quantity change factor is positive, the commissioner of taxation and finance shall determine a tax base growth factor for the school district which is equal to one plus the quantity change factor.

3. Computation of tax levy limits. a. Each school district shall calculate the tax levy limit for each school year which shall be determined as follows:

(1) Ascertain the total amount of taxes levied for the prior school year.

(2) Multiply the result by the tax base growth factor, if any.

(3) Add any payments in lieu of taxes that were receivable in the prior school year.

(4) Subtract the tax levy necessary to support the expenditures pursuant to subparagraphs (i) and (iv) of paragraph i of subdivision two of this section for the prior school year, if any.

(5) Multiply the result by the allowable levy growth factor.

(6) Subtract any payments in lieu of taxes receivable in the coming fiscal year.

(7) Add the available carryover, if any.

b. On or before March first of each year, any school district subject to the provisions of this section shall submit to the state comptroller, the commissioner, and the commissioner of taxation and finance, in a form and manner prescribed by the state comptroller, any information necessary for the calculation of the tax levy limit; and the school district's determination of the tax levy limit pursuant to this section shall be subject to review by the commissioner and the commissioner of taxation and finance.

4. Reorganized school districts. When two or more school districts reorganize, the commissioner shall determine the tax levy limit for the reorganized school district for the first school year following the

reorganization based on the respective tax levy limits of the school districts that formed the reorganized district from the last school year in which they were separate districts, provided that in the event of formation of a new central high school district, the tax levy limits for the new central high school district and its component school districts shall be determined in accordance with a methodology prescribed by the commissioner.

5. Erroneous levies. In the event a school district's actual tax levy for a given school year exceeds the maximum allowable levy as established pursuant to this section due to clerical or technical errors, the school district shall place the excess amount of the levy in reserve in accordance with such requirements as the state comptroller may prescribe, and shall use such funds and any interest earned thereon to offset the tax levy for the ensuing school year.

6. (a) Notwithstanding any other provision of law to the contrary, in the event the trustee, trustees or board of education of a school district that is subject to the provisions of this section proposes a budget that will require a tax levy that exceeds the tax levy limit for the corresponding school year, not including any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, then such budget shall be approved if sixty percent of the votes cast thereon are in the affirmative.

(b) Where the trustee, trustees or board of education proposes a budget subject to the requirements of paragraph (a) of this subdivision, the ballot for such budget shall include the following statement in substantially the same form: "Adoption of this budget requires a tax levy increase of which exceeds the statutory tax levy increase limit of for this school fiscal year and therefore exceeds the state tax cap and must be approved by sixty percent of the qualified voters present and voting."

7. In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision eight of this section or resubmit

to the voters the original or a revised budget at a special district meeting in accordance with subdivision three of section two thousand seven of this part. Upon one defeat of such resubmitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision eight of this section.

8. Notwithstanding any other provision of law to the contrary, if the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision seven of this section, the sole trustee, trustees or board of education shall levy a tax no greater than the tax that was levied for the prior school year.

9. Nothing in this section shall preclude the trustee, trustees, or board of education of a school district, in their discretion, from submitting additional items of expenditures to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this part; provided however, except in the case of a proposition submitted for any expenditure contained within subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, if any proposition, or propositions collectively that are subject to a vote on the same date, would require an expenditure of money that would require a tax levy and would result in the tax levy limit being exceeded for the corresponding school year then such proposition shall be approved if sixty percent of the votes cast thereon are in the affirmative.

§ 2023-b. Certification of compliance with tax levy limit. 1. Upon the adoption of the budget of an eligible school district, the chief executive officer of such school district shall certify to the state comptroller, the commissioner of taxation and finance and the commissioner that the budget so adopted does not exceed the tax levy limit prescribed by section two thousand twenty-three-a of this part. Such certification shall be made in a form and manner prescribed by the state comptroller in consultation with the commissioner of taxation and finance and the commissioner.

2. If such a certification has been made and the actual tax levy of the school district exceeds the applicable tax levy limit, the excess amount shall be placed in reserve and used in the manner prescribed by subdivision five of section two thousand twenty-three-a of this part, even if a tax levy in excess of the tax levy limit had been duly authorized for the applicable fiscal year by the school district voters.

3. Notwithstanding any provision of law to the contrary, every school district that is subject to the provisions of section two thousand twenty-three-a of this part shall report both its proposed budget and its adopted budget to the office of the state comptroller and the commissioner at the time and in the manner as they may prescribe, whether or not such budget has been or will be certified as provided by this subdivision.

§ 2024. Reference to commissioner of education. If any question shall arise as to what are ordinary contingent expenses the same may be referred to the commissioner of education, by a statement in writing, signed by one or more of each of the opposing parties upon the question, and the decision of the commissioner shall be conclusive.

§ 2025. Procedures at school district meetings. 1. District meetings in common school districts shall be called to order by the trustee or the chairman of the board of trustees or by a person chosen by the trustee or trustees. The qualified voters present and voting shall nominate and elect a qualified voter of the district as permanent chairman.

2. In union free and central school districts the board of education shall appoint a qualified voter of the district as permanent chairman of each meeting or election to call such meeting or election to order. When hours have been set for voting in the notice of meeting or election, the chairman shall declare the polls open and closed at the appropriate time. No motions shall be in order during the hours specified in the

notice for voting. In districts divided into election districts, the chief election inspector in each district shall declare the polls open and closed at the appropriate time.

3. The clerk of the district shall serve as clerk of all meetings and elections.

a. In common school districts the voters present and voting may elect a clerk of the meeting if the district clerk is not present. The voters may also elect assistant clerks and election inspectors as required. At least two election inspectors shall be elected for each ballot box or voting machine used. The inspectors shall choose a chief inspector of election.

b. In union free and central school districts the board of education shall appoint a qualified voter as acting clerk in the absence or inability to act of the district clerk. The board of education shall also appoint assistant clerks and election inspectors as required. At least two election inspectors shall be appointed for each ballot box or voting machine. The board of education shall designate a chief election inspector, and if the district is divided into election districts the board of education shall appoint a chief election inspector for each election district.

4. The clerk and assistant clerk or clerks of the meeting or election shall keep a true and accurate written record of all of the proceedings of the meeting or election and shall file such written record with the clerk of the district within twenty-four hours after the meeting or election.

5. Each assistant clerk and election inspector appointed by a board of education shall be entitled to compensation at a rate fixed by such board of education.

6. A person seventeen years of age who is enrolled in a school district and fulfilling the requirements of section thirty-two hundred seven-a of this chapter shall be eligible to be appointed as, and to

perform the duties of, an election inspector or poll clerk as provided in this part.

§ 2029. Poll list. A poll list containing the name and legal residence of every person whose vote shall be received shall be kept by the clerk and the assistant clerk or clerks of the meeting or election.

§ 2030. Ballot box; voting booth. 1. The trustee, board of trustees, or board of education, shall, at the expense of the district, provide a suitable box, or boxes, in which the ballots, folded so as to conceal the marking thereon, shall be deposited as they are received.

2. In all union free school districts the board of education, shall, at the expense of the district, provide a voting booth, or booths, and voters shall be required to enter such booth, or booths, for the purpose of marking their ballots.

§ 2031. Election of officers. All district officers shall be elected by ballot.

§ 2031-a. Electioneering within one hundred feet of polling place prohibited; distance markers. 1. At every election held for the office of trustee or member of a board of education and at every vote upon any proposition or issue in a school district where the election or vote is held at a different time from, and not during, the annual meeting of the district, there shall be conspicuously placed, by the inspectors of election, distance markers at a distance of one hundred feet from the polling place. Such distance markers shall indicate the prohibition contained herein and shall be so placed at least one-half hour before the opening of the polls and shall remain until the polls are closed.

2. At such elections or voting held at a different time from, and not during, the annual meeting of the district, while the polls are open no

person shall do any electioneering within the polling place, or within one hundred feet therefrom in any public street, or within such distance in any place in a public manner and no banner, poster or placard on behalf of or in opposition to any candidate or issue to be voted upon shall be allowed in or upon the polling place or within one hundred feet therefrom during the election. For the purposes of this section, the one hundred foot distance shall be deemed to include a one hundred foot radial measured from the entrances, designated by the inspectors of election, to a building where such election is being held. This section shall not be deemed to prohibit the board of trustees or board of education from displaying within any polling place a copy or copies of any budget or proposition to be voted upon.

3. Any person who wilfully violates the provisions of this section shall be guilty of a misdemeanor.

§ 2032. Ballots for election of school district officers. 1. In common school districts the ballots for the election of district officers shall be written or printed, typed or mimeographed, or partly written and partly printed, typed or mineographed, containing the name of the person voted for and designating the office for which each is voted.

2. a. In union free school districts the board of education shall cause ballots containing the names of all candidates nominated for election to the board of education to be printed, typed or mimeographed.

b. The names of all candidates for each separate specific office shall be grouped together and at the top of each group shall be placed a description of the separate specific office for which such candidates are nominated, which description shall include at least the length of the term of office and the name of the last incumbent, if any, and in addition a direction that only one vote may be cast in each separate group. The names of the candidates for each separate specific office shall be listed in the order as determined by a drawing by lot. Such drawing shall be conducted by the clerk of the board of education and shall be held the day after the last possible date for candidates to

file a petition. In the event that any candidate is not present in person or by a person designated in a written proxy to accomplish the drawing, the district clerk shall be authorized to act as proxy. In any district where a proposition has been adopted pursuant to paragraph b of section two thousand eighteen, the names of all candidates for vacancies upon the board of education shall be arranged according to lot as prescribed in this section, and a direction shall be made that as many candidates may be voted for as there are vacancies to be filled.

c. A voting square shall be provided to the left of the name of each candidate upon the ballot.

d. A single cross X mark in pen or pencil, or a single check * mark, in pen or pencil, in the voting square shall indicate a vote.
* NB There should be a check mark in this space.

e. One blank space shall be provided under the name of the last candidate for each separate specific office so that voters may vote for candidates who have not been nominated for the offices to be filled at such election and the writing in, with a pencil having black lead, by a voter, of a name in the blank space so provided, shall indicate a vote.

f. Such ballot shall have placed thereon the name of the district and instructions explaining in substance the provisions of paragraphs d and e of subdivision two of this section and subdivisions three and four of section two thousand thirty-four of this chapter.

3. All spoiled or defective ballots shall be sealed in an envelope and so endorsed by the inspectors of election. Such envelope shall be placed in the ballot box as provided in subdivision six of section two thousand thirty-three of this chapter.

4. The clerk of the district shall cause to be delivered to the inspectors of election, on the day of the meeting or election and not before, a sufficient supply of the ballots for the use of the qualified voters. Such ballots shall be prepared at the expense of the school district.

5. The ballot shall be folded by the voter so as to conceal his marking or writing thereon before the ballot is deposited in a ballot box.

6. If official ballots are not furnished as provided in subdivision two of this section, an election of members of a board of education in a union free school district shall not be declared invalid or illegal because of the use of ballots which do not conform to the requirements of subdivision two of this section, provided the intent of the voter may be ascertained from the use of such irregular or defective ballots and such use was not fraudulent and did not substantially affect the result of the meeting or election.

§ 2033. Voting after closing of polls. All qualified voters entitled to vote who are in the place where the meeting or election is held at or before the time of closing the polls shall be allowed to vote.

§ 2034. Canvass of votes; declaration of result. 1. Immediately upon the close of the polls the inspectors of election shall count the ballots found in the ballot box without unfolding them, except so far as is necessary to ascertain that each ballot is single. They shall compare the number of ballots found in the ballot box with the number of persons recorded on the poll list as having voted at the meeting or election. If the number of ballots found in the ballot box shall exceed the number of names on such poll list, such ballots shall be replaced without being unfolded in the box from which they were taken and shall be thoroughly mingled in such box and the chief inspector of election shall then publicly draw out as many ballots as shall be equal to the number of excess ballots. The ballots so drawn out shall be enclosed without unfolding in an envelope which shall be sealed and endorsed with a statement of the number of such excess ballots withdrawn from the box and shall be signed by the chief inspector. Such envelope with the excess ballots therein shall be placed in the ballot box as provided in subdivision six of this section.

2. The ballots shall be counted or canvassed by the inspectors of election and the votes cast for each candidate shall be tallied and counted by the inspectors of election.

3. The whole ballot is void if the voter

a. does any act extrinsic to the ballot such as enclosing any paper or other article in the folded ballot, or

b. defaces or tears the ballot, or

c. makes an erasure thereon, or

d. in a union free school district meeting or election, makes any mark thereon other than a single cross X mark in pen or pencil, or a single check * mark, in pen or pencil, in a voting square, or other than the writing in a name for the purpose of voting; provided, however, that an erasure or a mark other than a single cross X mark in pen or pencil, or a single check * mark, in pen or pencil, made in a voting square shall not make the ballot void, but shall render it blank as to the office in connection with which it is made. No ballot shall be declared void or partially blank because a cross X mark or check * mark thereon is irregular in form.

* NB There should be a check mark in this space.

4. In a union free school district meeting or election, if the voter marks more than one name in a group for a separate specific office or if for any reason it is impossible to determine the voter's choice of candidate for an office his vote shall not be counted for such office but shall be returned as a blank vote thereon.

5. The inspectors of election shall announce to the chairman the results of the ballot. The ballots that were declared void or wholly blank shall be sealed in an envelope and so endorsed by the inspectors of election. Such envelope shall be placed in the ballot box as provided in subdivision six of this section.

6. After the ballots are counted and the statements have been made as required in this section, the ballots, together with the envelopes containing the defective or spoiled ballots, the excess ballots and the void or wholly blank ballots, shall be placed in the ballot box or boxes. Each box shall be securely locked and sealed by the inspectors of election and deposited by the chief inspector with the clerk of the district. The unused ballots shall be placed in a sealed package by the inspectors of election and returned to such clerk by the chief inspector at the same time that such ballot box, or boxes, are delivered to him. The ballot box, or boxes, and the package of unused ballots, after being sealed by the inspectors of election, shall not thereafter be opened, except:

a. upon the order of the commissioner of education in the manner specified in such order, or

b. when a period of six months from the date of the meeting or election has elapsed without any proceeding being commenced in regard to such meeting or election, the board of education may, notwithstanding any provision of this chapter or of the public officers law to the contrary, by written resolution order the unsealing and opening of the ballot box, or boxes, and the destruction of all ballots contained therein, together with the unused ballots.

7. a. Except as provided in paragraph c of this subdivision, the chairman shall declare to the meeting or election the result of each ballot, as announced to him by the inspectors of election, and the persons having a plurality of the votes cast, respectively, for the several offices shall be elected except as provided in paragraphs b and d of this subdivision.

b. If the school district shall have been divided into election districts pursuant to section two thousand seventeen of this chapter the inspectors of election shall make a written report of the results of the ballot, signed by all such inspectors, to the chief inspector of election of each election district. The chief inspector of election of

each election district shall within twenty-four hours file such written report with the clerk of the district. The board of education shall thereupon within twenty-four hours tabulate and declare the result of the ballot.

c. If the school district shall have adopted a proposition pursuant to paragraph b of section two thousand eighteen, the candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. Where more than one office is to be filled by such election and there is a variance in the length of the terms for which such offices are to be filled as authorized by this chapter, or where one or more persons are to be elected for a full term or terms and one or more persons are to be elected for the unexpired portion of a term or terms, or both, the candidate receiving the largest number of votes shall be entitled to the longest term and the candidates receiving the next highest number of votes shall be entitled, in decreasing order of the respective numbers of votes, to the several offices, in decreasing order of the length of such terms or unexpired portions of terms.

8. The clerk of the meeting or election shall record the result of each ballot as declared by the chairman.

9. The clerk of the district shall serve a written notice either personally or by mail upon each person declared elected as provided in subdivision five of section twenty-one hundred twenty-one of this chapter.

10. In the event that more eligible persons than the number remaining to be elected receive, for the same office or offices, an equal number of votes sufficient that fewer persons receiving such number of votes would be elected, the board of education shall call a special run-off election to be held within forty-five days following the general or special election at which such tie vote was cast to determine which of such candidates shall be elected to such office. The only persons who shall be deemed nominated for such run-off election shall be the candidates who have received such equal number of votes.

§ 2035. Use of voting machines at school district meetings or elections. 1. If the trustees or board of education of any school district shall so determine, voting machines may be used for recording the vote on elections and questions, or either, at the school district meetings or elections, annual and special, or either, in such district. Before any such machine is used at any such meeting or election, the inspectors of election shall examine it and see that all the counters are set at zero (000) and that the ballot labels are properly placed, and that the machine is in all respects in proper condition for use. The use of such machine shall be deemed a compliance with any provision of law requiring the vote to be by ballot. Such trustees or board of education, with district funds available, may purchase the necessary voting machine or machines; or, if the county board of elections shall consent thereto, such machines belonging to the county or belonging to the town in which any part of said school district shall be located, may be used at any such meeting, the expense of delivery and returning and setting up, and any other expense connected therewith, to be defrayed by the school district; but such machines belonging to the county shall not be so used at the time or times when they may be required under the election law.

2. In common school districts the manner of making nominations or submitting propositions by anyone other than the trustees and in union free school districts the manner of submitting propositions by anyone other than the board of education for the purpose of preparing ballots for the machine shall be prescribed by a rule previously adopted by the trustees or board of education; provided, however, that the petition, certificate, declaration, notice or other paper required by such rule, for the making of any such nomination or submission, except as to a question or proposition required by law to be stated in the published or posted notice of the meeting shall be filed with the trustees or board of education not later than thirty days before the meeting or election. Any nomination may be rejected by the trustees if the candidate is ineligible for the office or has declared his unwillingness to serve; any proposition may be rejected by the trustees or board of education if the purpose of the proposition is not within the power of the voters, or

where the expenditure of moneys is required by the proposition, if the proposition fails to include the necessary specific appropriation. Any such rule may be amended from time to time and may state that a reasonable minimum number of signatures shall be required for submission. The trustees or board of education shall cause such rule, and amendments from time to time, to be printed for general distribution in the district. Provided, however, that the provisions of any special law relating to nominations and elections in any union free school district shall continue to remain in force, and the manner of making nominations and the conduct of meetings and elections, shall conform to such special law.

3. Any proposition submitted pursuant to this section shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 2036. Effect of failure to appoint or elect qualified voters as district meeting or election officials. The proceedings of no annual or special school district meeting or election shall be held illegal for failure to appoint or elect a qualified voter (or a person satisfying the requirements of subdivision eight of section 3-400 of the election law) as an official at such district meeting or election, unless it shall appear that the acts of such official or officials were improper or that the action of such meeting or election was prejudiced thereby.

§ 2037. Determination of meeting or election disputes. All disputes concerning the validity of any district meeting or election or of any of the acts of the officers of such meeting or election shall be referred to the commissioner of education for determination and his decisions in the matter shall be final and not subject to review. The commissioner may in his discretion order a new meeting or election.

§ 2038. Transmission of publicly available data to the New York voting and elections database. Upon the certification of election results and

the completion of the voter history file after each election, each school district that holds school board elections pursuant to this article shall transmit copies of the records required to be transmitted pursuant to section 3-112 of the election law in a manner and time provided for in such section.

§ 2039. Application of article. The provisions of part one of this article shall apply to all school districts except as otherwise provided by article fifty-three of this chapter, and except to city school districts of cities with one hundred twenty-five thousand inhabitants or more.

PART II

CONTRACT SYSTEM

Section 2040. District meeting to authorize contract system.
2040-a. Contributions to school districts containing migrant labor camps.
2041. Trustees or boards of education may contract to receive such children.
2042. Form and validity of contract.
2044. Report of pupils from other districts.
2045. Non-resident attendance.

§ 2040. District meeting to authorize contract system. 1. Any school district may decide by a majority vote of the qualified voters present and voting at a district meeting:

a. To contract for the education of all the elementary pupils of such district in another school district in this state or in any adjoining state, instead of maintaining a home school.

b. To contract for the education of part of the elementary pupils of such district in another school district in this state or in an adjoining state and maintain a home school;

c. To contract for a period of not less than two and not more than five years for the education of all the high school pupils of grades seven to twelve, inclusive, of such district in another school district in this state or in an adjoining state, instead of maintaining a home high school for such grades.

d. To contract for a period of not less than two and not more than five years for the education of some of the pupils of grades seven to twelve, inclusive, of such district in another school district in this state or in an adjoining state provided that such district maintains a home high school for such grades. Nothing herein shall require a district to enter into a written contract for the education of its high school pupils where the term is for a period of less than two years.

2. Such contract may be made with one or more school districts. The designation of the school districts with which such contracts may be made shall be made pursuant to the commissioner's regulations.

§ 2040-a. Contributions to school districts containing migrant labor camps. Notwithstanding any other provision of law, and for the purpose of sharing the extra expense incurred by a school district in providing temporary educational facilities for children living in a migrant labor camp located therein which supplies labor to employers residing in other school districts, the board of education, trustee, or trustees of any adjoining school district, or other school district in the same town, where employers residing therein are supplied with labor from such migrant labor camp, may contribute not more than three hundred dollars annually to the school district in which such migrant labor camp is located. The moneys so contributed shall be used only for the purposes hereinbefore stated.

§ 2041. Trustees or boards of education may contract to receive such children. The trustees or board of education of any district or city may enter into a contract to receive and educate in the schools of such

district or city the children of any district which shall authorize its trustees or board of education to contract for the education of its children as provided by section two thousand thirty of this chapter.

§ 2042. Form and validity of contract. Every contract for the education of school children shall be in writing and in the form prescribed by the commissioner of education, and before such contract is executed the same shall be submitted for approval to the superintendent of schools having jurisdiction over said district and such contract shall not become effective until approved by such superintendent. Such contract shall not be valid or binding upon either party thereto until a copy thereof is filed with the commissioner of education and approved by him.

§ 2044. Report of pupils from other districts. The children attending a school under any contract for the education of elementary pupils shall be reported to the commissioner of education by the trustees or board of education of the district or city wherein such children attend school as though they were residents of such city or school district.

§ 2045. Non-resident attendance. 1. No charge for the instruction of nonresident pupils in excess of the difference between the cost of educating such pupils and the apportionment of public moneys on account of the attendance of such pupils shall be made by any district. The tuition charged, if any, in excess of such apportionment is hereby declared a charge upon the district from which such nonresident pupil attends, subject, however, to the right of such district to designate the academic school or schools where instruction shall be given at the district's expense, and provided that no tuition shall be payable by the district of residence for the education, by another district, of an elementary pupil, unless a contract has been entered into between such districts pursuant to part two of this article. Such designations shall be made by each school district pursuant to commissioner's regulations. Such designation may be reviewed upon appeal to the commissioner of

education in the event the parents or guardians of such pupils deem themselves aggrieved thereby. In case any school district shall fail to make a timely designation, the district superintendent of schools in the supervisory district in which such district is located may make such designation, subject to review on appeal by the commissioner of education. Districts shall not refuse to receive nonresident academic pupils for instruction without valid and sufficient reasons therefor. All acts of the board of education or other district officers relating to such pupils and the tuition charged for their instruction are hereby declared subject to review by the commissioner of education. Where a district is so situated that its academic pupils can be more conveniently instructed in the academic department of a school located in another state, the commissioner of education is hereby authorized to make the same apportionment, annually, to the school district educating such academic pupils so instructed outside the state, as he shall be authorized by law to make for the instruction of academic pupils within the state, and upon the same conditions.

2. If a pupil resides in a district wherein high school courses are offered, but no vocational high school is available therein, or if vocational high school courses are not available in the academic school or schools designated as herein provided, such pupil may select and attend any other academic school within the state in which vocational courses are available, and the tuition charged, if any, in excess of the difference between the cost of educating such pupil and the apportionment of public moneys on account of the attendance of such pupil, is hereby declared a charge upon the district in which such pupil resides, except however, the cost of transportation of such pupil need not be paid by such district.

3. Any academic pupils attending school in a school district in this state, but residing on military reservations within the boundaries of the state of New York, jurisdiction over which has been ceded to the United States, shall be deemed to be pupils of the school district of attendance within the meaning of section thirty-six hundred two of this chapter.

4. Each district which does not maintain a high school shall provide transportation when necessary for its pupils who have completed the work of the sixth grade and are receiving instruction in another district.

PART III

PROFESSIONAL SERVICES PROVIDERS

Section 2050. Definition.
2051. Charging for professional services.
2052. Enforcement.
2053. Reports regarding lawyers.
2054. Non-exclusivity of rights or remedies.

§ 2050. Definition. As used in this part, a "lawyer" shall mean an attorney or counselor governed by article fifteen of the judiciary law, who receives remuneration or other compensation from a school district or board of cooperative educational services in exchange for legal services provided to such district or board.

§ 2051. Charging for professional services. 1. A lawyer shall not simultaneously be an independent contractor and an employee of a school district or board of cooperative educational services for the purpose of providing legal services to such school district or board of cooperative educational services.

2. A lawyer who is not an employee of a school district or board of cooperative educational services, shall not seek to be or be considered, treated or otherwise reported by the school district, or board of cooperative educational services as an employee thereof for purposes of compensation, remuneration, health insurance, pension and all employment-related benefits and emoluments associated therewith.

§ 2052. Enforcement. 1. Any lawyer who violates section two thousand fifty-one of this part, shall be liable for a civil penalty not to

exceed three times the charges and fees for contracted services or salary received by the lawyer and paid by such school district or board of cooperative educational services for legal services, and in addition, may be enjoined from continuing such violation. Civil penalties and injunctive relief provided in this section shall be recoverable in an action brought by the attorney general.

2. Any person who shall knowingly:

(a) violate subdivision two of section two thousand fifty-one of this part;

(b) make a false statement of material fact; or

(c) falsify or permit to be falsified any record or records of the retirement system established in this chapter

in an attempt to defraud the retirement system established in this chapter as a result of such act for the purpose of obtaining a credit towards pension benefits, or a benefit or payment in excess of one thousand dollars from such retirement system for a professional services provider to which such professional services provider would not be entitled, shall be guilty of a class E felony.

§ 2053. Reports regarding lawyers. Every school district and board of cooperative educational services shall, on or before the forty-fifth day after the commencement of its fiscal year, file with the department, the comptroller and the attorney general a report specifying: (a) all lawyers who provide legal services to such district or board; (b) whether such district or board hired such lawyers as employees; and (c) all remuneration and compensation paid for legal services.

§ 2054. Non-exclusivity of rights or remedies. Nothing in this part shall be construed to limit, in any matter, any rights or remedies otherwise available under law against any party or to any person or entity, including, but not limited to, the attorney general or the comptroller of the state of New York.

ARTICLE 43

SCHOOL DISTRICT OFFICERS--TOWN AND COUNTY OFFICIALS

PART I

GENERAL PROVISIONS

Section 2101. Officers of district.
2102. Qualifications of officers.
2102-a. Required training for school district officers.
2103. Ineligibility to office.
2103-a. Police officers and firefighters on boards of education.
2105. Terms of office.
2106. Terms of officers of newly created district.
2108. Notice and acceptance of election.
2109. Refusal of trustee to serve.
2110. Penalty for refusal to serve or perform duty.
2111. Resignation of district officers.
2112. Vacating office.
2113. Filling vacancy in office of trustee.
2114. Filling vacancy in office of clerk, collector or treasurer.
2115. Notice of appointment to fill vacancy and filing thereof.
2116. District records, books, etc., are district property.
2116-a. Books and records to be kept by school districts.
2116-b. Internal audit function.
2116-c. Audit committees.
2117. Reports.
2118. Expenses of school district officers.
2119. School district trustee not to draw draft on county treasurer in certain cases.

§ 2101. Officers of district. 1. Each common school district shall have one or three trustees as the district determines, a collector except in first class towns and except as may be otherwise provided by law, and if the district so decides a treasurer.

2. Each union free school district shall have a board of education consisting of from three to nine trustees as the district shall determine.

§ 2102. Qualifications of officers. Every school district officer must be able to read and write and must be a qualified voter of the district; and each member of a board of education of a union free school district, common school district or a central school district shall have been a resident of the school district, or in the case of a person qualified by subdivision three of section twenty hundred twelve of this chapter to vote in a district election, a resident of the district or reservation, for at least one year prior to the election. Notwithstanding the provisions of any other general or special law to the contrary, a school district treasurer, collector or clerk need not be a resident of the school district to hold such office in such district.

§ 2102-a. Required training for school district officers. 1. a. Every trustee or voting member of a board of education of a school district or a board of cooperative educational services, elected or appointed for a term beginning on or after July first, two thousand five, shall, within the first year of his or her term, complete a minimum of six hours of training on the financial oversight, accountability and fiduciary responsibilities of a school board member.

b. In addition to the training required by paragraph a of this subdivision, every trustee or voting member of a board of education of a school district or a board of cooperative educational services, elected or appointed for a first term beginning on or after the first of July next succeeding the effective date of this paragraph, shall, within the first year of his or her term, complete a training course to acquaint him or her with the powers, functions and duties of boards of education, as well as the powers and duties of other governing and administrative authorities affecting public education.

c. Upon demonstration of compliance, no trustee or member of a board of education or a board of cooperative educational services shall be required to repeat the training requirements provided for in paragraphs a and b of this subdivision. Nothing in this section shall be deemed to require a member of a central high school district board or a member of a board of cooperative educational services to complete such requirements if such member has already completed such requirements as a member of a board of a component school district. Nothing in this section shall be deemed to require trustees or voting members of a board of education of a school district or a board of cooperative educational services to complete the requirements of paragraph b of this subdivision if such trustee or member is seated or appointed on or before the effective date of the chapter of the laws of two thousand ten that amended this subdivision.

2. The curriculum used for training on financial oversight, accountability and fiduciary responsibilities shall be approved by the commissioner in consultation with the comptroller and the curriculum used for the general training shall be approved by the commissioner. These curricula may be offered together as a single course or separately. The training required by this section may be offered by providers approved by the commissioner. In approving other providers for these trainings, the commissioner shall consider the potential provider's understanding of the educational environment, the roles of trustees and boards of education and boards of cooperative educational services, and the experience of the provider in delivering such training.

3. Each trustee or member shall demonstrate compliance with these requirements by filing with the district clerk a certificate of completion of such course or courses issued by the provider. Actual and necessary expenses incurred by a trustee or member in complying with the foregoing requirements shall be a charge against the school district.

4. As long as the chancellor of a school district in a city having a population of one million or more inhabitants shall annually certify to

the commissioner that such district has a training program that meets or exceeds the requirements of this section, the provisions of this section shall not apply to such school district.

§ 2103. Ineligibility to office. 1. No district superintendent or supervisor is eligible to the office of trustee or member of a board of education, and no trustee or member of a board of education can hold the office of district clerk, collector, treasurer or librarian, except as otherwise provided by section twenty-one hundred thirty.

2. A person removed from a school district office shall be ineligible to appointment or election to any district office for a period of one year from the date of such removal.

3. Not more than one member of a family shall be a member of the same board of education in any school district.

4. No employee of a board of education may be a member of such board; provided, however, that in a city with a population of one million or more nothing herein shall prohibit an employee of the board of education of a community school board from being a member of a community school board except that such employee may not be a member of any community school board that directly employs him.

§ 2103-a. Police officers and firefighters on boards of education. Notwithstanding any general, special or local law, ordinance or charter provision to the contrary, or any rule or regulation, police officers and firefighters employed by any municipal subdivision of the state or police district provided they are otherwise eligible, may be candidates for election and serve as members of boards of education in school districts located: (1) other than in the municipality where they perform their duties as police officers and firefighters on a regular basis, or (2) unless prohibited by the legislative body for whom they are employed, in school districts located in the locality where they perform their duties as police officers and firefighters.

§ 2105. Terms of office. 1. In a common school district having a sole trustee the term of office of trustee shall be one year.

2. In a common school district having three trustees the full term of office of trustee shall be three years.

3. In a central school district or a union-free school district, the full term of office of trustee shall be three, four or five years. Any such school district may decrease the full term of a school trustee to three or four years or increase the full term of a school trustee to four or five years by adopting a proposition at any annual meeting or election to do so; provided, however, that the term of office of each incumbent trustee shall not be increased or decreased thereby; and provided, further, that whenever a proposition shall be adopted to increase the term of office from three or four years to five years, or to decrease the term of office from four or five years to three years, such proposition shall provide that one or more of the vacancies to be filled, during each of the three years next succeeding the adoption of such proposition, shall be for three or four years only in order that, as nearly as possible, an equal number of trustees shall be elected to the board each year.

4. Trustees may be elected for shorter periods as otherwise provided in this chapter.

5. The term of office of a trustee elected at the first meeting of a newly created common school district having a sole trustee shall expire on the first Tuesday of May next thereafter.

6. The term of office of all other district officers shall be one year.

7. One year, within the meaning of this section, is a school year.

8. When a new union free school district is formed, the meeting, after

determining the number of members of the board of education to be elected, shall proceed to elect members of the board of education for various terms not in excess of five years so that as nearly as possible an equal number of vacancies shall occur on the board of education each year.

9. When the number of members of the board of education of a union free school district is increased, the additional members shall be elected for such terms not in excess of five years so that thereafter as nearly as possible an equal number of terms shall expire each year.

10. When the number of members of the board of education of a union free school district is decreased, no election shall be held until the number of members of the board of education shall be equal to or be less than the number of members to which the board of education is decreased. At elections thereafter, the members of the board of education shall be elected for such terms not in excess of five years so that as nearly as possible an equal number of members shall be elected to the board each year.

11. a. Notwithstanding any provision of this section to the contrary, in any union free school district whose boundaries are not coterminous with those of an incorporated village, except a central school district, which under the provisions of law in effect on May first, nineteen hundred fifty-seven, elected members to the board of education for a term of three years, the qualified voters of the district present and voting at the annual meeting of such district held during the year nineteen hundred fifty-eight, may adopt a resolution determining that members of the board of education of such district shall be elected for a term of three years. A certified copy of such resolution shall be filed with the commissioner of education on or before August first, nineteen hundred fifty-eight. The voters of any such district may rescind such resolution by a majority vote of the voters present and voting at a special or annual meeting of the district.

b. Notwithstanding any provision of this section to the contrary, in any central school district whose boundaries are not coterminous with

those of an incorporated village, the qualified voters of the district present and voting at the annual meeting of such district held during the year nineteen hundred fifty-nine may adopt a resolution determining that members of the board of education of such district shall be elected for a term of three years. A certified copy of such resolution shall be filed with the commissioner of education on or before August first, nineteen hundred fifty-nine. The voters of any such district may rescind any such resolution by a majority vote of the voters present and voting at a special or annual meeting of the district.

c. Notwithstanding any provision of this section to the contrary, in any union free school district, the boundaries of which are coterminous with those of an incorporated village, which under the provisions of law in effect on April twenty-first, nineteen hundred fifty-nine, elected members of the board of education for terms of three years, the qualified voters of the district present and voting at the annual meeting of such district held during the year nineteen hundred sixty-one, may adopt a resolution determining that members of the board of education of such district shall be elected for a term of three years. A certified copy of such resolution shall be filed with the commissioner of education on or before August first, nineteen hundred sixty-one. The voters of any such district may rescind such resolution by a majority vote of the voters present and voting at a special or annual meeting of the district.

12. The term of office of trustees of union free school district number one of the town of Tonawanda, Erie county, shall be three years.

13. Until the terms of all members of the board of education of a union free school district, have become five years, or three years when a resolution pursuant to subdivision three or subdivision eleven of this section has been adopted, members of such board of education shall be elected in such numbers and for such terms not in excess of five years, or three years when a resolution pursuant to subdivision three or subdivision eleven of this section has been adopted, so that as soon as practicable an equal number of members of such board of education will be elected each year.

14. Notwithstanding any other provision of this chapter to the contrary, where a term of office expires at the end of a school year and such position is or becomes vacant at the time of the annual meeting or election, the person elected to fill the full term vacancy shall also be deemed elected to fill the remainder of the term preceding the commencement of the full term.

§ 2106. Terms of officers of newly created district. The terms of all officers other than trustees elected at the first meeting of a newly created district shall expire on the first Tuesday of May, next thereafter.

§ 2108. Notice and acceptance of election. 1. The district clerk shall forthwith notify in writing each person elected to office of his election and the date thereof.

2. Such person shall be deemed to have accepted the office, unless within five days after the service of such notice, he shall file his written refusal with the clerk. The presence of any such person at the meeting which elects him to office, shall be deemed a sufficient notice to him of his election.

§ 2109. Refusal of trustee to serve. A trustee of a common school or union free school district who publicly declares that he will not accept or serve in the office of trustee, or refuses or neglects to attend three successive meetings of the board, of which he is duly notified, without rendering a good and valid excuse therefor to the other trustees vacates his office by refusal to serve.

§ 2110. Penalty for refusal to serve or perform duty. 1. Every person elected or appointed to a school district office and being duly qualified to fill the same who shall refuse to serve therein shall

forfeit the sum of five dollars.

2. Every person elected or appointed to a school district office and not refusing to accept the same who shall wilfully neglect or refuse to perform any duty thereof shall by such neglect or refusal vacate his office and also forfeit the sum of ten dollars.

3. The district superintendent of the supervisory district wherein any such person resides may accept his written resignation of the office, and the filing of such resignation and acceptance in the office of the district clerk shall be a bar to the recovery of either penalty under this section.

4. These penalties shall be for the benefit of the district for which such officer was appointed or elected.

§ 2111. Resignation of district officers. A school district officer may resign to a district meeting. Such officer shall also be deemed to have resigned if he filed a written resignation with the district superintendent of his district and such superintendent endorses thereon his approval and files the same with the district clerk.

§ 2112. Vacating office. 1. A school district office becomes vacant by death, resignation, refusal to serve, incapacity, or removal from the district or from office.

2. The collector or treasurer vacates his office by not executing a bond to the trustees, as herein required.

3. A trustee or a member of a board of education vacates his office by the acceptance of either the office of district superintendent or of supervisor.

§ 2113. Filling vacancy in office of trustee. 1. A vacancy in the

office of trustee in any school district may be filled by election within ninety days after it occurs. If not so filled, the district superintendent of the supervisory district, within which the schoolhouse or principal schoolhouse of the district is situated, may appoint a competent person to fill it.

2. If a vacancy in the office of trustee in a union free school district exists, the commissioner of education may order a special election for filling such vacancy. When such special election is ordered the vacancy shall not be filled otherwise.

3. If such vacancy is filled by a district meeting, it shall be for the balance of the unexpired term; but when such vacancy is filled by appointment by a district superintendent, it shall be only until the next annual meeting of the district.

4. A vacancy in the office of trustee in union free school district number one of the town of Tonawanda, Erie county, shall be filled by appointment by the remaining members of the board to serve until the next annual election at which the vacancy may be filled.

§ 2114. Filling vacancy in office of clerk, collector or treasurer. A vacancy in the office of clerk, collector or treasurer, may be filled by appointment by the trustees of the district, and the appointees shall hold their respective offices until the next annual meeting of the district, and until their successors are elected and have qualified.

§ 2115. Notice of appointment to fill vacancy and filing thereof. Every appointment to fill a vacancy shall be forthwith filed, by the district superintendent or trustees making it, in the office of the district clerk, who shall immediately give notice of the appointment to the person appointed.

§ 2116. District records, books, etc., are district property. The

records, books and papers belonging or appertaining to the office of any officer of a school district are hereby declared to be the property of such district and shall be open for inspection by any qualified voter of the district at all reasonable hours, and any such voter may make copies thereof.

§ 2116-a. Books and records to be kept by school districts. Unless otherwise prescribed by the state comptroller pursuant to section thirty-six of the general municipal law:

1. All school districts shall be required to maintain books and records in such form as the commissioner of education shall approve.

2. All school districts, except those employing fewer than eight teachers, shall be required to use a double entry bookkeeping system incorporating the fund method of accounting in accordance with a uniform system of accounts approved by the commissioner of education and any school district under the jurisdiction of a district superintendent may at its option request the district superintendent to provide such accounting service. The cost of accounting service so requested shall be allocated by the district superintendent to and be paid by the school district receiving such service.

3. (a) The school authorities of each school district, except those employing fewer than eight teachers, but including the city school districts of the cities of Buffalo and Rochester, shall obtain an annual audit of its records by an independent certified public accountant or an independent public accountant. The report of such annual audit shall be presented to the trustees or board of education by such accountant. The board of education of the city school district of the city of New York, districts of such city shall obtain an annual audit by the comptroller of the city of New York, or by an independent certified public accountant or an independent public accountant. Such city school district audit shall include, but not be limited to, transactions processed at the level of the central administrative office, the district, and the individual school. The community districts of such

city school district shall obtain an annual audit by the bureau of audit of the board of education of the city school district of the city of New York or by an independent certified public accountant or an independent public accountant. A copy of the audit report in form prescribed by the commissioner and certified by the accountant, or, in the city school district of the city of New York or the community districts therein, by the accountant, or the comptroller or bureau of audit, as the case may be, shall be furnished to the commissioner on or before October fifteenth following the end of the fiscal year audited, except that such report shall be furnished to the commissioner on or before January first following the end of the fiscal year audited for the city school districts of the cities of Buffalo, Rochester, Syracuse, Yonkers, and New York and for the community school districts of the city of New York.

(b) On or after July first, two thousand five, all school districts, except the city school district of the city of New York, shall utilize a competitive request for proposal process when contracting for such annual audit. In addition, on or after July first, two thousand five, and applicable to all school districts, no audit engagement shall be for a term longer than five consecutive years; provided, however, that nothing in this subdivision shall preclude a district, in its discretion, from permitting an independent certified public accountant or an independent public accountant engaged under an existing contract for such services to (i) submit a proposal for such services in response to a request for competitive proposals, or (ii) be awarded a contract to provide such services under a request for proposal process. School district procurement policies and procedures adopted pursuant to section one hundred four-b of the general municipal law shall be amended, if necessary, to be consistent with this requirement.

(c) Notwithstanding the provisions of subparagraph one of paragraph (b) of subdivision four of section thirty-five of the general municipal law, each school district shall (i) prepare a corrective action plan in response to any findings contained in the annual external audit report or management letter, or any final audit report issued by the state comptroller, within ninety days of receipt of such report or letter, and (ii) to the extent practicable, begin implementation of such corrective action plan no later than the end of the next fiscal year.

3-a. In addition to the annual audit required by subdivision three of this section, each school district and board of cooperative educational services within the state shall be subject to audits of the state conducted by the comptroller as set forth in section thirty-three of the general municipal law.

3-b. Each school district shall in a timely fashion post on its website, if any, the annual external audit report and the corrective action plan prepared in response to any findings contained in the annual external audit report or management letter, or any final audit report issued by the state comptroller.

4. The school authorities of each school district may employ or contract for the preparation of payrolls, accounts and records by persons, firms or corporations using electronic computer systems.

§ 2116-b. Internal audit function. 1. No later than July first, two thousand six, each school district shall establish an internal audit function to be in operation no later than the following December thirty-first. Such function shall include: (a) development of a risk assessment of district operations, including but not limited to, a review of financial policies and procedures and the testing and evaluation of district internal controls; (b) an annual review and update of such risk assessment; and (c) preparation of reports, at least annually or more frequently as the trustees or board of education may direct, which analyze significant risk assessment findings, recommend changes for strengthening controls and reducing identified risks, and specify timeframes for implementation of such recommendations.

2. School districts of less than eight teachers, school districts with actual general fund expenditures totaling less than five million dollars in the previous school year, or school districts with actual enrollment of less than one thousand five hundred students in the previous school year shall be exempt from this requirement. Any school district claiming such exemption shall annually certify to the commissioner that such school district meets the requirements set forth in this subdivision.

3. The commissioner, in consultation with the comptroller, is authorized to promulgate regulations with respect to the internal audit function as is necessary for the proper performance of its duties, including standards, qualifications and training for audit personnel. In developing such regulations, the commissioner shall consider the differing needs, capabilities and environments of school districts of varying sizes across the state.

4. A district shall be permitted to utilize existing district personnel to fulfill this function, but such persons shall not have any responsibility for other business operations of the district while performing such function.

5. A district shall be permitted to use (a) inter-municipal cooperative agreements, (b) shared services to the extent authorized by section nineteen hundred fifty of this title, or (c) independent contractors, to fulfill this function as long as personnel or entities performing the internal audit function comply with any regulations issued by the commissioner and meet professional auditing standards for independence between the auditor and the district.

6. Personnel or entities performing the internal audit function shall report directly to the trustees or board of education of each district. The district audit committee established under section twenty-one hundred sixteen-c of this article shall assist in the oversight of the internal audit function on behalf of the trustees or board.

7. Nothing in this section shall be construed as requiring a school district in any city with a population of one hundred twenty-five thousand or more to replace or modify an existing internal audit function where such function already exists by special or local law, so long as the superintendent of the district annually certifies to the commissioner that the existing internal audit function meets or exceeds the requirements of this section.

§ 2116-c. Audit committees. 1. Every school district, except those employing fewer than eight teachers, shall establish by a resolution of the trustees or board of education an audit committee to oversee and report to the trustees or board on the annual audit of the district records as required by section twenty-one hundred sixteen-a of this article.

2. The audit committee shall be established no later than January first, two thousand six as a committee of the trustees or board, as an advisory committee, or as a committee of the whole. An advisory committee may include, or be composed entirely of persons other than trustees or members of the board if, in the opinion of the trustees or board, such membership is advisable to provide accounting and auditing expertise.

3. The audit committee shall consist of at least three members, who shall serve without compensation. Committee members shall be reimbursed for any actual and necessary expenditures incurred in relation to attendance at meetings. Employees of the school district are prohibited from serving on the audit committee. A member of an audit committee shall be deemed a school district officer for the purposes of sections thirty-eight hundred eleven through thirty-eight hundred thirteen of this chapter, but shall not be required to be a resident of the school district.

4. The role of an audit committee shall be advisory and any recommendations it provides to the trustees or board under subdivisions five and six of this section shall not substitute for any required review and acceptance by the trustees or board of education. If required by a regulation adopted by the commissioner, the annual audit report prepared by an independent certified public accountant or an independent public accountant shall not be deemed final until accepted by a resolution adopted by the trustees or board of education.

5. It shall be the responsibility of the audit committee to:

(a) provide recommendations regarding the appointment of the external auditor for the district;

(b) meet with the external auditor prior to commencement of the audit;

(c) review and discuss with the external auditor any risk assessment of the district's fiscal operations developed as part of the auditor's responsibilities under governmental auditing standards for a financial statement audit and federal single audit standards if applicable;

(d) receive and review the draft annual audit report and accompanying draft management letter and, working directly with the external auditor, assist the trustees or board of education in interpreting such documents;

(e) make a recommendation to the trustees or board of education on accepting the annual audit report; and

(f) review every corrective action plan to be developed by a school district as required by section twenty-one hundred sixteen-a of this article and assist the trustees or board of education in the implementation of such plan.

6. In addition, it shall be the responsibility of the audit committee to assist in the oversight of the internal audit function required by section twenty-one hundred sixteen-b of this article, including, but not limited to, providing recommendations regarding the appointment of the internal auditor for the school district, the review of significant findings and recommendations of the internal auditor, monitoring of the school district's implementation of such recommendations, and the evaluation of the performance of the internal audit function.

7. Notwithstanding any provision of article seven of the public officers law or any other law to the contrary, a school district audit committee may conduct an executive session pursuant to section one hundred five of the public officers law pertaining to any matter set forth in paragraphs b, c, and d of subdivision five of this section. Any trustee or member of the board of education who is not a member of such audit committee may be allowed to attend an audit committee meeting if authorized by a resolution of the trustees or board of education.

8. The commissioner is authorized to promulgate regulations with respect to audit committees as is necessary for the proper performance of their duties.

9. As long as the chancellor of a school district in a city having a population of one million or more inhabitants shall annually certify to the commissioner that such district has a process for review by an audit committee of the district's annual audit that meets or exceeds the requirements of this section, the provisions of this section shall not apply to such school district.

§ 2117. Reports. 1. The school authorities of each school district shall make a full report to the commissioner of education upon any particular matter relating to their schools whenever such report shall be required by said commissioner.

2. The school authorities of each such school district shall, on the first day of August in each year, make to the commissioner of education a report in writing for the year ending June thirtieth preceding. In districts under the jurisdiction of a district superintendent, such reports shall be first submitted to the district superintendent, in duplicate, and he shall approve one copy and file it with the commissioner of education. Such report shall be in such form as the commissioner of education shall approve; and every such report shall certify:

a. The whole time school has been maintained in their district during the year ending on June thirtieth previous to the date of such report, and stating what portion of the time such school has been taught by qualified teachers, and the whole number of days, including holidays, in which the school was taught by qualified teachers.

b. The amount of their drafts upon the county treasurer, collector or treasurer of the district for the payment of teachers' salaries during such year, and the amount of their drafts for the purchase of books and school apparatus during such year, and the manner in which such moneys have been expended.

c. The number of children taught in the district during such year by

qualified teachers, and the aggregate days' attendance of all such children.

d. The number of children residing in their district, from birth and under eighteen years of age, who shall have been, on the thirtieth day of August last preceding the date of such report, legal residents of such district. Children supported at an orphan asylum shall not be included in such enumeration.

e. The number of vaccinated and unvaccinated children of school age in their district.

f. The amount of money paid for teachers' salaries, in addition to the public money paid therefor, the amount of taxes levied in such district for purchasing school sites, for building, hiring, purchasing, repairing and insuring schoolhouses, for fuel, for school libraries, or for any other purpose allowed by law.

g. Such additional information in relation to the schools under their management and control as the commissioner of education shall require.

3. The commissioner of education shall prepare, based on information submitted to him by school districts, periodic reports covering new school buildings giving information about them including but not limited to the following:

(1) Cost of site.

(2) Cost of site improvement including roads, parking, playfields, and utility lines to the building wall.

(3) Original furnishings, equipment and apparatus.

(4) Professional fees.

(5) Incidental costs.

(6) Total cost of building.

(7) Cost of building per pupil.

(8) Cost of building per gross square foot.

(9) Cost per gross square foot of the heating and ventilating.

(10) Cost per gross square foot of the plumbing.

(11) Cost per gross square foot of the electrical work.

(12) Square foot per pupil in the total gross area.

(13) Square foot per pupil in the net area of the regular and special classrooms.

(14) Square foot per pupil in the net area of other rooms used for educational, health, administrative or social purposes such as the cafeteria, auditorium, gymnasium, kitchen and library.

(15) Square foot per pupil of the remaining difference between the gross area and the sum of thirteen and fourteen which would include toilet rooms, general storage, corridors, stair enclosures, janitor closets, boiler rooms, building machinery rooms and the area occupied by the walls of the building.

(16) An outline of the school plan.

(17) A brief outline specification for the building construction.

(18) The name of the architect.

(19) The name of the mechanical engineer.

(20) The name of the structural engineer.

(21) Whether single or multiple bidding was used.

§ 2118. Expenses of school district officers. All school district officers, including trustees and members of boards of education, shall be entitled to be reimbursed for any expenses actually and necessarily incurred in the performance of their official duties. Mileage rates established for the use of personally owned cars in lieu of auditing and allowing claims for actual and necessary expenses of travel under the provisions of subdivision twenty-seven of section sixteen hundred four of this chapter, shall apply to claims under this section. This section shall not apply to district superintendents of schools.

§ 2119. School district trustee not to draw draft on county treasurer in certain cases. A school district trustee who issues an order or draws a draft on a county treasurer, district treasurer or collector or other disbursing officer of such district for any money, unless there is at the time sufficient money in the hands of such county treasurer, district treasurer or collector or other disbursing officer belonging to the district to meet such order or draft, is guilty of a misdemeanor.

PART II

DISTRICT CLERK; TREASURER; COLLECTOR

2121. Duties of district clerk.
2122. Powers and duties of district treasurer in common school district.
2123. Compensation of clerk and treasurer in common school districts.
2124. Collector's official undertaking in common school district.
2125. Collector to disburse state moneys.
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2127. Liability of collector for moneys lost.
2128. Remedy of trustees against collector in default.
2129. Deposit of moneys by treasurer and collector.
2130. Clerk, treasurer and collector in union free school district.

§ 2121. Duties of district clerk. It shall be the duty of the clerk of each school district:

1. To record the proceedings of all meetings of the voters of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees to the district superintendent.

2. To give notice, in the manner prescribed by subdivision two of section two thousand one, of the time and place of holding special district meetings called by the trustees.

3. To affix a notice in writing of the time and place of any adjourned meeting in at least five of the most public places of such district, when the meeting shall have been adjourned for a longer time than one month. Such notice shall be so affixed at least five days before the time appointed for such adjourned meeting.

4. To give the required notice of every annual district meeting.

5. To give notice immediately to every person elected or appointed to office of his election or appointment; and also to report to the town clerk of the town in which the schoolhouse of his district is situated, the names and post-office addresses of such officers, under a penalty of five dollars for neglect in each instance.

6. To notify the trustees of every resignation duly accepted by the district superintendent.

7. To keep and preserve all records, books and papers belonging to his office and to deliver the same to his successor. For a refusal or neglect so to do, he shall forfeit fifty dollars for the benefit of the schools of the district, to be recovered by the trustees.

8. In the event that the district shall be dissolved, to deposit the books, papers and records of his office with the clerk of the successor school district.

9. To attend all meetings of the board of trustees when notified, and keep a record of their proceedings in a book provided for that purpose.

10. To call special meetings of the inhabitants whenever all the trustees of the district shall have vacated their office.

11. To immediately notify the county treasurer of the name and address of persons elected to the office of district treasurer, if a treasurer is elected, and to the office of district collector.

12. To receive, keep and preserve any and all records, books and papers of the respective dissolved school districts deposited with him pursuant to section fifteen hundred nineteen of this chapter, and such records together with any records of dissolved school districts heretofore deposited shall be considered to be records of the successor school district.

§ 2122. Powers and duties of district treasurer in common school district. 1. The treasurer of a school district shall be the chief accounting officer and the custodian of all moneys belonging to the district from whatever source derived, and it is hereby made the duty of the trustees of such district to pay to such treasurer any and all moneys that may come into their hands belonging to such district derived from sales of personal or real property of the district, from insurance policies, from bonds of the district issued and sold by them, or from any other source whatever.

2. Such treasurer is hereby authorized and empowered to receive from the collector of such district all moneys collected by such collector under and by virtue of any tax list and warrant issued and delivered to him.

3. Such treasurer is hereby authorized and empowered to demand and receive from the county treasurer of the county in which such school district is situated all public money apportioned to said district.

4. It shall be the duty of such treasurer before entering upon the discharge of his duties to execute and deliver to the trustees of such district, his official undertaking in such sum as shall have been fixed by a district meeting or as such trustees with the approval of the district superintendent of schools shall require, with a corporate surety to be approved by such trustees and by the district superintendent of schools, conditioned to faithfully discharge the duties of his office, and to well and truly account for all moneys received by him, and to pay over any sums of money remaining in his hands to his successor in office. Such official undertaking when so executed and approved by resolution of such trustees shall be filed with the clerk of the district. The expense of any undertaking executed pursuant to this section shall be a school district charge.

5. No moneys shall be paid out or disbursed by such treasurer, except upon the written orders of a sole trustee, or a majority of the

trustees.

6. Such treasurer shall, whenever required by such trustees, report to them a detailed statement of the moneys received by him and of his disbursements, and at the annual meeting of such district he shall render a full account of all moneys received by him and from what source, and when received, and all disbursements made by him and to whom and the dates of such disbursements respectively, and the balance of moneys remaining in his hands.

§ 2123. Compensation of clerk and treasurer in common school districts. The clerk and treasurer of every common school district may be entitled to receive such compensation for their services as shall be fixed at an annual meeting of the district. In case such provision is not made at an annual meeting for the compensation of the clerk and/or treasurer of such common school district, the trustees of the district may fix the same.

§ 2124. Collector's official undertaking in common school district. 1. It shall be the duty of the collector, before entering upon the discharge of his duties to execute and deliver to the trustees of the district, his official undertaking, with a corporate surety, to be approved by a majority of the trustees and by the district superintendent of schools, in such amount as the district meeting shall have fixed, or if such meeting shall not have fixed the amount then in such amount as the trustees with the approval of the district superintendent of schools shall deem reasonable, conditioned for the due and faithful execution of the duties of his office and for the proper accounting for all moneys that may come into the hands of such collector from any source whatsoever.

2. The trustees, upon receiving said official undertaking, shall, if they approve thereof, adopt a resolution to that effect, and if the district superintendent also approve thereof he shall indorse his approval thereon, whereupon the trustees or the district superintendent

shall forthwith file the same with the clerk of the district. The expense of any undertaking executed pursuant to this section shall be a school district charge.

§ 2125. Collector to disburse state moneys. In any school district which does not have a treasurer it shall be the duty of the collector of such district to disburse the money apportioned by the state.

§ 2126. Payments and reports by collector. 1. The collector shall keep in his possession all moneys received or collected by him by virtue of any warrant, or received by him from the county treasurer or board of supervisors for taxes returned as unpaid, or moneys apportioned by the state or raised by direct taxation, and pay the same out upon the written order of a majority of the trustees.

2. When a treasurer shall have been elected or appointed in a school district, the collector of such district shall pay over all moneys collected by him under and by virtue of any tax list and warrant issued and delivered to him, to said treasurer; and he shall report in writing, at the annual meeting, all his collections, receipts and disbursements, and shall report to the county treasurer on or before the first Tuesday of March in each year the amounts of school moneys in his hands not paid out on trustees' orders, and shall pay over to his successor in office, when such successor has duly qualified and given a bond as required by section twenty-one hundred twenty-four, all moneys in his hands belonging to the district.

§ 2127. Liability of collector for moneys lost. If by the neglect of the collector any moneys shall be lost to a school district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to such district the amount of the moneys thus lost, and shall account for and pay over the same to the trustees of such district, in the same manner as if they had been collected.

§ 2128. Remedy of trustees against collector in default. For the recovery of all such forfeitures, and of all balances, in the hands of the collector, which he shall have neglected or refused to pay to his successor, or to the treasurer of such district, the trustees, in the name of their office, shall have their remedy upon the official undertaking of the collector, or any action and any remedy given by law; and they shall apply all such moneys, when recovered, in the same manner as if paid without suit.

§ 2129. Deposit of moneys by treasurer and collector. All moneys received by the treasurer and collector shall be deposited and secured in the manner provided by section ten of the general municipal law.

§ 2130. Clerk, treasurer and collector in union free school district. 1. In every union free school district the board of education shall have the power to appoint one of their number, or some other individual as clerk of the board of education of such district.

2. Such clerk shall also act as clerk of said district, and shall perform all the clerical and other duties pertaining to his office, and for his services he shall be entitled to receive such compensation as shall be fixed at an annual meeting of such district.

3. In case no provision is made at an annual meeting for the compensation of a clerk, the board of education may fix the same.

4. The board of education in every union free school district whose limits do not correspond with those of an incorporated village or city shall appoint a district treasurer, and a collector who shall hold office during the pleasure of the board. The board shall also fix the compensation of the treasurer. The board of education of such district may also fix the compensation of the collector, which shall be in lieu of all fees to which a school district collector might be entitled,

under the provisions of this chapter. The treasurer, collector, village receiver or village collector and town official who acts as school collector, shall deposit and secure all sums of money received and collected by them in the manner provided by section ten of the general municipal law.

Notwithstanding the provisions of section ten of the general municipal law, the board of education of the Fishers Island union free school district in the town of Southold, Suffolk county may designate a depositary located in the state of Connecticut. The board may require a report by the cashier of the depositaries to be submitted at any regular meeting of the board of the amount of deposit to the credit of the treasurer.

5. Such treasurer and collector shall each, and within ten days after notice in writing of his appointment, duly served upon him, and before entering upon the duties of his office, execute and deliver to the said board of education an official undertaking, with such sufficient penalty and corporate surety as the board may require, conditioned for the faithful discharge of the duties of his office; and in case such official undertaking shall not be given within the time specified, such office shall thereby become vacant, and said board shall thereupon, by appointment, fill such vacancy. In districts under the jurisdiction of a district superintendent of schools, such official undertakings shall also be approved by him. They shall be filed in the office of the clerk of the district. The expense of any undertaking executed pursuant to this section shall be a school district charge.

6. So much of this section as relates to the election of a clerk shall not apply to the towns of Cortlandt and White Plains in Westchester county.

7. Notwithstanding any other provision of law, the board of education of the Bronxville Union Free School District shall appoint a district treasurer who shall hold office during the pleasure of the board. The board shall also fix the compensation of the treasurer. The treasurer shall deposit and secure all sums of money received and collected by him

or her in the manner provided by section ten of the general municipal law.

PART III

TOWN AND COUNTY OFFICIALS

2140. Duties of town clerks.
2141. Expenses of town clerks.
2142. Duties of supervisors.
2143. County clerks and county treasurers to forward certain reports.

§ 2140. Duties of town clerks. It shall be the duty of the town clerk of each town: 1. To keep all books, maps, papers, and records of his office touching public schools, and forthwith to report to the district superintendent any loss or injury to the same.

2. To receive from the district superintendent or superintendents the certificates of apportionment of school moneys to each school district or part of a school district of the town, and to record them in a book to be kept for that purpose.

3. To notify forthwith the trustees of the several school districts of the filing of each such certificate.

4. To furnish the district superintendent of the supervisory district in which his town is situated the names and postoffice addresses of the school district officers reported to him by the district clerks.

5. To distribute to the trustees of the school districts all books, blanks and circulars which shall be delivered or forwarded to him by the commissioner of education or district superintendent for that purpose.

6. To receive, file and record the descriptions of the school districts, and all papers and proceedings delivered to him by the district superintendent pursuant to the provisions of this chapter.

7. To act, when thereto legally required, in the erection or alteration of a school district, as in article thirty-one of this chapter provided.

8. To deliver within one year from the effective date of this act to the clerk of the successor district any and all records of the respective dissolved school districts heretofore deposited in the town clerk's office pursuant to section fifteen hundred nineteen of the education law as it existed prior to this act, and to notify in writing the district superintendent of the supervisory district in which such successor school district is situated that such records have been so deposited.

9. To perform any other duty which may be devolved upon him by this chapter, or by any other law touching public schools.

§ 2141. Expenses of town clerks. The necessary expenses and disbursements of the town clerk in the performance of his said duties, are a town charge, and shall be audited and paid as such.

§ 2142. Duties of supervisors. It is the duty of every supervisor: 1. To sue for and recover, in the name of his office, when the duty is not elsewhere imposed by law, all penalties and forfeitures imposed by this chapter, and for any default or omission of any town officer or school district board or officer under this chapter; and after deducting his costs and expenses to report the balances to the district superintendent.

2. To act, when legally required, in the erection or alteration of a school district, as provided in article thirty-one of this chapter, and to perform any other duty which may be devolved upon him by this chapter, or any other law relating to public schools.

3. To take and hold possession of the gospel and school lots of his

town.

4. To lease the same for such time not exceeding twenty-one years, and upon such conditions as he shall deem expedient.

5. To sell the same with the advice and consent of the town board or, if the town board shall so direct, with the advice and consent of the inhabitants of the town, at a town election, for such price and upon such terms of credit as shall appear to him most advantageous.

6. To invest the proceeds of such sales in loans, secured by bond and mortgage upon unincumbered real property of the value of double the amount loaned.

7. To purchase the property so mortgaged upon a foreclosure, and to hold and convey, pursuant to the provisions of this section, the property so purchased whenever it shall become necessary.

8. To re-loan the amount of such loans repaid to him, upon the like security.

9. To apply the rents and profits of such lots, and the interest of the money arising from the sale thereof, to the support of schools, as may be provided by law, in such manner as shall be thus provided.

10. To render a just and true account of the proceeds of the sales and the interest on the loans thereof, and of the rents and profits of such gospel and school lots, and of the expenditure and appropriation thereof, on the last Tuesday next preceding the biennial town election, to the town board.

11. To deliver over to his successor in office, all books, papers and securities relating to the same, at the expiration of his term of office.

12. To take therefor a receipt, which shall be filed in the clerk's office of the town.

13. To commence and prosecute in and by the name and style of the supervisor of the town any suits against any of his predecessors in office or against any other person to recover any debt, dues or demands, in anywise arising from such public lot; and no such suit shall abate by the death, resignation or removal from office of the said supervisor but the same shall and may be prosecuted to judgment and execution by his successor in office.

§ 2143. County clerks and county treasurers to forward certain reports. 1. The county clerk of each county shall, upon the requisition of the commissioner of education, file with such commissioner any reports of trustees of school districts and boards of education or the abstract of such reports made by district superintendents which have been filed in the office of such county clerk pursuant to the provisions of this chapter, whenever it is necessary for the commissioner of education to obtain information or data contained in official reports which have been transmitted to the education department but which have been destroyed by fire or otherwise.

2. The county treasurer of each county shall, upon the requisition of the commissioner of education, forward to said commissioner any original certificates relating to the apportionment of school moneys which the commissioner of education has filed in the office of such treasurer, whenever it is necessary to obtain information on the apportionment of school moneys when the data relating thereto in the office of the commissioner of education have been destroyed by fire or otherwise. After securing such information as may be necessary from such certificates, the commissioner of education shall return the same to the treasurer of such county.

ARTICLE 45

SUPERVISORY DISTRICTS

Section 2201. Supervisory districts.
2202. Office of district superintendent of schools continued.

2204. Appointment of district superintendent.
2205. Qualifications of district superintendent.
2206. District superintendent must take oath of office.
2208. Vacancies in the office of district superintendent.
2209. Salary of district superintendent.
2211. Salary of district superintendent may be withheld.
2212. Removal of district superintendent from office.
2212-b. Mandatory withholding of excess salaries and benefits; removal from office for violations of salary and benefit caps.
2213. District superintendent not to engage in other business.
2214. District superintendent not to be interested in certain business.
2215. General powers and duties of district superintendent.
2216. District superintendent subject to regulations of commissioner of education.
2217. Appeals from acts of district superintendent.
2218. Partitioning of territory and formation of new school districts by district superintendents.

§ 2201. Supervisory districts. 1. All supervisory districts in existence on the date this section, as hereby amended, takes effect, are hereby continued and may be altered or dissolved as provided in subdivisions two and three of this section.

2. Whenever a vacancy hereafter occurs in the office of district superintendent of schools in any supervisory district or whenever the commissioner receives a letter of resignation from a district superintendent, the commissioner shall survey the field in the county where the vacancy occurred, and if it shall find that the continuance of the number of supervisory districts then existing is no longer necessary to serve adequately the educational interests of the county he or she shall be authorized to conduct a study to examine the possible reorganization of such supervisory district if no such study has been conducted within five years.

3. The commissioner is authorized when in his judgment such action will promote the educational interests of the area to study the transfer of one or more school districts in another adjoining supervisory district, to such supervisory district.

4. The commissioner shall complete such study no later than four months after the date such vacancy occurred in the office of district superintendent. The findings of such study shall be presented to the boards of trustees and boards of education by the regent representing such boards at a public meeting held no later than thirty days after the completion of such study, for the purpose of eliciting public comment on the proposed reorganization plan, a copy of such plan shall be provided to the governor, the temporary president of the senate and the speaker of the assembly. The commissioner shall cause notice of such meeting to be posted at least ten days before each such meeting in ten conspicuous places in the school district. In addition to the posting of such notice, a copy thereof shall be duly published, at least three days before such meeting, in a daily or weekly newspaper published within, or in general circulation in, the supervisory district in which the meeting is to be held. The expense of posting and publishing such notice shall be a charge upon the component districts contained within such supervisory district.

5. The commissioner shall be authorized to reorganize any supervisory district, upon completion of the requirements herein, when in his judgement such action will promote the educational interests of such supervisory districts affected.

6. Such changes in supervisory districts shall conform to the following requirements:

a. No school district shall be divided between supervisory districts.

b. The territory of supervisory districts shall remain contiguous and compact.

c. Towns shall remain arranged in supervisory districts so that there

shall be as equal a division of the territory and number of school districts as may be practicable.

§ 2202. Office of district superintendent of schools continued. The office of district superintendent of schools is hereby continued.

§ 2204. Appointment of district superintendent. 1. The board of cooperative educational services of a supervisory district shall meet upon the direction of the commissioner of education, at a time and place designated by the commissioner, for the purpose of appointing a district superintendent of schools whenever a vacancy in such office shall occur, unless the commissioner shall issue an order pursuant to section twenty-two hundred one redistricting the county so as to provide for a lesser number of supervisory districts. Such direction shall be filed by the commissioner of education in the office of the clerk of the board of cooperative educational services and the commissioner shall also mail a notice of the time and place of such meeting to each member of the board of cooperative educational services of the district. If such vacancy shall not be filled at such meeting, such meeting may be adjourned to a subsequent date, and the commissioner may appoint a district superintendent of schools who shall serve until the board of cooperative educational services shall fill such vacancy.

2. In the appointment of such district superintendent the vote shall be by ballot and the person receiving a majority of all votes cast shall be appointed subject to the approval of the commissioner of education. Each member of the board of cooperative educational services shall be entitled to one vote in such appointment.

3. The clerk of such board shall file a copy of the proceedings of each such meeting and each such appointment, certified by himself and the president, in the office of the clerk of the county in which such meeting or appointment takes place and with the commissioner of education within five days after the close thereof.

4. Whenever a district superintendent from one supervisory district is appointed to be a temporary or acting superintendent in another supervisory district, he or she shall not receive any compensation for duties associated with the temporary or acting position.

§ 2205. Qualifications of district superintendent. 1. To be eligible to appointment to the office of district superintendent of schools a person must be at least twenty-one years of age, a citizen of the United States and a resident of the state. No person shall be ineligible on account of sex.

2. In addition thereto he shall possess or be entitled to a superintendent's certificate as provided in section three thousand three of this chapter.

3. A district superintendent who is removed from office shall not be eligible for appointment to such office in any supervisory district for a period of five years.

§ 2206. District superintendent must take oath of office. A district superintendent of schools before entering upon the discharge of the duties of his office, and not later than five days after the date on which his term of office is to commence, shall take the oath of office prescribed by the constitution. Such oath may be taken before a county clerk, a justice of the peace, or a notary public, and must be filed in the office of the secretary of state.

§ 2208. Vacancies in the office of district superintendent. The office of district superintendent of schools shall be vacant upon:

1. The death of an incumbent.

2. His removal from office by the commissioner of education.

3. His filing in the offices of the commissioner of education and of the clerk of the board of cooperative educational services his written resignation.

4. His acceptance of the office of supervisor, town clerk or trustee of a school district.

5. His failure to take and file the oath of office as provided in this article.

§ 2209. Salary of district superintendent. 1. Each district superintendent shall receive an annual salary from the state of forty-three thousand four hundred ninety-nine dollars, payable by the commissioner of education from moneys appropriated therefor, and in no event shall any moneys in excess of such amount be paid for such salaries unless this section is amended or explicitly notwithstood.

2. The supervisors of the towns composing any supervisory district may by adopting a resolution by a majority vote increase the salary to be paid by such district to its district superintendent. Such supervisors must thereupon file with the clerk of the board of supervisors a certificate showing the amount of such increase. The board of supervisors of each county shall levy such amount annually by tax on the towns composing such supervisory district within the county.

§ 2211. Salary of district superintendent may be withheld. The commissioner of education may, whenever he is satisfied that a district superintendent of schools has persistently neglected to perform an official duty, withhold payment of the whole or any part of such superintendent's salary as it shall become due and he may also withhold any sum to which such superintendent shall be entitled for expenses and the amount thus withheld shall be forfeited; but said commissioner may in his discretion remit such forfeiture in whole or in part

§ 2212. Removal of district superintendent from office. A district superintendent may be removed from office at any time upon the affirmative vote of a majority of the members of the board of cooperative educational services, or by the commissioner pursuant to section three hundred six of this chapter.

§ 2212-b. Mandatory withholding of excess salaries and benefits; removal from office for violations of salary and benefit caps. 1. The commissioner shall annually review whether district superintendents are in full compliance with the provisions of subparagraph two of paragraph a of subdivision four of section nineteen hundred fifty of this title. It shall be the duty of each such superintendent to report each such violation.

2. The commissioner shall withhold from the state salary paid to a district superintendent pursuant to this article twice the value of each such violation, unless the commissioner determines that the violation was inadvertent, in which case the commissioner shall withhold the value of such violation.

3. In addition to the remedy described in subdivision two of this section, a district superintendent shall be removed from office, and the office deemed vacated, upon a finding by the commissioner that a district superintendent has intentionally, knowingly or repeatedly violated the provisions of subparagraph two of paragraph a of subdivision four of section nineteen hundred fifty of this title, or has knowingly failed to report such violation voluntarily pursuant to subdivision one of this section. Upon such a finding and after affording the district superintendent the opportunity for a hearing, the commissioner shall take all necessary steps to remove the district superintendent from office.

§ 2213. District superintendent not to engage in other business. A district superintendent of schools shall devote his whole time to the performance of the duties of his office and shall not engage in any

other occupation or profession. Such time as shall not necessarily be devoted by a district superintendent of schools to the performance of the clerical and administrative work of his office shall be devoted to the visitation and inspection of the schools maintained in his supervisory district.

§ 2214. District superintendent not to be interested in certain business. A district superintendent of schools shall not: 1. Be directly or indirectly interested otherwise than as author in the sale, publication, or manufacture of school books, maps, charts, or school apparatus or in the sale or manufacture of school furniture or any other school or library supplies.

2. Be directly or indirectly interested in any contract made by the trustees of a school district.

3. Be directly or indirectly interested in any agency or bureau maintained to obtain or aid in obtaining positions for teachers or superintendents.

4. Directly or indirectly receive any emolument, gift, pay, reward or promise of pay or reward for recommending or procuring the sale, use or adoption or aiding in procuring the sale, use or adoption of any book, map, chart, school apparatus or furniture or other supplies for any school or library or for recommending a teacher or aiding a teacher in obtaining an appointment to teach.

§ 2215. General powers and duties of district superintendent. A district superintendent of schools shall have power and it shall be his duty: 1. To inquire from time to time into and ascertain whether the boundaries of the school districts within his supervisory district are definitely and plainly described in the records of the office of the proper town clerk; to cause to be made and filed in the education department a record of such boundaries; and in case the record of the boundaries of any school district shall be found indefinite or

defective, or if the same shall be in dispute, then to cause the same to be amended or an amended record of the boundaries to be made and filed in the office of the proper town clerk and in the education department. All necessary expenses incurred in making and filing such records and in establishing such amended records shall be a charge on the district or districts affected, to be audited and allowed by the trustees thereof, on the certificate of the district superintendent.

2. To assemble all the teachers of his district by towns or otherwise, for the purpose of conference on the course of study, for reports of and advice and counsel in relation to discipline, school management and other school work, and for promoting the general good of all the schools of the district. Teachers shall be entitled to compensation for days actually in attendance upon such conference.

3. To hold meetings of trustees and other school officers and to advise with and counsel them in relation to their powers and duties and particularly in relation to the repair, construction, heating, ventilating and lighting of schoolhouses and improving and adorning the school grounds. To especially advise trustees relative to the employment of teachers, the adoption of textbooks and the purchase of library books, school apparatus, furniture and supplies.

6. At the direction of the commissioner, to direct the trustees of any district to abate any nuisance in or on the school grounds.

7. To approve the amount of or the corporate sureties on official undertakings of treasurers and collectors of school districts, where such approval is required pursuant to law.

8. At the direction of the commissioner, to condemn a schoolhouse as provided in section four hundred twelve of this chapter.

9. To examine and license teachers pursuant to the provisions of this chapter. He shall also conduct such other examinations as the commissioner of education shall direct.

10. To examine any charge affecting the moral character of any teacher residing or employed within his district, and to revoke such teachers' certificate as provided by section three thousand eighteen of this chapter.

11. To take affidavits and administer oaths in all matters pertaining to the public school system, but without charge or fee.

12. To take and report to the commissioner of education under the direction of such commissioner testimony in a case on appeal. In such a case or in any matter or proceeding to be heard or determined by the district superintendent, he may issue a subpoena to compel the attendance of a witness. A subpoena issued under this section shall be regulated by the civil practice law and rules.

13. To exercise in his discretion any of the powers and perform any of the duties of another district superintendent on the written request of such other superintendent, and he must exercise such powers and perform such duties when directed to do so by the commissioner of education.

14. To make such investigations and to make such reports to the commissioner of education upon any matter or act as said commissioner shall from time to time request. He shall make an annual report on the first day of August in such form and giving such information as the commissioner of education shall require.

15. To participate in the permanent computerized statewide school district address match and income verification system as provided in section one hundred seventy-one of the tax law, and cooperative agreement pursuant thereto and as directed by the commissioner.

16. To report to the commissioner under the direction of such commissioner on cost-effective practices as defined in section two hundred fifteen-c of this chapter in school districts within his or her supervisory district.

17. To determine the adequacy and appropriateness of the facilities

space available to house special education programs in the geographic area served by the board of cooperative educational services, consistent with the least restrictive environment requirement and to ensure the stability and continuity of program placements for students with disabilities, including procedures that ensure that special education programs and services located in appropriate facilities will not be relocated without adequate consideration of the needs of participating students with disabilities.

§ 2216. District superintendent subject to regulations of commissioner of education. A district superintendent shall be subject to such regulations and directions as the commissioner of education shall from time to time prescribe.

§ 2217. Appeals from acts of district superintendent. Appeals from the official acts of a district superintendent of schools or from his refusal or failure to act in any matter in which he may legally act, may be taken to the commissioner of education. All questions in controversy relating to the election of such district superintendent shall be determined by the commissioner of education on proper appeal. The provisions of article seven of this chapter shall apply to and govern such appeals and decisions therein.

§ 2218. Partitioning of territory and formation of new school districts by district superintendents. Notwithstanding any other provision of law to the contrary, in addition to the authority granted under the provisions of article thirty-one of this chapter, a district superintendent of schools may order the partitioning of territory from an existing union free, central, central high school or enlarged city school district that is located within his or her supervisory district, the dissolution and reformation of the existing school district where necessary and the formation of a new union free or city school district out of such territory in accordance with the provisions of this section.

1. Definitions: For the purposes of this section and section thirty-six hundred two-f of this chapter:

a. "Actual valuation" means the actual valuation, as defined in paragraph c of subdivision one of section thirty-six hundred two of this chapter, of a school district that would result from reorganization pursuant to this section.

b. "Enlarged city school district" means a city school district of a city having a population of less than one hundred twenty-five thousand inhabitants that includes areas outside of the city boundaries.

c. "Enrollment" means the unduplicated count of all children registered to receive educational services in grades kindergarten through twelve, including children in ungraded programs as registered on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district or non-public school, as reported to the commissioner.

d. "Municipality" means a city having a population of less than one hundred twenty-five thousand inhabitants, a village or a town, wholly contained in one school district.

e. "New school district" means the school district formed or reformed from the territory partitioned from the pre-existing school district that is coterminous with a municipality.

f. "Pre-existing school district" means a union free, central, central high school or enlarged city school district from which territory is to be partitioned pursuant to this section.

g. "Remaining school district" means the school district remaining after its boundary is altered to partition a municipality.

h. "Union free school district" means any union free school district other than a special act school district as defined in subdivision eight of section four thousand one of this chapter.

2. Minimum qualifications. To be eligible for reorganization pursuant to this section, the municipality seeking to reorganize a new school district shall have a population of at least ten thousand inhabitants and the remaining school district shall have an enrollment of at least one thousand children, provided that any territory that was added to the pre-existing school district by vote for annexation, centralization or consolidation shall not be eligible for partitioning pursuant to this section until five years after the vote approving such annexation, centralization or consolidation.

3. Procedure for reorganization. a. Reorganization pursuant to this section may be initiated by a petition to the board of education of the pre-existing school district submitted by the governing body of the municipality seeking to reorganize a new school district. If the board of education determines that the petition has been properly submitted and that the territory described in the petition meets the minimum qualifications for reorganization under this section, it shall transmit a copy to the district superintendent with a request for assistance in the development of a plan for reorganization to form a new union free or city school district out of such territory.

b. The district superintendent shall assist the petitioners in developing such reorganization plan in consultation with representatives of the pre-existing school district. Such reorganization plan shall:

(i) describe the boundaries of the new school district;

(ii) state the effective date of the reorganization and indicate whether the new school district will be a union free school district or a city school district and, in the case of reorganization involving a central high school district or a city school district, the type of school district that the remaining school district will be;

(iii) describe how the facilities needs of the new school district will be met;

(iv) describe the impact of the reorganization upon teachers and other employees of the pre-existing school district;

(v) describe the educational programs and services to be provided by the new school district, and for any reorganization that will take

effect during a school year, describe how programs and services to students residing in the new school district will be continued without disruption for the balance of such school year;

(vi) set forth any real or personal property of the pre-existing school district that will be transferred to the new school district in accordance with this section;

(vii) provide for a proposed allocation of the bonded indebtedness of the pre-existing school district incurred while the territory to be partitioned was part of such pre-existing school district and for a proposed allocation of other debt of the pre-existing school district;

(viii) describe the impact of the reorganization on the contractual obligations of the pre-existing school district;

(ix) include a proposed budget for the new school district for the first school year of its operation and estimate the impact of the proposed reorganization on school taxes for taxpayers in the new school district and the remaining school district; and

(x) describe any necessary transition procedures for the first school year of operation of the new school district, including but not limited to procedures for the recommendation of special education programs and services for students with disabilities and preschool children with disabilities residing within the new school district.

c. The district superintendent shall review the proposed reorganization plan and determine whether it is in compliance with the requirements of this section. If the district superintendent certifies to the board of education of the pre-existing school district that such plan is in compliance, such board, within twenty days after receipt of such certification, shall proceed to call a special district meeting to conduct a vote on the proposed reorganization unless such reorganization is approved by a vote of the board of education to the extent provided under paragraph d of this subdivision and shall schedule at least one public hearing on the proposed reorganization, to be held not less than seven days prior to the vote. Notice of such special district meeting shall specify the date and time at which the vote will be held, which shall be not less than twenty nor more than thirty days after the publication or posting of such notice, and the place or places within the pre-existing school district at which the vote will be held. Such

notice shall be published at least once a week for three consecutive weeks preceding the meeting in at least one newspaper in general circulation in the pre-existing school district, and if there be no such newspaper in general circulation in the district, such notice shall be posted in at least five conspicuous places in said district at least twenty days before such meeting.

d. The proposed reorganization shall be subject to approval by:

(i) a majority vote of the qualified voters residing in such municipality, or a vote of at least two-thirds of the governing body of such municipality, and

(ii) a majority vote of the qualified voters residing in the remaining school district, or a vote of at least two-thirds of the board of education of the pre-existing school district provided that a member who resides in such municipality shall be ineligible to vote as a school board member on the proposition for reorganization.

e. Notwithstanding any other provision of law to the contrary, the board of education of the pre-existing school district shall be authorized to establish special election districts for the purpose of conducting the votes required under paragraph d of this subdivision, and the district superintendent shall be authorized to order any other modifications in school election procedures that are needed to carry out the provisions of this section.

4. Order of district superintendent. The clerk of the pre-existing school district shall file with the district superintendent a certification of the results of the votes required by paragraph d of subdivision three of this section. Upon filing of a certification that both required votes are in favor of reorganization, the district superintendent shall issue an order forming or reforming the new school district, altering the boundaries of the pre-existing school district accordingly, and, where necessary, reforming the remaining school district and shall file such order in the manner prescribed in section fifteen hundred six of this chapter. The new school district shall be formed as a union free school district authorized to provide instruction in grades kindergarten through twelve, except that if the new school

district is coterminous with a city having a population of one hundred twenty-five thousand inhabitants or less, such order shall designate such district as a city school district. Notwithstanding the foregoing, where the territory partitioned from a central high school district is coterminous with a former component school district of such central high school district, the district superintendent's order shall reform the component school district as a union free school district authorized to provide instruction in grades kindergarten through twelve. The remaining school district shall retain its status as a union free, central, central high school or city school district, except that (i) where the new school district is a city school district, the remaining school district shall be reformed as a union free school district, and (ii) where such reorganization would result in a central high school district with only one component district, the district superintendent shall order reformation of the remaining central high school district into a union free school district.

5. Effect of partitioning of territory. a. If there is outstanding bonded indebtedness chargeable against the pre-existing school district at the time of reorganization incurred while the territory to be partitioned was part of such pre-existing school district, the district superintendent shall apportion such indebtedness between the new school district and the remaining school district according to the actual valuation of the two districts, based on data on file with the commissioner; and any approved expenditures for debt service represented by such apportioned indebtedness shall be eligible for an apportionment of building aid computed pursuant to subdivision six of section thirty-six hundred two of this chapter using an aid ratio computed for use in any year commencing with the nineteen hundred eighty-one--eighty-two school year for the pre-existing school district. The portion of such bonded indebtedness so apportioned shall become a charge upon the respective districts as though the same had been incurred by said districts separately, and the amount so apportioned shall not be adjusted thereafter.

b. Where the pre-existing school district has incurred indebtedness other than bonds or notes for the benefit of the residents of the

municipality such other debt may be apportioned by the district superintendent between the new school district and the remaining school district in the manner and to the extent provided in the reorganization plan.

c. Upon the effective date of the reorganization, legal title and all other property rights to any school facility of the pre-existing school district that is located within the new school district shall be transferred to such new school district, except that school facilities of a central high school district shall remain the property of the central high school district. The district superintendent shall apportion the value of any school facility so transferred between the new school district and the remaining school district according to the actual valuation of the two districts based on data on file with the commissioner. In determining such value, the district superintendent shall deduct from the fair market value of the school facility the amount of any outstanding bonded indebtedness on such facility. The cost of an appraisal to determine fair market value shall be a charge upon the new school district. The board of education of the new school district shall reimburse the board of education of the remaining school district in an amount equal to the remaining school district's share of the value of the school facility as apportioned by the district superintendent, and such amount shall be a charge upon the new school district.

d. Any school bus or personal property of the pre-existing school district that is no longer needed by the remaining school district may be transferred to the new school district upon such terms and conditions as may be agreed upon by the boards of education of the remaining school district and the new school district.

e. For any reorganization pursuant to this section that takes effect during a school year, the district superintendent shall apportion the administrative expense of the board of cooperative educational services chargeable to the pre-existing school district between the new school district and the remaining district based on the actual valuation of the two districts.

f. Members of the teaching and supervisory staff of the pre-existing school district at the time of the reorganization shall have the right to select the school district in which he or she shall be considered an employee, with the same tenure status he or she maintained in the pre-existing school district. Such selection shall be based on each teacher's seniority in the pre-existing school district, with the right of selection passing from such teachers with the most seniority to such teachers with the least seniority. Any such teacher who is unable to obtain a teaching position in the new school district because the number of positions needed is less than the number of teachers eligible to be considered employees pursuant to this paragraph shall, in such new school district and in the remaining school district, be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in a position similar to the one such teacher filled in the pre-existing school district. Such teachers shall be appointed to vacancies in such corresponding or similar positions in the order of their length of service in the pre-existing school district, within seven years from the date of the reorganization pursuant to this section. For such teachers, for salary, sick leave or any other purpose, the length of service credited in the pre-existing school district shall be credited as employment time with the new school district or the remaining school district, as applicable.

g. Members of the board of education of the pre-existing school district who reside in the territory partitioned pursuant to this section shall vacate their positions on the effective date of the reorganization, and the vacancies so created shall be filled in the manner provided by law, provided, however, that if the board of education of the remaining school district is unable to obtain a quorum to vote on whether to fill such vacancies by appointment or to call a special district meeting to fill the vacancies by election within thirty days after the reorganization, the district superintendent shall be authorized to fill such vacancies until the next annual meeting and election of the district. Whenever a school district is reformed pursuant to this section, the reformed school district shall be the successor in interest of the former school district and the board of

education of the former school district shall continue as the board of education of the reformed school district, except that where a central high school district is reformed as a union free school district the board of education of the component school district that is coterminous with the central high school district shall become the board of education of the reformed school district, and the members of the board of education of the central high school district shall vacate their positions on the effective date of the reorganization.

h. Notwithstanding any other provision of law to the contrary, if a proposal for reorganization pursuant to this section is defeated by the voters, such proposal may not be resubmitted for a vote until two years after the original vote.

ARTICLE 51

CITY SCHOOL DISTRICTS OF CITIES WITH LESS THAN ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS

Section 2501. Application of article.
2502. Board of education.
2503. Powers and duties of board of education.
2503-a. Powers of boards of education to ban fraternities, sororities and other secret societies.
2504. Meetings of board of education.
2506. Collector.
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2508. Powers and duties of superintendent of schools.
2509. Appointment of assistant and other superintendents, teachers and other employees.
2510. Abolition of office or position.
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2515. Fiscal year.
2519. Adoption of budget; publication of changes; appropriations.

2522. General budgetary controls; lapse of appropriations.
2523. Moneys; custody and disbursement.
2524. Form of claims.
2525. Audit of claims.
2526. Claims auditor.
2527. Official undertakings.
2528. Annual financial report.
2529. Tax election.
2530. Power to contract indebtedness.

§ 2501. Application of article. This article shall apply to the school district of each city which according to the latest federal census has less than one hundred twenty-five thousand inhabitants.

§ 2502. Board of education. 1. The board of education of each city school district shall constitute a body corporate.

2. Each board of education shall consist of five, seven or nine members, to be known as members of the board of education. In the city of Albany, such board shall consist of seven members; and in the city of Rensselaer, such board shall consist of five members; subject, however, to any increase or decrease of the number of members of such board as provided pursuant to the provisions of paragraph a of subdivision four of this section. Members of such board shall be elected by the qualified voters at large of the school district at annual school elections, under the provisions of article fifty-three of this chapter; provided, however, each board of education may upon its own motion, and shall upon a written petition, subscribed by not less than five hundred qualified voters of the district, cause to be submitted at the annual school election a proposition to consider each vacancy upon the board of education a separate specific office requiring a separate petition to nominate a candidate to each separate office in accordance with the provisions of article fifty-three of this chapter.

3. The full term of office of a member of the board of education shall

be three or five years, as the district may determine, except the full term of office of a member of the board of education in the city of Albany shall be four years; provided, however, that the term of office of each incumbent member of the city of Albany board on the effective date of this amendment shall not be decreased, and provided further, that one or more of the vacancies filled after this change to four year terms shall be for terms of two or three years only in order that, as nearly as possible, an equal number of members shall be elected to the board each year. Any such school district may decrease the full term of a member of the board of education to three years or increase the full term of a member of the board of education to five years by adopting a proposition at any regular meeting or election to do so; provided, however, that the term of office of each incumbent member of the board of education shall not be increased or decreased thereby; and provided, further, that whenever a proposition shall be adopted to increase the term of office from three years to five years, or to decrease the term of office from five years to three years, such proposition shall provide that one or more of the vacancies to be filled, during each of the three years next succeeding the adoption of such proposition, shall be for three or four years only in order that, as nearly as possible, an equal number of trustees shall be elected to the board each year. The board of education in the city of Peekskill may, by adopting a resolution, decrease the full term of a member of the board of education to two years in order that, as nearly as possible, an equal number of trustees shall be elected to the board each year; provided, however, that the term of office of each incumbent member of the board of education shall not be decreased thereby.

4. a. Each board of education may upon its own motion, and shall upon a written petition, subscribed by not less than five hundred qualified voters of the district, cause to be submitted at the annual school election a proposition to increase or decrease the number of members of such board to a number specified in subdivision two of this section; or a proposition to increase or decrease the term of office of members of the board of education in accordance with subdivision three of this section.

b. The notice of any annual school election at which a proposition shall be submitted pursuant to paragraph a of this subdivision shall include a statement that such proposition will be so submitted. In the event that the board of education fails or refuses to include such information in such notice, the commissioner of education may prescribe the manner in which notice of the submission of such a proposition shall be given.

c. Upon the adoption of a proposition to increase or decrease the number of members of the board of education the members of such board then in office shall continue in office for the balance of their respective terms. If the proposition so adopted requires an increase in the number of board members, a sufficient number of members of such board shall be elected at the annual election immediately succeeding the election at which such proposition was submitted, to effect the necessary increase. If the proposition so adopted requires a decrease in the number of board members, no election of board members shall be held in such district until the election of a member or members shall be necessary to maintain the number specified in such proposition. The offices of those members whose terms so expire without the election of a successor shall terminate with the expiration of such term. Succeeding members of such board shall be elected at annual school elections in such years and in such numbers and for such terms of office as shall be determined by resolution of the board of education and approved by the commissioner of education, so that as soon as practicable:

(1) The terms of office of all members of such board shall be five years or three years, as the district shall have determined;

(2) The number of members elected to and serving on such board shall equal the number of members specified in such proposition; and

(3) As nearly as possible, an equal number of members of the board of education will be elected each year.

d. A resolution adopted pursuant to paragraph c of this subdivision, which shall be subject to approval by the commissioner of education, shall be placed on file in the office of the clerk of the school district and shall be a public record.

5. a. The members of a board of education of a school district which after July first, nineteen hundred fifty, shall become a city school district, as defined in subdivision sixteen of section two of this chapter, shall continue in office until the expiration of their respective terms of office in those cases where such terms of office expire with the thirtieth day in June and in all other cases such members shall continue in office until July first next succeeding the date upon which their respective terms of office would have otherwise expired.

b. If the total number of members elected to serve on any such board of education shall be either five, seven or nine, such board shall continue to be composed of five, seven or nine members, as the case may be, subject to change in accordance with subdivision four of this section.

c. If the total number of members elected to serve on any such board of education shall be other than five, seven or nine, such board of education shall cause to be submitted at the next succeeding annual school election, held in accordance with article fifty-three of this chapter, propositions to determine whether the number of members of such board shall be five, seven or nine. If the proposition adopted thereat requires an increase in the number of board members, a sufficient number of members of such board shall be elected at the annual election immediately succeeding the election at which such proposition was submitted, to effect the necessary increase. If the proposition so adopted requires a decrease in the number of board members, no election of board members shall be held in such district until the election of a member or members shall be necessary to maintain the number specified in such proposition. The offices of those members whose terms so expire without the election of a successor shall terminate with the expiration of such term. Thereafter, such board of education shall be composed of the number of members specified in the proposition for which the greatest number of valid votes shall have been cast, subject to change in accordance with subdivision four of this section.

d. Succeeding members of any such board of education shall be elected

at annual school elections in such years and in such numbers and for such terms of office as shall be determined by resolution of the board of education and approved by the commissioner of education so that as soon as practicable:

(1) The terms of office of all members shall be five years or three years, as the district shall determine;

(2) As nearly as possible, an equal number of the members of the board of education shall be elected each year; and

(3) In the case of boards of education coming under the provisions of paragraph c of this subdivision, the number of members elected to and serving on any such board shall equal the number specified in the proposition adopted pursuant to paragraph c of this subdivision.

e. A resolution adopted pursuant to paragraph d of this subdivision, which shall be subject to approval by the commissioner of education, shall be placed on file in the office of the clerk of the school district and shall be a public record.

6. Whenever a vacancy shall occur or exist in the office of member of the board of education, except by reason of expiration of term or of an increase in the number of members of such board, a majority of the remaining members of such board may appoint a qualified person to fill the vacancy. The person so appointed shall hold office until the next regular school district election, and the person elected to fill such vacancy shall take office immediately upon the filing of his official oath of office with the district clerk.

7. No person shall be eligible to the office of member of the board of education who is not a qualified voter of the city school district and who has not been a resident of such district for a period of at least one year immediately preceding the date of his or her election; provided, however, that no person shall hold at the same time the office of member of the board of education and any city office other than as a police officer and firefighter; provided, further, that where territory is added to a city school district by order of the commissioner pursuant to article thirty-one of this chapter, residence in the territory so added to the city school district shall be and shall be deemed to be

residence in the city school district for the purposes of this subdivision, and a person qualified to vote in school district elections by virtue of his or her residence in the territory so added to the city school district immediately prior to the addition of such territory to the city school district shall be and shall be deemed to be a qualified voter of the city school district immediately upon the addition of such territory.

8. A member of a board of education who publicly declares that he will not accept or serve in the office of member of such board of education, or refuses or neglects to attend three successive meetings of such board, of which he is duly notified, without rendering a good and valid excuse therefor to the other members of such board, vacates his office by a refusal to serve.

9-a. Notwithstanding any general, special or local law to the contrary, this subdivision shall apply to the school district of the city of Rensselaer. a. The members of the board of education of the school district of the city of Rensselaer shall be elected by the qualified voters of such district as provided herein.

b. The members of the board of education shall be elected at large throughout the district by the qualified voters at an annual school election taking place at the time specified under the provisions of article fifty-three of this chapter.

c. Except with respect to the number of polling places to be used, which is provided for in paragraph l of this subdivision, such elections for such offices shall be governed by the provisions of the election law in the same manner as candidates for office generally to be elected by the voters of the city of Rensselaer, provided, however, that each such candidate shall be required to file a petition containing signatures of at least one hundred registered voters of such district which petition shall not contain any political party or independent body, name or emblem. Each petition shall contain the name of only one candidate and such petitions shall be filed with the clerk of the board of elections on or before the twentieth day preceding the day of the annual school

election but not earlier than the thirtieth day preceding the day of the annual school election.

d. No person shall be eligible for the office of member of such board of education who is not a qualified voter of such school district and who has not been a resident of such district for a period of at least thirty days immediately preceding the date of his election; provided, however, that no person shall hold at the same time the office of member of the board of education and any other elective office nor shall he be a candidate for any other elective office at the same time he is a candidate for the office of member of such board of education.

e. Petitions for the nomination of members of such school board shall be on white paper containing the required signatures of qualified voters of such district who were or will be registered to vote therein thirty days preceding the annual school election. The sheets of such a petition shall be numbered consecutively, beginning with number one, at the foot of each sheet. Such a petition must set forth in every instance the correct date of signing, the full name of the signer, his present residence, the ward of such residence, and the election district thereof. A signer need not himself fill in the date, residence, ward or election district.

f. Each sheet of such a petition shall be signed in ink and shall be substantially in the following form:

I, the undersigned, do hereby state that I am a duly qualified voter of the school district of the city of Rensselaer, that I was or will be registered to vote therein thirty days preceding the ensuing annual school election to which this petition pertains, that my present place of residence is truly stated opposite my signature hereto, and that I intend to support at the ensuing election, and I do hereby nominate the following named person as a candidate for nomination for the public office of member of the board of education of the school district of the city of Rensselaer to be voted for at the election to be held on the..... day of.....,19.....

In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.

Date	Name of Signer	Present Residence
.....	.....	.....
.....	.....	.....
.....	.....	.....

Ward	Election District
.....	.....
.....	.....
.....	.....

g. The petition shall be authenticated by witnesses who shall be qualified to vote at the ensuing annual school election. Such statement shall be accepted for all purposes as the equivalent of an affidavit, and if false shall subject the witness to the same penalties as if he had been duly sworn. The form of such statement shall be substantially as follows:

Statement of Witness

I,.....(name of witness), state: I am a duly qualified voter of the state of New York, and now reside in the city, town or village of....., in such state, at.....(fill in street and house number and post office) therein. The said residence is in the.....(fill in number) election district of the.....(fill in ward in a city, or town, if outside a city). I know each of the voters whose names are subscribed to this petition sheet containing (fill in number)..... signatures and each of them subscribed the same in my presence and upon so subscribing declared to me that the foregoing statement, made and subscribed by him, was true.

.....
Signature of witness

Date.....

h. The board of elections shall refuse to accept such petitions signed by an insufficient number of qualified voters, or petitions which are

not timely or petitions bearing a political party or independent body name or emblem.

i. A person nominated as a candidate for school board member shall be notified forthwith by mail of such nomination by the board of elections and such person shall accept such nomination by filing written notice of acceptance in the office of the county board of elections, not later than five days after the mailing by the board of elections to such person of notice that he was so nominated. In the absence of such filing, such nomination shall be null and void.

j. Objections to petitions for the nomination of members of such board of education shall be filed with the county board of elections not later than the fifteenth day prior to the date of the annual school election. Such objections shall include the specifications of the grounds for such objections. Except as provided for in this subdivision, the county board of elections shall apply such rules to the processing, disposition and notification of such petitions, objections and specifications as are applicable to nominating petitions in general elections conducted by said board. When a determination is made that a petition is insufficient, such board shall give notice of the determination forthwith by mail to each candidate named in the petition, and, if the determination is made upon specified objections, the objector shall be notified. Any judicial proceeding with respect to a petition shall be instituted within seven days after the last day to file the petitions.

k. The board of elections shall cause to be printed official ballots containing the names of all candidates as above provided, except that the board may refuse to have the names of ineligible candidates placed on such ballots. The names of the candidates shall be arranged in the order as determined by the drawing by lot by the board of elections in the manner specified under the provisions of paragraph b of subdivision two of section two thousand thirty-two of this chapter. Blank spaces shall be provided so that voters may vote for candidates who have not been nominated for the offices to be filled at such elections. The form of such ballots shall conform substantially to the form of ballots used at annual school elections as prescribed in article fifty-three of this

chapter.

l. Voting for the election of members of such board of education shall be by voting machine and shall be governed by the applicable provisions of the election law with respect to voting machines; provided, however, that a single polling place, at a location within the school district of the city of Rensselaer specified by the board of education not later than thirty days prior to the annual school election, shall be utilized.

m. If a candidate, after a petition in his behalf shall have been duly filed with the clerk of the board of elections, and prior to the date of the election, shall decline to accept the nomination, die, remove from the district, accept or be a candidate for another elective office, or become otherwise disqualified for such city school district office, a further petition may be filed with such clerk, nominating another candidate in his place and stead. Such further petition shall in all respects comply with the provisions of paragraphs c, e and g of this subdivision, except that it may be filed at any time up to and including the fifteenth day preceding the date of the annual school election and the time within which to object to such further petition shall be extended by the number of days past the twentieth day before the election that such further petition is filed.

n. The term of office of each member of such board shall be five years, commencing on the first day of July following his election, provided, however, that the members first elected shall be elected: two members for three year terms; two members for four year terms; one member for a five year term. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. Where more than one office is to be filled by such election and there is a variance in the length of the terms for which such offices are to be filled as authorized by this chapter, or where one or more persons are to be elected for a full term or terms and one or more persons are to be elected for the unexpired portion of a term or terms, or both, the candidate receiving the largest number of votes shall be entitled to the longest term and the candidates receiving the next highest number of votes shall be entitled, in decreasing order of the

respective numbers of votes, to the several offices, in decreasing order of the length of such terms or unexpired portions of terms. Whenever a vacancy shall occur or exist in the office of member of the board of education except by reason of expiration of term or increase in the number of members of such board, a majority of the remaining members of such board, shall elect a qualified person to fill the vacancy. The person so elected shall hold office to and including the thirtieth day of June next succeeding the first annual school election at which the vacancy can be filled. Vacancies so filled shall be for the unexpired term of the member being replaced.

o. The members so elected to the board of education shall convene on the date chosen pursuant to section twenty-five hundred four of this article, at the time of the commencement of their term of office and select from their members a president who shall serve for a term of one year.

p. The election of members of the board of education of the school district of the city of Rensselaer shall take place at an annual school election held in such city at the time specified under the provisions of article fifty-three of this chapter. Such election shall be conducted by the board of elections of the county of Rensselaer at the expense of such board of elections in the same manner as other elections are conducted by it. The results of such elections, after canvassing, shall be certified and reported by the board of elections to the board of education of such city. The clerk or other appropriate officer of the board of education shall within twenty-four hours after receipt of such certification by the board of elections serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education informing him of his election and the length of his term.

10. Each small city school district shall establish a process for designating at least one student as an ex officio member pursuant to paragraph c of this subdivision. If, prior to August fifth, two thousand three, a school district had a policy that allowed a student or students to be ex officio members of the school board, such policy shall be

deemed to meet the requirements of this subdivision and shall be deemed to have full legal effect. In any district that contains more than one high school, such process shall take into consideration the number of high schools within the district and provide for a mechanism which allows for fair representation among the schools. Such school district shall allow such selected student or students to serve as ex officio members of such district's board of education and provided further that:

a. The ex officio student members of the board shall be entitled to sit with board members at all public meetings and hearings of the board and may participate in other board activities and responsibilities at the discretion of the board.

b. The ex officio student members of the board shall not be allowed to vote, shall not be allowed to attend executive session or any other meetings or hearings not open to the public, and shall not be entitled to receive compensation of any form for participating at board meetings.

c. Notwithstanding any other law to the contrary, the ex officio student members of the board may be any of the following: the student that has been duly elected as student president of the high school; a student selected by the high school student government; a student selected by the high school principal; a student selected by the superintendent of schools; a student selected by majority vote of the school board.

d. The ex officio student members shall have attended such high school for at least one year prior to selection.

§ 2503. Powers and duties of board of education. Subject to the provisions of this chapter, the board of education:

1. Shall perform any duty imposed upon or exercise any power granted to boards of education of city school districts or union free school districts or trustees of common school districts under this chapter or other statutes, or the rules of the regents and regulations of the

commissioner of education so far as they may be applicable to the school or other educational affairs of a city school district, and not inconsistent with the provisions of this article.

2. Shall prescribe such regulations and by-laws as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board and the transaction of its business affairs, for the general management, operation, control, maintenance and discipline of the schools, and of all other educational, social or recreational activities and other interests under its charge or direction.

3. Shall have in all respects the superintendence, management and control of the educational affairs of the district, and, therefore, shall have all the powers reasonably necessary to exercise powers granted expressly or by implication and to discharge duties imposed expressly or by implication by this chapter or other statutes.

4. a. Shall establish and maintain such free elementary schools, high schools, training schools, vocational and industrial schools, technical schools, night schools, part-time schools, vacation schools, schools for adults, schools for physically or mentally handicapped or delinquent children or such other schools or classes as such board shall deem necessary to meet the needs and demands of the city.

b. May maintain public libraries pursuant to section two hundred fifty-five of this chapter, or may contract with any public library or any free association library registered by the regents pursuant to section two hundred fifty-six thereof; may organize and maintain public lecture courses; and shall establish and equip such playgrounds, recreation centers and social centers as the board from time to time shall deem proper.

c. Shall authorize the general courses of study which shall be given in the schools and shall approve the content of such courses before they become operative.

d. Shall authorize and determine the textbooks to be used in the schools under its jurisdiction; and shall regulate the admission of pupils and their transfer from one class, or grade to another as their scholarship shall warrant; and shall determine the school where each pupil shall attend.

5. Shall create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; shall appoint properly qualified persons to fill such positions, including a superintendent of schools, such associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, claims auditors, deputy claims auditors, attendance officers, secretaries, clerks, custodians, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational and business activities; and shall determine their duties except as otherwise provided herein.

6. Shall have the care, custody, control, safekeeping and maintenance of all school property or other property used for educational, social or recreational work of the district, and shall prescribe rules and regulations for the preservation of such property. This subdivision shall not apply to property used for social or recreational programs of municipalities not established or maintained exclusively for educational purposes.

7. Shall purchase and furnish such apparatus, maps, globes, books, furniture and other equipment and supplies as may be necessary for the proper and efficient management of the schools and other educational, social and recreational activities and interests under its management and control; and may, without authorization by the voters, provide textbooks or other supplies to all the children attending the schools of such city school district.

7-a. To develop a plan to ensure that all instructional materials to be used in the schools of the district are available in a usable alternative format for each student with a disability, as defined in section forty-four hundred one of this chapter, and for each student who is a qualified individual with a disability as defined in the rehabilitation act of nineteen hundred ninety-three (29 U.S.C. 701) as amended, in accordance with his or her educational needs and course selection, at the same time as such instructional materials are available to non-disabled students. As part of such plan, the board of education shall amend its procurement policies to give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. For purposes of this subdivision, "alternative format" shall mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a disabled student enrolled in the school district, including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file in an approved format, as defined in the regulations of the commissioner. When an electronic file is provided, the plan shall specify how the format will be accessed by students and/or how the district shall convert to an accessible format. Such plan shall identify the needs of students residing in the district for alternative format materials. Such plan shall also specify ordering timelines to ensure that alternative format materials are available at the same time as regular format materials. Such plans shall include procedures to address the need to obtain materials in alternative format without delay for disabled students who move into the school district during the school year.

8. Shall lease, for such term as may be necessary, and equip property when necessary for the purpose of furnishing school accommodations for the schools of the district and may enter into leases or lease-purchase agreements under the same terms and conditions as may boards of education of union free school districts. To be eligible for aid pursuant to subdivision six of section thirty-six hundred two of this chapter, any such lease or lease-purchase agreement shall be approved by the commissioner prior to execution; the leased space shall meet requirements for access by individuals with disabilities to both

facilities and programs, as defined in regulations of the commissioner; the requirements set forth in paragraphs a, b, c, d and f of subdivision one of section four hundred three-b of this chapter shall be met; in the case of a lease-purchase agreement the requirements of section one hundred three-b of the general municipal law shall be met; and the leased space shall be used to house programs for pupils in grades prekindergarten through twelve, other than programs funded pursuant to section forty-four hundred ten of this chapter, with minimal associated administrative and support services space as approved by the commissioner.

9. a. Shall promote the best interests of the schools and other activities committed to its care, and shall authorize, or in its discretion conduct, and maintain such extra classroom activities, including the operation of cafeterias or restaurant service for use by pupils and teachers, as the board, from time to time, shall deem proper. Such cafeterias or restaurant service may be used by the community for school related functions and activities and to furnish meals to the elderly residents, sixty years of age or older, of the district. Such utilization shall be subject to the approval of the board of education, and shall be subject to voter approval unless the cafeteria or restaurant service was operated during the preceding school year and requires no tax levy. Charges shall be sufficient to meet the direct cost of preparing and serving such meals, reducible by available reimbursements.

b. For the purposes of this section, a general organization of students of a school conducted under the rules and regulations of the board of education or with its approval, and engaged in extra classroom activities other than the operation of a cafeteria or restaurant service shall be known as a student organization. Moneys received or derived from carrying on such extra classroom activity shall be subject to the use and disposition of such student organization under rules and regulations prescribed by the board of education, which rules and regulations may require the deposit of such moneys with an official designated therein.

10. May compensate, in its discretion, teachers and other employees for loss of personal property but shall provide workmen's compensation coverage as provided in the workmen's compensation law for all teachers and other employees for injuries incurred in actual performance of duty.

10-a. In its discretion, to provide under a group insurance policy or policies issued by any insurance company or insurance companies authorized to do business in this state or under a group contract issued by one or more corporations subject to article forty-three of the insurance law, life insurance or accident and health insurance benefits or medical and surgical benefits or hospital service benefits or any two or more of such kinds of benefits to teachers and other employees of the school district who participate in a plan or plans, as hereinafter provided. The disbursing officer of the school district is authorized to deduct from the salary of such participant with his prior consent, in writing, the sums representing the participant's share of the premium or premiums which are payable by such officer to such insurance company or corporation. Such board of education is authorized to pay from such moneys as are available for the purpose, a share of the cost of such benefit or benefits in such amount as is required to be paid under such group insurance policy or policies or group contract or contracts by the board of education, as employer. The sum to be paid by the board of education under such policy or policies or contract or contracts, in the discretion of such board may be any percentage of the total cost of the benefit or benefits including the whole thereof.

10-b. In its discretion, to purchase insurance against personal injuries incurred by an authorized participant in a school volunteer program, including but not limited to, those authorized participants who assist on school buses, school sponsored transportation to and from school, or on school sponsored field trips or any other school sponsored activity; provided, however, that the injuries were incurred while the authorized participant was functioning either within the scope of his or her authorized volunteer duties or under the direction of the board of education, trustee, or board of cooperative educational services, or both.

11. Shall provide transportation, home teaching or special classes, as defined under sections forty-four hundred one and forty-four hundred two of this chapter for physically or mentally handicapped and delinquent children. Such transportation, home teaching or special classes, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend.

12. Shall provide by contract or otherwise for the transportation of children to and from any school or institution of learning whenever in its judgment such transportation is required because of the remoteness of the school to the pupil or for the promotion of the best interests of such children; and, in the case of an enlarged city school district, shall provide such transportation to children residing outside the city limits and may, in its discretion, provide transportation for children residing within the city limits. Any such contract may be made for a period of not exceeding five years, notwithstanding any provision of any charter or other provision of law inconsistent herewith. Provided that the cost of such transportation:

a. to and from schools within the school district for distances greater than two or three miles, as applicable, and to and from schools outside the district within the mileage limitations prescribed in paragraph a of subdivision one of section thirty-six hundred thirty-five of this chapter shall always be an ordinary contingent expense, and

b. for distances less than two or three miles, as applicable, or for greater than fifteen miles to and from schools outside the district shall be an ordinary contingent expense if: (i) such transportation was provided during the preceding school year and the qualified voters have not passed a special proposition constricting the mileage limitations for the current school year from those in effect in the prior year, or (ii) the qualified voters have passed a special proposition expanding the mileage limitations in effect in the prior year.

12-a. May lease a motor vehicle or vehicles for the transportation of children of the district under the same terms and conditions as the board of education of a union free school district.

13. Shall provide, outside the territorial limits of the city school district but within the state, for the education of children resident within the city school district whenever in the judgment of the board of education, approved by the commissioner of education, the health or welfare of such children makes such provision necessary or desirable. The average daily attendance of such pupils shall be included in the average daily attendance of such district as certified to the commissioner in the report of the board of education

14. Shall call special district meetings of the qualified voters of the district, whenever it shall deem it necessary and proper, except as otherwise provided in section twenty-six hundred one-a of this chapter; shall give notice of special or annual elections; and shall submit propositions to the voters at such special or annual meetings.

15. Shall appoint and compensate a school district clerk, who shall also be the clerk of the board of education, and a school district treasurer, who shall hold their respective offices during the pleasure of the board. It shall be the duty of the school district treasurer to maintain detailed accounting records showing the status of each appropriation, provided however that the board of education may delegate such duty to an employee designated for such purpose. No city officer shall be appointed to any such office, unless the common council or other legislative body of the city shall give its consent thereto in writing.

16. Shall have power to contract with the city, subject to the approval of the commissioner of education in all cases where such use, according to a rule established by such commissioner, might affect the educational program, for the use of agencies, employees and facilities of the city, paying to the city its agreed proportion of the compensation or costs but no agreement therefor shall be made for a period longer than five years.

Notwithstanding the foregoing provisions, a city school district which employs the facilities and services of the civil service commission of

the city in which it is located in whole or in part shall pay a fractional part of the actual annual expenditures for such civil service commission on or before the first day of November in each year. The numerator of such fraction shall be the number of classified civil service employees of the city school district multiplied by the amount of expenditures for such commission during the city's previous fiscal year, and the denominator shall be the total of the number of classified civil service employees of the city and the city school district. For the purpose of making such computation the numbers of classified civil service employees as shall appear on the payrolls of the city and the city school district for the final payroll period in December of the preceding year shall be used.

17. In its discretion, and with the written consent of any employee, to deduct from the salary of such employee such amount as may be agreed to by such employee for payment to any credit union doing business in the state of New York as such employee may designate. Any such written authorization may be withdrawn by such employee at any time.

18. a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by

the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate forty-five days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

c. Upon the recommendation of the superintendent, the board may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to paragraph b of this subdivision must also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance but shall terminate twenty business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted, the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An unforeseen emergency vacancy shall be defined as: (i) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (ii) when no other qualified person is available to fill the vacancy temporarily; and (iii) when emergency conditional appointment is necessary to maintain services which the

district is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of subparagraph (i) of this paragraph shall not apply if the board finds that the district has been unable to fill the vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

d. Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

19. Shall upon commencement and termination of employment of an employee by the school district, provide the commissioner with the name of and position held by such employee.

20. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal guardian.

* 21. To pass a resolution, in the discretion of the board of such district, authorizing the entering of an agreement with the city within such district, for the installation and use of school bus photo violation monitoring systems pursuant to section eleven hundred seventy-four-a of the vehicle and traffic law, provided that the

purchase, lease, installation, operation and maintenance, or any other costs associated with such cameras shall not be considered an aidable expense pursuant to section thirty-six hundred twenty-three-a of this chapter.

* NB Repealed December 1, 2029

§ 2503-a. Powers of boards of education to ban fraternities, sororities and other secret societies. 1. In its discretion, the board of education of each school district, may adopt rules and regulations to abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2. Prior to the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by any board of education of a school district, the board of education of the school district must find that the fraternity, sorority or secret society group has by virtue of its activities caused or created a disruption of or interference with the academic processes of any secondary school within its jurisdiction or caused or created any interference with or disruption of the academic progress of any individual student or students in any secondary school within its jurisdiction.

3. For the purposes of this chapter a fraternity, sorority, or secret society shall mean any organization composed wholly or in part of pupils enrolled in public secondary schools which exists or seeks to perpetuate itself by taking in additional members from the pupils enrolled in such schools on the decision of the membership rather than upon the free choice of any pupil in such school but shall not be construed to include organizations institutionally sponsored by agencies of public welfare, the Boy Scouts of America, the Girl Scouts of America, the Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Youth Organization, Kiwanis International, Hi-Y or other similar organizations without limitation to the foregoing.

4. Upon and after the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by the board of education of any such school district, such board of education may in any secondary school under its jurisdiction discipline any pupil who shall promise to join, or shall become a member of, or shall remain a member of, or shall solicit other persons to join any such fraternity, sorority or secret society.

§ 2504. Meetings of board of education. 1. The annual meeting of the board of education shall be held in July on or before the Monday after the twentieth day in July, at four o'clock in the afternoon or such other hour as the board may determine, at which meeting the board shall select a president for the ensuing year. At such meeting the board may also select a vice-president who shall be authorized to act for the president in case of the president's absence or inability to act during such year.

2. Such board shall also fix the day and hour for holding regular board meetings which shall be at least as often as once each month and shall also prescribe a method for calling special meetings of such board.

§ 2506. Collector. 1. The board of education shall appoint a school district tax collector who shall hold office during the pleasure of the board. The board may appoint the city school district treasurer to the office of city school district tax collector. Such collector shall receive a fixed compensation in lieu of all fees to which a school district collector might be entitled, under the provisions of this chapter. Such collector shall turn over to the city school district treasurer all moneys collected by him within five days of the day of their receipt. In the event that all school district taxes are collected under an agreement or agreements made pursuant to subdivision two of this section, no school district tax collector shall thereafter be appointed while all school district taxes are so collected.

2. a. The board of education and the governing board or body of a city in which the city school district is located, in whole or in part, may enter into an agreement for the collection of (1) all taxes on real estate levied by the board of education, or (2) such taxes only as are levied by the board of education on real estate within the city. In the absence of any agreement with a city providing for the collection of all city school district taxes on real estate, the board of education and the town board of any town containing a portion of the city school district may enter into an agreement for the collection of taxes levied by the board of education on real estate within such town. Any such agreement shall state the consideration payable to such city or town for such service and the time and manner of such payment. No such agreement shall be entered into for a period in excess of five years.

b. For the duration of any such agreement, the official charged by law with the collection of taxes levied by or for the city or town, as the case may be, and any successor in office, shall be and become exofficio the school district tax collector for all taxes levied on real estate located within the area covered by such agreement. All provisions of law applicable to a city school district tax collector, appointed pursuant to subdivision one of this section, shall apply to and govern such official in the collection of such school taxes, including, but not limited to, the provisions of section twenty-five hundred twenty-seven, except that such official shall not be entitled to receive any compensation for his services from the city school district.

c. All notices, statements and receipts given by such official in the collection of such school taxes shall include a statement that such official is acting as collector of such school taxes by virtue of an agreement between the city or town, as the case may be, and the city school district, entered into for the sole purpose of eliminating the expense of duplicate tax collection agencies.

d. In the absence of an agreement or agreements providing for the collection of all city school district taxes levied on real estate as authorized by this subdivision, a school district tax collector appointed pursuant to subdivision one of this section shall collect such

school taxes as are not collected under the terms of such agreement or agreements.

3. This section shall not apply to the city school district of the city of Long Beach.

§ 2507. Superintendent of schools; associate superintendents. 1. The superintendent and any associate superintendent of schools in each school district shall hold his position subject to the pleasure of the board of education, except that the superintendent of schools may be appointed for a term of not to exceed five years, provided that the terms or provisions of any employment contract between the superintendent and the board of education relating to an increase in salary, compensation or other benefits, shall not be based on or tied to the terms of any contract or collective bargaining agreement that the board of education has or will enter with the teachers or other employees of the school district.

2. A superintendent or an associate superintendent may vacate his position by filing a written resignation with the board of education. No person shall be eligible to the position of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools in such city school district unless he shall possess or be entitled to a superintendent's certificate as provided in section three thousand three of this chapter.

§ 2508. Powers and duties of superintendent of schools. The superintendent of schools of a city school district shall possess, subject to the bylaws of the board of education, the following powers and be charged with the following duties:

1. To be the chief executive officer of the school district and the educational system, and to have a seat on the board of education and the right to speak on all matters before the board, but not to vote.

2. To enforce all provisions of law and all rules and regulations relating to the management of the schools and other educational, social and recreational activities under the direction of the board of education.

3. To prepare the content of each course of study authorized by the board of education. The content of each such course shall be submitted to the board of education for its approval and, when thus approved, the superintendent shall cause such courses of study to be used in the grades, classes and schools for which they are authorized.

4. To recommend suitable lists of textbooks to be used in the schools.

5. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, deputy claims auditors, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and action; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

6. To have supervision and direction over the enforcement and observance of the courses of study, the examination and promotion of pupils, and over all other matters pertaining to playgrounds, medical inspection, recreation and social center work, libraries, lectures, and all other educational activities under the management, direction and control of the board of education.

7. Notwithstanding any inconsistent provision of law, the provisions of subdivision five of this section relating to the transfer of teachers may be modified by an agreement that is collectively negotiated pursuant to the provisions of article fourteen of the civil service law.

§ 2509. Appointment of assistant and other superintendents, teachers and other employees. 1. (a) i. Teachers and all other members of the teaching staff appointed prior to July first, two thousand fifteen and authorized by section twenty-five hundred three of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall not exceed two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period.

ii. Notwithstanding any other provision of law or regulation to the contrary, teachers and all other members of the teaching staff appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred three of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of

schools, for a probationary period of four years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of up to two years, or such teacher has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of up to two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of a minimum of two years, depending upon the length of the regular substitute service that shall shorten the length of the probationary period; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the teacher shall be appointed for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of such person's probationary period.

(b) i. Administrators, directors, supervisors, principals and all other members of the supervising staff, except associate, assistant and other superintendents appointed prior to July first, two thousand fifteen and authorized by section twenty-five hundred three of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education.

ii. Notwithstanding any other provision of law or regulation to the contrary, administrators, directors, supervisors, principals and all other members of the supervising staff, except associate, assistant and

other superintendents, appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred three of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools for a probationary period of four years; provided, however, that in the case of a principal, administrator, supervisor, or other member of the supervising staff who has been appointed on tenure pursuant to this chapter as an administrator within an authorized administrative tenure area in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the principal, administrator, supervisor or other member of the supervising staff shall be appointed for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education.

2. a. At the expiration of the probationary term of any persons appointed for such term prior to July first, two thousand fifteen, or within six months prior thereto, the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory. By a majority vote the board of education may then appoint on tenure any or all of the persons recommended by the superintendent of schools. Such persons and all others employed in the teaching service of the schools of such school district who have served the full probationary period shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a or section three thousand twenty-b of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

b. For persons appointed on or after July first, two thousand fifteen,

at the expiration of the probationary term of any persons appointed for such term, or within six months prior thereto, the superintendent of schools shall make a written report to the board of education recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory. By a majority vote, the board of education may then appoint on tenure any or all of the persons recommended by the superintendent of schools. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their position during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty and section three thousand twenty-a of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

3. Associate superintendents and all other employees authorized by section twenty-five hundred three of this article, except as otherwise provided in subdivision one of this section, shall be appointed by the board of education, provided, however, that the board of education may enter into an employment contract with an associate, assistant, or other superintendent of schools for a period of from one to five years.

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

5. No principal, supervisor, director, or teacher shall be appointed

to the teaching force of such city school district who does not possess qualifications required under this chapter and under the regulations prescribed by the commissioner of education for the persons employed in such positions in the schools of the city school districts of the state, but a board of education may prescribe additional or higher qualifications for the persons employed in any of such positions.

6. Rules and regulations shall be adopted governing excusing of absences and for the granting of leaves of absence either with or without pay for all members of the teaching and supervising staff and other employees.

7. Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

§ 2510. Abolition of office or position. 1. If the board of education abolishes an office or position and creates another office or position for the performance of duties similar to those performed in the office or position abolished, the person filling such office or position at the time of its abolishment shall be appointed to the office or position thus created without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled.

2. Whenever a board of education abolishes a position under this chapter, the services of the teacher having the least seniority in the system within the tenure of the position abolished shall be discontinued.

3. (a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for

appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions in the order of their length of service in the system at any time within seven years from the date of abolition or consolidation of such office or position. Notwithstanding any other provision of law to the contrary, in the event that a member of the New York state teachers' retirement system, who is receiving a disability retirement allowance, shall have such disability retirement allowance rescinded, such member shall be placed upon such preferred eligible list as of the effective date of his or her disability retirement.

(b) The persons on such preferred list shall be reinstated, in accordance with the terms of paragraph (a) of this subdivision, to such substitute positions of five months or more in duration, as may from time to time occur without losing their preferred status on such list. Declination of such reinstatement shall not adversely affect the persons' preferred eligibility status.

* 4. (a) The use of artificial intelligence systems as defined by section one hundred three-e of the state technology law shall not affect (i) the existing rights of employees pursuant to an existing collective bargaining agreement, or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or (ii) transfer of existing duties and functions currently performed by employees of the school district to an artificial intelligence system.

(c) The use of such artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment and civil service status. The collective bargaining unit membership status of all existing employees of the board

of education shall be preserved and protected.

* NB Repealed July 1, 2028

§ 2511. Purchase and sale of real and personal property. 1. The board of education may purchase real and personal property for any of the purposes authorized by law and shall take title thereto in the name of the school district. The board of education is hereby empowered to sell and convey the same, when it deems it for the best interest of the school district, except that the purchase, acquisition and sale of real property and motor vehicles for the transportation of children shall be subject to the approval of the voters, to the same extent as in a union free school district. In the event that an owner of real property refuses to sell such property to the board of education or such owner is unable to agree with such board on the purchase price thereof, such board shall have authority to institute such proceedings and take such action as may be necessary to acquire title to such property pursuant to the eminent domain procedure law.

2. A board of education may petition the municipality in which the property affected is situated to institute proceedings under the eminent domain procedure law, to acquire real property described in the petition which the board of education has certified to be necessary for educational purposes. The resolution granting the petition shall set forth the amount to be paid by the board of education to the municipality for such property or in lieu thereof that the board of education shall pay to the municipality all sums expended or required to be expended by the municipality in the acquisition thereof, and the time of payment and the manner of securing payment thereof, and may require that the municipality shall receive, before proceeding with the acquisition of such property, such assurances as to payment or reimbursement by the board of education or otherwise as the municipality may deem advisable. Upon the passage of a resolution by the local legislative body of the municipality granting the petition, the board of education shall cause four copies of surveys or maps of the property described in the petition to be made, one of which shall be filed in the office of the board of education, one in the office of the corporation

counsel or chief law officer of the municipality, one in the office of the clerk of the municipality and one in the office in which instruments affecting real property in the county are recorded. The filing of such copies of surveys or maps shall be conclusive evidence of the acceptance by the board of education of the terms and conditions of such resolution. The municipality may proceed under the provisions of the eminent domain procedure law for the acquisition of real property for public improvements. When title to the property shall have vested in the municipality, it shall convey the same to the board of education upon payment by the board of education of the sums and the giving of the security required by the resolution granting the petition. As soon as title shall have vested in the municipality, the board of education may, upon the authorization of the mayor or chief executive officer of the municipality by whatever name known, enter upon the property taken, take over and dispose of existing improvements, and carry out the purposes for which the property was acquired. Whenever in connection with condemnation proceedings, requirement is made in any applicable general, special or local law for the performance of an act by a department or officer of the municipality, it shall be regarded for the purposes of this section as compliance therewith if with the approval of the mayor or other chief executive officer such act is performed by the board of education or by persons specially designated by it.

§ 2512. Buildings and sites. 1. Such board of education is authorized and it shall have power to designate sites, to purchase, repair, reconstruct, improve or enlarge school buildings or other buildings or sites, and to construct new buildings, provided that the purchase, repair, reconstruction, improvement or enlargement of school buildings or other buildings or sites, and construction of new buildings shall be subject to voter approval, to the same extent as in a union free school district.

2. Whenever in the judgment of such board of education it is necessary to select a new site, or to enlarge a present site, or to designate a playground or recreation center, or to acquire title to or lease real property for other educational purposes authorized by this chapter, such

board may take options on property desirable for such purposes but before taking title thereto shall pass a resolution stating the necessity therefor, describing by metes and bounds or by lot number the grounds or territory desired for each of such purposes, and estimating the amount of funds necessary therefor.

3. Whenever in the judgment of such board of education the needs of the district require a new building for school purposes or for recreation or other educational purposes authorized by this chapter, or when in its judgment a building should be reconstructed or enlarged, such board shall pass a resolution specifying in detail the necessity therefor and estimating the amount of funds necessary for such purpose.

4. No site shall be designated except upon a majority vote of a board of education and no building shall be constructed, reconstructed, repaired or enlarged until the plans and specifications therefor are approved by the board of education and, in city school districts of cities having a population of less than seventy thousand, according to the latest federal census, by the commissioner of education pursuant to section four hundred eight of this chapter.

5. When the real property of the school district is no longer needed for educational purposes, such board may sell or dispose of such property, subject to voter approval, and the proceeds thereof shall be credited to the funds under the control and administration of the board of education.

6. The board of education of any city school district of a city which has a planning commission, by whatever name known, shall, before designating a site or sites, submit the proposed designation to such city planning commission. Such commission shall make its recommendation to such board within sixty days from the date of such submission. The board of education may not designate a site or sites contrary to such recommendation, except after a public hearing and by a vote of two-thirds of its voting strength. The notice for such hearing shall be published at least once in each week for the four weeks preceding such hearing, in a newspaper, or two newspapers if there be two, having a

general circulation, in such city school district. If such commission fails to make any recommendation prior to the expiration of such sixty days, the board of education may proceed to designate such site or sites. This subdivision shall not apply to the designation of a site or sites by such board of education where such site is located inside the city school district, but outside the boundaries of the city.

7. a. To enter into a lease, sublease or other agreement with the dormitory authority providing for the financing or refinancing of all or a portion of school district capital facilities or school district capital equipment in accordance with section sixteen hundred eighty of the public authorities law and with the approval of the commissioner. Such lease, sublease, or other agreement may provide for the payment of annual or other payments to the dormitory authority, and contain such other terms and conditions as may be agreed upon by the parties thereto, including the establishment of reserve funds and indemnities. For purposes of this subdivision, school district capital equipment shall have the meaning ascribed thereto in section sixteen hundred seventy-six of the public authorities law.

b. Notwithstanding any provisions of law to the contrary, the dormitory authority and the board of education are hereby authorized and empowered to perform any and all acts and to enter into any and all agreements necessary or desirable to effectuate the purposes of this subdivision.

§ 2513. Contracts; advertisement for bids. The board of education shall let all contracts for public work and all purchase contracts to the lowest responsible bidder after advertisement for bids where so required by section one hundred three of the general municipal law.

§ 2514. Kindergartens, nursery and night schools. 1. The board of education of each city school district may maintain kindergartens which shall be free to resident children between the ages of four and six years, provided, however, such board may fix a higher minimum age for

admission to such kindergartens.

2. A board of education may maintain nursery schools which shall be free to resident children and may fix the age for admission.

3. Night schools, which shall be free to all persons residing in the city school district, and wherein the common branches and, in the discretion of the board of education, such additional subjects as may be adapted to students applying for instruction are taught on at least two nights each week, for two hours each night, shall be maintained by the board of education:

a. In city school districts of a city having a population of one hundred thousand or more, according to the latest federal census on at least one hundred nights.

b. In city school districts of a city having a population of fifty thousand but less than one hundred thousand, according to the latest federal census, on at least seventy-five nights.

c. In each other city school district, on at least fifty nights.

§ 2515. Fiscal year. The fiscal year for city school districts of cities with less than one hundred twenty-five thousand inhabitants shall be the period commencing with July first and ending with June thirtieth next following.

§ 2519. Adoption of budget; publication of changes; appropriations.

§ 2522. General budgetary controls; lapse of appropriations. 1. A separate account shall be kept of each appropriation. Each such account shall show the amount of the appropriation, the encumbrances against such account, the amounts expended therefrom and the unencumbered balance.

2. No expenditure, or contract which in any manner involves the expenditure of money or the incurring of any pecuniary liability, shall be made or entered into by the school district, or officer or employee thereof, unless an amount has been appropriated and is available therefor or has been authorized to be borrowed pursuant to the local finance law. This subdivision shall not prevent the making of a contract or lease for a term exceeding one year when authorized by law; nor shall this subdivision require a school district which has entered into a contract or lease for a term exceeding one year to pay during the current fiscal year any amounts larger than those which become due and owing during that year under the terms of such lease or contract.

3. Appropriations, to the extent that they shall not have been expended or encumbered, shall lapse at the close of the fiscal year for which made, except that appropriations for capital improvements shall continue in force until the purposes for which they were made shall have been accomplished or abandoned.

§ 2523. Moneys; custody and disbursement. 1. The treasurer of each city school district shall demand, collect, receive and have the care and custody of moneys belonging to or due the district from every source. On the business day next following the day of their receipt the treasurer shall deposit in his name, as treasurer of the city school district, all such moneys in or with such banks or trust companies as shall have been designated as depositaries of the moneys of such district. Where the board of education with the written consent of the city authorities, has appointed a city officer as city school district treasurer, such treasurer may not commingle school district funds with city funds.

2. Such moneys shall be disbursed only on the signature of such treasurer by checks payable to the person or persons entitled thereto. The board of education may in its discretion require that such checks-other than checks for salary, be countersigned by another officer of such district. When authorized by resolution of the board of

education such checks may be signed with the facsimile signature of the treasurer and other district officer whose signature is required, as reproduced by a machine or device commonly known as a check-signer. Each check drawn by the treasurer shall state the fund against which it is drawn. No fund shall be overdrawn nor shall any check be drawn upon one fund to pay a claim chargeable to another. No money shall be paid out by the treasurer except upon the warrant of the clerk of the board of education after audit and allowance by such board, or if a claims auditor shall have been appointed, except upon the warrant of such claims auditor after audit and allowance thereof; provided, however, when provision for payment has been made in the annual budget the treasurer may pay, without such warrant or prior audit and allowance, (a) the principal of and interest on bonds, notes or other evidences of indebtedness of the district or for the payment of which the district shall be liable, and (b) compensation for services of officers or employees engaged at agreed wages by the hour, day, week, month or year upon presentation of a duly certified payroll. By resolution duly adopted, the board may determine to enter into a contract to provide for the deposit of the periodic payroll of the school district in a bank or trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

§ 2524. Form of claims. 1. No claim against a city school district, except for compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year or for the principal of or interest on indebtedness of the district, shall be paid unless an itemized voucher therefor approved by the officer whose action gave rise or origin to the claim, shall have been presented to the board of education or claims auditor of the city school district and shall have been audited and allowed. The board of education shall be authorized, but not required, to prescribe the form of such voucher.

2. The board of education may by resolution authorize the payment in advance of audit of claims for public utility services, postage, freight and express charges. All such claims shall be presented at the next regular meeting for audit, and the claimant and the officer incurring or

approving the same shall be jointly and severally liable for any amount disallowed by the board of education.

As used in this subdivision, the term public utility services shall mean electric, gas, water, sewer and telephone services.

§ 2525. Audit of claims. 1. The board of education, in considering any claim, may require any person presenting the same to be sworn before it or before any member thereof and to give testimony relative to the justness and accuracy of such claim, and may take evidence and examine witnesses under oath in respect to the claim, and for that purpose may issue subpoenas for the attendance of witnesses. When a claim has been finally audited by the board of education the clerk of such board shall endorse thereon or attach thereto a certificate of such audit and file the same as a public record in his or her office. When any claim has been so audited and a certificate thereof so filed, the clerk of the board of education shall draw a warrant specifying the name of the claimant, the amount allowed and the fund, function and object chargeable therewith and such other information as may be deemed necessary and essential, directed to the treasurer of the district, authorizing and directing him or her to pay to the claimant the amount allowed upon his or her claim. A copy of such warrant shall be filed in the office of the clerk.

2. In a city school district in which the office of claims auditor has been created, the claims auditor in considering a claim, may require any person presenting the same to be sworn before him or her and to give testimony relative to the justness and accuracy of such claim, and may take evidence and examine witnesses under oath in respect to the claim, and for that purpose may issue subpoenas for the attendance of witnesses. When a claim has been finally audited by the claims auditor he or she shall endorse thereon or attach thereto a certificate of such audit and file the same as a public record in his or her office. When any claim has been so audited and a certificate thereof so filed, the claims auditor shall draw a warrant specifying the number of the claim, the name of the claimant, the amount allowed and the fund, function and

object chargeable therewith and such other information as may be deemed necessary or essential, directed to the treasurer of the district, authorizing and directing him or her to pay to the claimant the amount allowed upon his or her claim. A copy of such warrant shall be filed in the office of the clerk.

§ 2526. Claims auditor. 1. The board of education of a city school district may adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such board of education. In its discretion, the board may adopt a resolution establishing the office of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor. Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor or deputy claims auditor who shall be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

1-a. The positions of claims auditor and deputy claims auditor shall be classified in the exempt class of civil service. Such board of education, at any time after the establishment of the office of claims auditor or deputy claims auditor, may adopt a resolution abolishing such office, whereupon such office shall be abolished.

2. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims auditing, allowing or rejecting all accounts, charges, claims or demands against the city school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. The board of education shall be permitted to delegate the claims audit

function to one or more independent entities by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

3. When the board of education delegates the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the board shall be responsible for auditing all claims for services from the entity providing the delegated claims auditor, either directly or through a delegation to a different independent entity.

§ 2527. Official undertakings. The clerk of the board of education or, where the office of claims auditor or deputy claims auditor has been created, the claims auditor or deputy claims auditor, and the treasurer, collector and such other officers and employees as the board of education shall designate, shall, before they enter upon the duties of their respective offices or positions, each execute to the school district and file with the school district clerk an official undertaking in such sum and with such corporate surety as the board of education shall direct and approve. The board of education may, at any time, require any such officer or employee to file a new official undertaking for such sum and with such corporate surety as the board shall approve. Such undertakings as shall have been approved by the board of education shall forthwith be filed with the school district clerk. The expense of any undertaking executed pursuant to this section shall be a school district charge.

§ 2528. Annual financial report. Within three months after the close of the fiscal year the board of education shall annually cause to be published in a newspaper, or two newspapers if there be two, having a general circulation in the city school district, or in pamphlet form for general distribution, in such form and detail as shall be required by the commissioner of education, on account of all moneys received by the

board of education for its account and use during such fiscal year, and all moneys expended therefor stating the source of receipts and the character and object of expenditures in full. Such annual report shall also contain a full and complete statement of any bonds issued the preceding year for school purposes and the disposition made or to be made of the proceeds of such bonds. If such report is prepared in pamphlet form for general distribution, a notice shall be published in such newspaper or newspapers that such pamphlets are available at a stated place and time or times.

§ 2529. Tax election. The board of education may call a special election in the manner provided in article fifty-three of this chapter and submit to the qualified voters of the school district a proposition to expend a sum of money in excess of twenty-five thousand dollars for an addition to, or change of site, or purchase of a new site or structure, or for grading or improving a school site, or for the purchase of lands and buildings for agricultural, athletic, playground or social center purposes, or for building any new school, or for the erection of an addition to any school, or for the reconstruction or repair of any school. Such expenditures, when made pursuant to this section, shall be made only during the fiscal year for which a tax is to be levied. The provisions of article fifty-three shall apply to such elections.

§ 2530. Power to contract indebtedness. Each city school district shall be authorized to expend money for any of the objects or purposes which it is authorized to accomplish by law and may contract indebtedness in its name pursuant to the local finance law. The provisions of section four hundred sixteen of this chapter shall be applicable to such districts.

ARTICLE 52
CITY SCHOOL DISTRICTS OF CITIES WITH ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE

Section 2550. Application of article.
2551. Board of education corporate body.
2552. Board of education.
2553. Board of education; eligibility; how chosen; term of office; vacancies.
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2569. Appointment of teachers.
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2575-d. Payment of benefits by board of education retirement system of the city of New York in cases where workmen's compensation is or may be payable; reimbursement of such retirement system from workmen's compensation awards.
2575-e. Eligibility of retirees for membership in the board of education retirement system of the city of New York.
2575-f. Transfer of employees represented by the united federation of teachers to the New York city teachers' retirement system.
2576. Annual estimate.
2577. Annual financial report.
2579. Payment of obligations.
2580. Funds; custody and disbursement.
2581. Certain corporate schools entitled to participate in funds of board of education of city of New York.
2582. Trustees of corporate schools entitled to participate in funds of the board of education of the city of New

York may convey to city of New York and be merged.
2583. Certain schools to report as to moneys and attendance; accidental omission to report.
2584. Bonds of employees.
2585. Continuation in office of boards, bureaus, teachers, principals and other employees, et cetera.
2586. Anniversary day as a holiday for pupils in the public schools of the borough of Brooklyn and in the borough of Queens, city of New York.
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2587. Tenure in fashion institute of technology.
2588. Seniority, retention and displacement rights in connection with abolition of positions in city school districts of cities having more than one million inhabitants.

§ 2550. Application of article. This article shall apply to the city school districts of the following cities only: New York, Buffalo, Rochester, Syracuse and Yonkers.

§ 2551. Board of education corporate body. The board of education of each city school district of a city with one hundred twenty-five thousand inhabitants or more according to the latest federal census is hereby continued as a body corporate.

§ 2552. Board of education. The board of education of each such city school district is hereby continued. The educational affairs in each such city school district shall be under the general management and control of a board of education to consist of not less than three and not more than nine members, to be chosen as hereinafter provided, and to be known as members of the board of education, except that the board of education of the city school district of the city of New York shall be constituted as provided in article fifty-two-A of this title. The number

of members on the board of education of each such city school district shall continue to be as follows, provided that student ex officio board members as described in subdivision eleven of section twenty-five hundred fifty-three of this article shall not be considered board members for purposes of this section:

a. City school district of the city of Buffalo: nine members.

b. City school district of the city of Rochester: seven members.

c. City school district of the city of Syracuse: seven members.

d. City school district of the city of Yonkers: nine members.

§ 2553. Board of education; eligibility; how chosen; term of office; vacancies. 1. No person shall be eligible to the office of member of a board of education who is not a citizen of the United States, who is not qualified to register for or vote at an election in accordance with the provisions of section 5-106 of the election law, and who, in the case of the city school district of the city of Yonkers, has not been a resident of the city school district for which he is chosen for a period of at least three years immediately preceding the date of his election or appointment and who, in the case of the city school district of the city of Buffalo, in the case of a member to be elected at large is not a qualified voter of such city school district and who has not been a resident of such district for a period of at least three years immediately preceding the date of his election and in the case of a member elected from a city school subdistrict is not a qualified voter of such city school subdistrict and has not been a resident of the city school district for three years and a resident of the city school subdistrict which he represents or seeks to represent for a period of one year immediately preceding the date of his election, and who, in the case of the city school district of the city of Rochester, is not a qualified voter under section 5-102 of the election law of such city school district; and who in the case of the city school district of the city of Syracuse has not been a qualified voter under section 5-102 of

the election law of such city school district for at least ninety days immediately preceding the date of his election or appointment.

1-a. The provisions of subdivision one of this section shall not apply to ex officio board members, as described in subdivision eleven of this section.

2. In the city school districts of the cities of Rochester and Syracuse the members of such board of education shall be chosen by the voters at large at either a general or municipal election, or at both. In the city school district of the city of Buffalo the members of such board of education shall be chosen pursuant to the provisions of subdivision ten of this section.

2-a. Upon the certification of election results and the completion of the voter history file after each election, each school district that holds school board elections pursuant to this article shall transmit copies of the records required to be transmitted pursuant to section 3-112 of the election law in a manner and time provided for in such section.

3. In the city school district of the city of Yonkers members of the board of education shall be appointed from the city at large by the mayor and shall be for terms of five years each, to begin on the first Tuesday in May.

4. In the city school districts of the following cities, the terms of such members shall be as follows:

a. Rochester: Four Years;

b. Syracuse: Four Years;

c. Yonkers: Five Years.

5. The terms of one-fifth of all the members of a board of education, or of a fraction as close to one-fifth thereof as possible, shall expire

annually on the first Tuesday in May, except in the city school districts of the cities of Buffalo, Rochester and Syracuse.

6. If a vacancy occurs other than by expiration of term in the office of a member of a board of education in a district in which such members are elected at a general or municipal election, such vacancy shall be filled by appointment by the mayor until the next general or municipal election is held, and such vacancy shall then be filled at such election for the unexpired portion of such term, except that in the city school district of the city of Rochester any such vacancy shall be filled pursuant to the provisions of subdivision nine of this section and except further that any such vacancy on the board of education of the city school district of the city of Buffalo shall be filled pursuant to the provisions of subdivision ten of this section.

7. If such vacancy occurs in such office in a district in which the members of the board of education are appointed by the mayor, such vacancy shall be filled by appointment by the mayor of such city for the unexpired portion of such term, but in Buffalo such appointment shall be subject to confirmation by the council.

8. A member of a board of education who publicly declares that he will not accept or serve in the office of member of such board of education, or refuses or neglects to attend three successive meetings of such board, of which he is duly notified, without rendering a good and valid excuse therefor to the other members of such board of education, vacates his office by refusal to serve.

9. (a) The members of the board of education of the city school district of the city of Rochester shall be elected by the qualified voters of such city as provided herein.

(b) The members of the board of education shall be elected at large throughout the city by the qualified voters at a general election.

(c) Such elections for such officers shall be governed by the provisions of the election law in the same manner as candidates for office generally to be elected by the voters of the city of Rochester; provided, however, that each such candidate shall be required to file

petitions containing at least one thousand signatures.

(d) No person shall be eligible for the office of members of such board of education who is not a qualified voter under section 5-102 of the election law of such city school district. No person shall hold at the same time the office of member of the board of education and any other elective office nor shall he be a candidate for any other elective office at the same time he is a candidate for the office of member of such board of education.

(e) The term of office of each member of such board shall be four years, commencing on the first day of January following his election. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. Where more than one office is to be filled by such election and there is a variance in the length of the terms, the candidate receiving the largest number of votes shall be entitled to the longest term and the candidates receiving the next highest number of votes shall be entitled, in decreasing order of the respective number of votes to the several offices, in decreasing order of the length of such terms or unexpired portions of terms. Whenever a vacancy shall occur or exist in the office of member of the board of education except by reason of expiration of term, such vacancy shall be filled by the president of the board of education by appointment of a nominee of the members of the board of education of the same political affiliation as the person who vacated the office and such nominee shall be elected by the majority vote of the board of education; if the board shall not have filled the vacancy within thirty days from the date the vacancy occurred, then the president of the board shall fill the vacancy from the same political party as that of the person who vacated the office. However, if the vacancy shall occur in the office of member of the board of education filled by an incumbent elected on a non-partisan or an independent basis, such vacancy shall be filled, after nomination by the president of the board of education, by majority vote of the remaining members of the board of education. A person appointed to fill a vacancy shall hold office to and including the thirty-first day of December next succeeding the first general election following such vacancy, at which a successor must be elected for the remainder of the unexpired term, if any.

(f) The members so elected to the board of education shall convene on

the first business day in January of each year at the time of the commencement of their term of office and select from their members a president who shall serve for a term of one year or such other term, not exceeding the term of his office, as may be fixed by the rules and regulations of the board.

(g) The election of members of the board of education of the school district of Rochester shall take place at a general election to be held in such city when an incumbent's term expires, and the first election hereinunder shall take place in November of nineteen hundred eighty-one. Such election shall be conducted by the board of elections of the county of Monroe in the same manner as general elections are conducted by it. The results of such elections, after canvassing, shall be certified and reported by the board of elections to the board of education of such city. The clerk or other appropriate officer of the board of education shall within twenty-four hours after the receipt of such certification by the board of elections serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education informing him of his election and the length of his term.

(h) Notwithstanding the provisions of any other law, the present members of said board of education shall serve the full terms for which they were elected. Vacancies which may occur in the board shall be filled as provided herein, except, that the vacancies created by the expansion of the board of education from five to seven members, as provided herein, shall be filled at the next general election.

10. a. The members of the board of education of the city school district of the city of Buffalo shall be elected by the qualified voters of such city as provided herein.

b. The common council of the city of Buffalo shall within three months of the operative date of this paragraph of this section of this act define and publish by local law boundaries of each of six city school subdistricts which said subdistricts shall be contiguous and each of which shall contain as nearly as possible the same number of inhabitants. The boundaries of the said city school subdistricts may thereafter be redefined by the board of education of the city school district of the city of Buffalo by resolution, after a public hearing

thereon, at intervals of not less than five years and such resolution must be passed at least eight months prior to the next election for school board member or members.

c. The members of the board of education of the city school district of the city of Buffalo shall be elected as follows: one member from each of such six city school subdistricts within such city by the qualified voters therein and three members of such board of education shall be chosen by the qualified voters at large within such city.

d. (1) Such election for such office shall be governed by the provisions of the election law in the same manner as candidates for office generally to be elected by the voters of the city of Buffalo. Notwithstanding section 6-142 of the election law, each such candidate for election as a member of the board of education from a city school subdistrict shall be required to file a petition containing signatures of at least two hundred registered voters of such city school subdistrict in which he is a candidate and each candidate for election to the board of education by the voters at large shall be required to file a petition containing the signatures of at least four hundred registered voters of the city of Buffalo.

(2) No petition shall contain any political party or independent body name or label. Each petition shall contain the name of only one candidate and such petition shall be filed with the board of elections of the county of Erie not earlier than twenty-four weeks before, and not later than twenty-three weeks preceding the date on which an election shall be held. A certificate of acceptance or declination of any individual so nominated shall be filed not later than the third day after the twenty-third Tuesday preceding the election.

e. No person shall hold at the same time the office of member of the board of education of the city of Buffalo and any other elective office nor shall he be a candidate for any other elective office at the same time he is a candidate for the office of member of such board of education.

f. Petitions for the nomination of members of such school board shall

be on white paper containing the required signatures of qualified voters of the city of Buffalo. The sheets of such petition shall be numbered consecutively, beginning with number one, at the foot of each sheet. Such a petition must set forth in every instance the correct date of signing, the full name of the signer and his or her residence. A signer need only place his or her signature upon the petition, and need not himself or herself fill in the other required information.

g. Each sheet of such a petition shall be signed in ink and shall be substantially in the following form:

I, the undersigned, do hereby state that I am a duly qualified voter of the city of Buffalo, that my place of residence is truly stated opposite my signature hereto, and I do hereby nominate the following named person as a candidate for nomination (for the public office of member of the board of education of the city of Buffalo at large.....day of....., 20.....,) (for the city school subdistrict.....day of....., 20.....)

I do hereby appoint.....(here insert the names and addresses of at least three persons, all of whom shall be registered voters within the city of Buffalo), as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.

Date	Name of Signer	Present Residence
.....	.....	.....
.....	.....	.....
.....	.....	.....

The petition shall be authenticated by witnesses. Such statement shall be accepted for all purposes as the equivalent of an affidavit, and if false shall subject the witness to the same penalties as if he or she had been duly sworn. The form of such statement shall be substantially as follows:

STATEMENT OF WITNESS

I,....., (name of witness), state: I am a duly qualified voter of the state of New York, and now reside in the city, town or village of....., in such state, at .....(fill in street and house number and post office) therein. I know each of the voters whose names are subscribed to this petition sheet containing (fill in number).....signatures and each of them subscribed the same in my presence and upon so subscribing declared to me that the foregoing statement, made and subscribed by him, was true.

.....
Signature of witness

Date.....

h. The board of elections shall refuse to accept such petitions signed by an insufficient number of qualified voters, or petitions which are not timely or petitions bearing a political party or independent body, name or emblem or which contain the name of more than one candidate.

i. Except as it may be modified by the provisions of paragraph (d) and paragraph (n) of this subdivision, the provisions of the election law with respect to acceptances by candidates nominated by independent nominating petitions shall apply to candidates nominated by petitions for members of such board of education.

j. Objections to petitions for the nomination of members of such board of education, procedures and remedies applicable to such objections shall be made pursuant to section 6-154 of the election law.

k. The board of elections shall cause to be printed official ballots containing the names of all candidates as above provided, except that the board may refuse to have the names of ineligible candidates placed on such ballots. The names of the candidates shall be arranged according to lot, and shall not bear the designation of any political party or independent body, name or emblem. Blank spaces shall be provided so that voters may vote for candidates who have not been nominated for the offices to be filled at such elections. The form of such ballots shall

conform substantially to the form of ballots used at general elections as prescribed in the election law.

l. Voting for the election of members of such board of education shall be by voting machine and shall be governed by the applicable provisions of the election law with respect to voting machines.

m. If a candidate, after a petition in his behalf shall have been duly filed with the board of elections, and prior to the date of the election, shall decline to accept the nomination, die, remove from the school district, accept another office, or become otherwise disqualified for such city school district office, such vacancy shall be filled by the committee on vacancies pursuant to the election law.

n. The term of office of each member of such board from a city school subdistrict shall be three years, and the term of office of each such member of the board elected at large shall be for five years. Of the candidates to be elected for membership on the board of education of the city school district of the city of Buffalo by the voters at large the three candidates receiving the largest number of votes cast in the city, shall be declared elected as at-large members of such board of education. In each city school subdistrict the candidates seeking the election as the member of such board of education for such city school subdistrict receiving a plurality of votes in such city school subdistrict shall be declared elected to that position.

Whenever a vacancy shall occur or exist in the office of member of the board of education except by reason of expiration of term or increase in the number of members of such board, such vacancy shall be filled by a majority vote of the remaining members of the board of education within thirty days of the date when such vacancy shall have occurred. If the remaining members of the board of education shall fail to fill such vacancy within such thirty day period, then the mayor of the city of Buffalo shall within thirty days thereafter fill such vacancy subject to the confirmation of such appointment by the common council of the city of Buffalo. No one shall be appointed to fill a vacancy of a subdistrict member of the board of education unless he fulfills all of the

qualifications in this subdivision to enable him to be a candidate for the office of a member of the board of education from the subdistrict involved.

o. The members so elected to the board of education shall convene on the first business day in January of each year, at the time of the commencement of their term of office and select from their members a president who shall serve for a term of one year or such other term, not exceeding the term of his office, as may be fixed by the rules and regulations of the board.

p. The election of members of the board of education of the school district of the city of Buffalo shall take place on the first Tuesday after the first Monday in November in each year in which an incumbent's term expires. Such election shall be conducted by the board of elections of the county of Erie in the same manner as other elections are conducted by it. The results of such elections, after canvassing, shall be certified and reported by the board of elections to the board of education of such city. The clerk or other appropriate officer of the board of education shall within twenty-four hours after receipt of such certification by the board of elections serve a written notice either personally or by mail upon each person declared to be elected as a member of the board of education informing him of his election and the length of his term.

11. Notwithstanding the provisions of any other law, each board of education shall establish a process for designating at least one student as an ex officio board member. Ex officio student members shall be entitled to sit with board members at all public meetings and hearings of the board and may participate in other board activities and responsibilities at the discretion of the board. Such ex officio student members shall not be allowed to vote, shall not be allowed to attend executive session or any other meetings or hearings not open to the public.

§ 2554. Powers and duties of board of education. * Subject to the

provisions of this chapter, the board of education in a city, except the city board of the city of New York, shall have the power and it shall be its duty:

* NB Effective until June 30, 2028

* Subject to the provisions of this chapter, the board of education in a city shall have the power and it shall be its duty:

* NB Effective June 30, 2028

1. To perform any duty imposed upon boards of education or trustees of common schools under this chapter or other statutes, or the rules of the regents and regulations of the commissioner of education so far as they may be applicable to the school or other educational affairs of a city, and not inconsistent with the provisions of this article, except that the provisions of subdivision six of section sixteen hundred four and subdivision eight of section seventeen hundred nine of this chapter shall not be applicable to a board of education in any city having a population of over thirty-five thousand in which the title to the school property is vested in the city.

2. To create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; to appoint a superintendent of schools, such associate, assistant, district and other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, auditors, attendance officers, secretaries, clerks, custodians, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational and business activities; provided, however, that in the city school districts of the cities of Buffalo, Rochester, and Syracuse appointment of associate, assistant and district superintendents, and other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law shall, within the amounts budgeted for such positions, be by the superintendent of such city school district; and to determine their

duties except as otherwise provided herein.

2-a. a. In its discretion to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of the board. In its discretion, the board may adopt a resolution establishing one or more offices of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor. Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor or deputy claims auditor who shall be

(1) a member of the board of education;

(2) a clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. The positions of claims auditor or deputy claims auditor shall be classified in the exempt class of civil service. The board of education, at any time after the establishment of the office of claims auditor or deputy claims auditor, may adopt a resolution abolishing the office. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to auditing accounts, charges, claims or demands against the city school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of the office. The board of education shall be permitted to delegate the claims audit function to one or more independent entities by using (1) inter-municipal cooperative agreements, or (2) independent contractors, to fulfill this function.

c. When the board of education delegates the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the board shall be responsible for auditing all claims for services from the entity providing the delegated claims

auditor, either directly or through a delegation to a different independent entity.

* 3. To appoint, in a city having a population of one million or more, notwithstanding the provisions of any local laws or charter to the contrary, a superintendent of schools emeritus, whose duty it shall be to consult and advise with the educational officers as and when requested by the superintendent of schools. No person shall be eligible for such appointment unless he shall have served in the positions of superintendent of schools, associate superintendent and district superintendent or assistant superintendent, and whose total period of service in such position shall have been at least ten years in a city having a population of one million or more. He shall receive for the duration of his life such annual salary as the board of education and the mayor or like financial authority shall determine at the time of his appointment, but he shall not receive a retirement allowance or any other benefit from the teachers' retirement system or any other pension fund, and upon his death his beneficiaries and/or his estate shall not be entitled to any benefits from any pension fund as a result of his service.

* NB Repealed July 1, 2002 and revived on June 30, 2028

4. To have the care, custody, control and safekeeping of all school property or other property of the city used for educational, social or recreational work and not specifically placed by law under the control of some other body or officer, and to prescribe rules and regulations for the preservation of such property.

* 5. To dispose, in the city of New York, of such personal property used in the schools and other buildings of the city of New York under the charge of the board of education of such city as shall no longer be required for use therein. Such disposition shall be made in the name of the city of New York and for such city.

Such board may sell, at prices as may be agreed upon, such manufactured articles or other products of any of its schools, day and evening, as may not be utilized by the board of education and all moneys realized by the sale thereof shall be paid into the city treasury and shall at once be appropriated by the city to a special fund to be

administered by the board of education for such purposes as such board, in its discretion, may determine. All other moneys realized by the sale of personal property shall be paid into the city treasury and shall at once be appropriated by the city to the special school fund of the board of education for use in the borough in which the property sold was situated.

Such method of disposal shall be deemed not to apply to the disposition of school books pursuant to subdivision eight of this section.

* NB Repealed July 1, 2002 and revived on June 30, 2028

6. To lease property required for the purpose of furnishing school accommodations for schools administered by the board of education and to prepare and execute leases therefor. To be eligible for aid pursuant to subdivision six of section thirty-six hundred two of this chapter, any such lease shall be approved by the commissioner prior to execution; the leased space shall meet requirements for access by individuals with disabilities to both facilities and programs, as defined in regulations of the commissioner; the requirements set forth in paragraphs a, b, c, d and f of subdivision one of section four hundred three-b of this chapter shall be met, except for the requirement of voter approval; and the leased space shall be used to house programs for pupils in grades prekindergarten through twelve, other than programs funded pursuant to section forty-four hundred ten of this chapter, with minimal associated administrative and support services space as approved by the commissioner.

7. To purchase and furnish such apparatus, maps, globes, books, furniture and other equipment and supplies as may be necessary for the proper and efficient management of the schools and other educational, social and recreational activities and interests under its management and control. To provide textbooks or other supplies to all the children attending the schools of such cities in which free textbooks or other supplies were lawfully provided prior to June eighth, nineteen hundred seventeen.

* 7-a. To develop a plan to ensure that all instructional materials to

be used in the schools of the district are available in a usable alternative format for each student with a disability, as defined in section forty-four hundred one of this chapter, and for each student who is a qualified individual with a disability as defined in the rehabilitation act of nineteen hundred ninety-three (29 U.S.C. 701), as amended, in accordance with his or her educational needs and course selection, at the same time as such instructional materials are available to non-disabled students. As part of such plan, the board of education shall amend its procurement policies to give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. For purposes of this subdivision, "alternative format" shall mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a disabled student enrolled in the school district, including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file in an approved format, as defined in the regulations of the commissioner. When an electronic file is provided, the plan shall specify how the format will be accessed by students and/or how the district shall convert to an accessible format. Such plan shall identify the needs of students residing in the district for alternative format materials. Such plan shall also specify ordering timelines to ensure that alternative format materials are available at the same time as regular format materials. Such plans shall include procedures to address the need to obtain materials in alternative format without delay for disabled students who move into the school district during the school year.

* NB Effective until June 30, 2028

* 7-a. To develop a plan to ensure that all instructional materials to be used in the schools of the district are available in a usable alternative format for each student with a disability, as defined in section forty-four hundred one of this chapter, and for each student who is a qualified individual with a disability as defined in the rehabilitation act of nineteen hundred ninety-three (29 U.S.C. 701) as amended, in accordance with his or her educational needs and course selection, at the same time as such instructional materials are available to non-disabled students; provided that in the city school district of the city of New York, such plan shall be developed by the

chancellor of the city district. As part of such plan, the board of education shall amend its procurement policies to give a preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. For purposes of this subdivision, "alternative format" shall mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a disabled student enrolled in the school district, including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file in an approved format, as defined in the regulations of the commissioner. When an electronic file is provided, the plan shall specify how the format will be accessed by students and/or how the district shall convert to an accessible format. Such plan shall identify the needs of students residing in the district for alternative format materials. Such plan shall also specify ordering timelines to ensure that alternative format materials are available at the same time as regular format materials. Such plans shall include procedures to address the need to obtain materials in alternative format without delay for disabled students who move into the school district during the school year.

* NB Effective June 30, 2028

* 8. To dispose of, in the city of New York, to the best advantage of the city of New York, either by sale or on the basis of money allowance for waste paper all books delivered to the several public schools of such city that have been discarded either by reason of being obsolete, no longer required by the course of study, worn by long usage or mutilated by accident. If disposal is made by sale it shall be to the highest bidder and the money realized shall be paid into the city treasury and shall at once be appropriated by the city to the special school fund of the board of education entitled "supplies". If disposal is made on the basis of money allowance for waste paper, it shall be to the highest bidder. Such discarded books may be disposed of without public advertisement or entry into a formal contract. Should the discarded books be in such condition that no sale or exchange can be made, or should there be reason to believe that such discarded books have become infected through disease among the pupils, or should the superintendent of schools certify that such discarded books contain erroneous, inaccurate, obsolete or antiquated subject matter,

illustrations, maps, charts or other material, the committee on supplies of the board of education, if such books cannot be sold, given away or otherwise salvaged as waste paper without danger to the public health, may authorize their destruction by fire, in which event the superintendent of school supplies shall obtain and file in his office a certificate that such books have been so destroyed, signed by the principal of the school in which the books are located.

* NB Repealed July 1, 2002 and revived on June 30, 2028

9. To establish and maintain such free elementary schools, high schools, training schools, vocational and industrial schools, kindergartens, nursery schools, technical schools, night schools, part-time or continuation schools, vocation schools, schools for adults, schools for physically or mentally handicapped or delinquent children or such other schools or classes as such board shall deem necessary to meet the needs and demands of the city.

10. To establish and maintain libraries which may be open to the public, to organize and maintain public lecture courses, and to establish and equip playgrounds, recreation centers, social centers, and reading rooms from such funds as the education law or other statutes authorize and the state appropriates for such purposes, and from such other funds as may be provided therefor from local taxation or other sources.

11. To authorize the general courses of study which shall be given in the schools and to approve the content of such courses before they become operative.

12. To authorize and determine the textbooks to be used in the schools under its jurisdiction.

13. a. To prescribe such regulations and by-laws as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board and the transaction of its business affairs, for the general management, operation, control, maintenance and discipline of the schools, and of all other educational, social or

recreational activities and other interests under its charge or direction.

* b. In a city having a population of one million or more, the city board shall prescribe such regulations and by-laws authorizing the chancellor to exercise such of its administrative and ministerial powers as the board may deem necessary to make effectual the provisions of this chapter and for the general management, operation, control, maintenance and discipline of schools, and of all other educational, social or recreational activities and other interests under its charge or direction. If in the exercise of its discretion and in order better to discharge its policy-making and other functions and to provide for the efficient administration of the educational system, the board delegates any of its administrative and ministerial powers to the chancellor, such chancellor shall exercise such delegated powers in the same manner and with the same force and effect as if such powers were given to him under the provisions of the education law.

* NB Repealed July 1, 2002 and revived on June 30, 2028

* 14. To provide in the schools administered by the board of education of the city of New York, the proper book or books, in form as required by the by-laws of the board of education of such city, in which it shall cause the class teachers under the direction and supervision of the principal to enter the names, ages and residences of the pupils attending the school, the name of the parent or guardian of each pupil and the days on which the pupils shall have attended respectively, and the aggregate attendance of each pupil during the year, and also the day upon which the school shall have been visited by the superintendent of schools or by an associate superintendent of schools or by an assistant superintendent, or by members of the board of education, or by members of the local school board, or by any of them, which entry shall be verified by such oath or affirmation of the principal as may be prescribed by the board of education of such city. Such books shall be preserved as the property of such board of education and shall at all times be open to inspection by members of such board of education, by members of the local school boards and by the superintendent of schools, or by any associate superintendent of schools, or by the assistant superintendents.

* NB Repealed July 1, 2002 and revived on June 30, 2028

15. a. To perform such other duties and possess such other powers as may be required to administer the affairs placed under its control and management, to execute all powers vested in it, and to promote the best interests of the schools and other activities committed to its care, and to authorize, or in its discretion to conduct, and maintain such extra classroom activities, including the operation of cafeterias or restaurant service for pupils and teachers, as the board, from time to time, shall deem proper. Such cafeterias or restaurant service may be used by the community for school related functions and activities and to furnish meals to the elderly residents, sixty years of age or older, of the district. Such utilization shall be subject to the approval of the board of education. Charges shall be sufficient to meet the direct cost of preparing and serving such meals, reducible by available reimbursements.

* b. In a city having a population of one million or more, the board of education shall make rules and regulations for the conduct, operation and maintenance of extra classroom activities and for the safeguarding, accounting and audit of all moneys received and derived therefrom. In the case of any extra classroom activity as it shall deem proper, and notwithstanding the provisions of section twenty-five hundred thirty of this chapter, it may direct that the moneys received or derived from the conduct, operation or maintenance of such an extra classroom activity be deposited with the auditor of the board of education, who in such event shall be the treasurer of such an extra classroom activity, the moneys of which are required to be so deposited. In the procurement of articles and services for the conduct, operation and maintenance of a cafeteria or restaurant service, the board of education shall be subject to the provisions of subdivision ten of section twenty-five hundred six of this chapter, except that said board of education need not have duly advertised for estimates in order to contract for such articles or services in an amount exceeding one thousand dollars. In such a city, the board of education shall also have power to assign any of its officers or employees to perform such duties as it may prescribe in connection with an extra classroom activity and to designate such of its officers and employees when so assigned from whom a bond shall be required for faithful performance of their duties and to fix the sum in

which each such bond shall be given.

* NB Repealed July 1, 2002 and revived on June 30, 2028

c. For the purposes of this section, a general organization of students of a school conducted under the rules and regulations of the board of education or with its approval, and engaged in extra classroom activities other than the operation of a cafeteria or restaurant service shall be known as a student organization. Unless such student organization is required by the board of education to deposit with the auditor the moneys received or derived from carrying on such extra classroom activity, such moneys shall be subject to the use and disposition of such student organization under the rules and regulations prescribed by the board of education.

* d. The board of education in a city having a population of one million or more shall inquire into the origin of all moneys or other property in the possession of any student organization, on March twenty-third, nineteen hundred thirty-six, and all such moneys which the board of education may find to have been derived from the operation of a cafeteria or restaurant service, it may require to be deposited with the auditor of the board of education and applied to the conduct and operation of a cafeteria or restaurant service, or other extra classroom activity, in such manner and to such extent as the board of education may direct.

* NB Repealed July 1, 2002 and revived on June 30, 2028

* (e) In order to facilitate operation of the school lunch programs administered by the board of education of the city of New York, better to serve the public interest, all persons employed in a cafeteria or lunchroom in any high school under the jurisdiction of this board for one year prior to the date this section takes effect, shall, because of their special training, experience and efficiency, and, notwithstanding any provisions to the contrary in any general, special or local law, be continued in the employment of this board without competitive examination, provided the necessary funds for such continued employment are appropriated by the board. The positions so held by such employees shall be in the noncompetitive class. The New York city civil service commission, however, after notice to any such employee of the reasons therefore, and after according such employee a hearing, may exclude him

from further employment if found by the commission not to be a person of satisfactorily good character. Not later than one year after this section shall take effect, the commission shall determine for which of such positions competitive examinations shall have become feasible, and shall thereupon reclassify the various positions, with the approval of the mayor and the state civil service commission. The then incumbents of such positions shall continue to hold their positions without further examination, provided, however, that all subsequent appointments to such positions shall be made in accordance with the civil service law and rules.

* NB Repealed July 1, 2002 and revived on June 30, 2028

16. To compensate, in its discretion, teachers and other employees for loss of personal property but shall provide workmen's compensation coverage as provided in the workmen's compensation law for all teachers and other employees for injuries incurred in actual performance of duty and with respect to teachers and other employees for whom such workmen's compensation coverage is not required in cities of one million or more population, to provide in its discretion for reasonable medical and hospital expenses for injuries incurred in actual performance of duty on or after July first, nineteen hundred sixty-two.

16-a. In its discretion, to provide under a group insurance policy or policies issued by any insurance company or insurance companies authorized to do business in this state or under a group contract issued by one or more corporations subject to article forty-three of the insurance law, life insurance or accident and health insurance benefits or medical and surgical benefits or hospital service benefits or any two or more of such kinds of benefits to teachers and other employees of the school district who participate in a plan or plans, as hereinafter provided. The disbursing officer of the school district is authorized to deduct from the salary of such participant with his prior consent, in writing, the sums representing the participant's share of the premium or premiums which are payable by such officer to such insurance company or corporation. Such board of education is authorized to pay from such moneys as are available for the purpose, a share of the cost of such benefit or benefits in such amount as is required to be paid under such

group insurance policy or policies or group contract or contracts by the board of education, as employer. The sum to be paid by the board of education under such policy or policies or contract or contracts, in the discretion of such board may be any percentage of the total cost of the benefit or benefits including the whole thereof.

Notwithstanding any provisions of this chapter, subdivision thirty-one-a of section one thousand six hundred four, subdivision thirty-four-a of section one thousand seven hundred nine and subdivision ten-a of section two thousand five hundred three of the education law and this subdivision shall not apply to a city having a population of one million or more inhabitants.

16-b. In its discretion, to purchase insurance against personal injuries incurred by an authorized participant in a school volunteer program, including but not limited to, those authorized participants who assist on school buses, school sponsored transportation to and from school, or on school sponsored field trips or any other school sponsored activity; provided, however, that the injuries were incurred while the authorized participant was functioning either within the scope of his or her authorized volunteer duties or under the direction of the board of education, trustee, or board of cooperative educational services, or both.

* 17. To maintain, in the city of New York, through such representatives as it may designate, an effective visitation and inspection of all schools and classes maintained in institutions controlled by the department of correction of the city of New York.

* NB Repealed July 1, 2002 and revived on June 30, 2028

18. To provide transportation, home-teaching or special classes, as defined under sections forty-four hundred one and forty-four hundred two of this chapter for physically or mentally handicapped and delinquent children. Such transportation, home-teaching or special classes, when provided pursuant to this subdivision, shall be granted to all such children irrespective of the school they legally attend.

19. To provide by contract for the transportation of children to and

from any school or institution of learning whenever in its judgment such transportation is required because of the remoteness of the school to the pupil or for the promotion of the best interests of such children. Any such contract may be made for a period not exceeding five years, notwithstanding any provision of any charter or other provision of law inconsistent herewith.

19-a. In its discretion, to lease a motor vehicle or vehicles for the transportation of children of the district under the same terms and conditions as the board of education of a union free school district, provided, however that no voter approval shall be required.

19-b. To establish a minority scholarship recruitment program by the board of education of the city of Buffalo.

20. To provide, outside the territorial limits of the city school district but within the state or within an adjoining state, for the education of children resident within the city school district whenever in the judgment of the board of education, approved by the commissioner of education, the health or welfare of such children makes such provision necessary or desirable, and the average daily attendance of such pupils shall be included in the average daily attendance of such district as certified to the commissioner in the report of the board of education.

* 21. To assign, in its discretion, one or more employees of the board in a city having a population of one million or more to serve as trial examiner with power to conduct investigations and hearings on behalf of such board. Each trial examiner shall report the result of any such investigation or hearing to the board.

* NB Repealed July 1, 2002 and revived on June 30, 2028

22. To provide, in its discretion, compensation to a speaker or speakers at commencement day exercises in such amount as may be determined by the board.

23. In its discretion, and with the written consent of any employee, to deduct from the salary of such employee such amount as may be agreed

to by such employee for payment to any credit union doing business in the state of New York as such employee may designate. Any such written authorization may be withdrawn by such employee at any time.

* 24. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performances of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

* NB Effective until June 30, 2028

* 24. In every city school district in a city having a population of less than one million inhabitants, each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of

the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performances of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

* NB Effective June 30, 2028

25. a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this subdivision shall be promptly

submitted to the commissioner for purposes of clearance for employment.

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate forty-five days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

c. Upon the recommendation of the superintendent, the board may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to paragraph b of this subdivision must also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance but shall terminate twenty business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted, the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An

unforeseen emergency vacancy shall be defined as: (i) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (ii) when no other qualified person is available to fill the vacancy temporarily; and (iii) when emergency conditional appointment is necessary to maintain services which the district is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of subparagraph (i) of this paragraph shall not apply if the board finds that the district has been unable to fill the vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

d. Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

* NB Effective until June 30, 2028

* 25. Shall require, for purposes of a criminal history record check, except in the city school district of the city of New York, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

* NB Effective June 30, 2028

* 26. Shall, upon commencement and termination of employment of an employee by the city school district, provide the commissioner with the name of and position held by such employee.

* NB Effective until June 30, 2028

* 26. Shall, except in the city school district of the city of New

York, upon commencement and termination of employment of an employee by the city school district, provide the commissioner with the name of and position held by such employee.

* NB Effective June 30, 2028

27. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal guardian.

* 28. To pass a resolution, in the discretion of the board of such district, authorizing the entering of an agreement with the city within such district, for the installation and use of school bus photo violation monitoring systems pursuant to section eleven hundred seventy-four-a of the vehicle and traffic law, provided that the purchase, lease, installation, operation and maintenance, or any other costs associated with such cameras shall not be considered an aidable expense pursuant to section thirty-six hundred twenty-three-a of this chapter.

* NB Repealed December 1, 2029

§ 2554-a. Powers of boards of education to ban fraternities, sororities and other secret societies. 1. In its discretion, the board of education of each school district, may adopt rules and regulations to

abolish and/or prohibit any fraternity, sorority or other secret society in any secondary school under its jurisdiction.

2. Prior to the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by any board of education of a school district, the board of education of the school district must find that the fraternity, sorority or secret society group has by virtue of its activities caused or created a disruption of or interference with the academic processes of any secondary school within its jurisdiction or caused or created any interference with or disruption of the academic progress of any individual student or students in any secondary school within its jurisdiction.

3. For the purposes of this chapter a fraternity, sorority or secret society shall mean any organization composed wholly or in part of pupils enrolled in public secondary schools which exists or seeks to perpetuate itself by taking in additional members from the pupils enrolled in such schools on the decision of the membership rather than upon the free choice of any pupil in such school but shall not be construed to include organizations institutionally sponsored by agencies of public welfare, the Boy Scouts of America, the Girl Scouts of America, the Campfire Girls, Young Men's Christian Association, Young Women's Christian Association, Young Men's Hebrew Association, Young Women's Hebrew Association, Catholic Youth Organization, Kiwanis International, Hi-Y or other similar organizations without limitation to the foregoing.

4. Upon and after the adoption and promulgation of a rule or regulation in accordance with the provisions of subdivision one of this section by the board of education of any such school district, such board of education may in any secondary school under its jurisdiction discipline any pupil who shall promise to join, or shall become a member of, or shall remain a member of, or shall solicit other persons to join any such fraternity, sorority or secret society.

§ 2554-b. Special provisions relating to the city school district of

the city of New York during emergency period. 1. As used in this section, the term "emergency period" shall mean the period from the effective date of this section to the first day of July, nineteen hundred sixty-two.

2. In order to place the educational affairs of the city school district of the city of New York under the closer supervision of the regents and the commissioner during the emergency period, the board of education of such district shall submit to the regents and the commissioner and to the mayor of the city of New York on the first day of January and April, nineteen hundred sixty-two, an interim progress report in such form and detail as the commissioner shall prescribe and on the first day of July, nineteen hundred sixty-two, a final report in such form and detail as the commissioner shall prescribe as to:

a. the corrective action taken in the emergency period and planned by the board of education with respect to the administration of the program for new school building construction;

b. the corrective action taken in the emergency period and planned by the board of education with respect to the repair and maintenance of existing school buildings and other structures under the control of the school district;

c. the disciplinary action taken in the emergency period with respect to employees guilty of accepting gratuities in relation to the performance of their duties, and the corrective action taken by the board of education to prevent recurrences of such misconduct;

d. the corrective action taken in the emergency period and planned by the board of education with respect to administrative reform and the development of a program for the division of responsibility between the board and the superintendent of schools and the administrative staff for the more efficient and effective management of the district;

e. the plans developed and action taken in the emergency period by the board of education for the revitalization of local school boards and for

increased participation of residents throughout the city of New York in the affairs of their local neighborhood schools;

f. the plans developed and action taken in the emergency period by the board of education to establish a long-range program and the necessary staff organization for better informed and coordinated planning of new school construction and the modernization of existing structures; and

g. the steps taken in the emergency period by the board of education to evaluate and to improve the quality of instruction in the schools.

3. During the emergency period, the board of education of the city school district of the city of New York shall have, specifically, the power:

a. To undertake any studies, inquiries, surveys or analyses it may deem relevant through the personnel of the district or in cooperation with or by agreement with any other public or private agency;

b. To employ and at pleasure remove educational, engineering, architectural, legal or management consultants and such other assistants as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available by appropriation therefor;

c. Notwithstanding the provisions of subdivision one of section twenty-five hundred sixty-five of this chapter, to remove at its pleasure by a vote of a majority of all its members, the superintendent, any deputy superintendent or any associate superintendent of schools of the district irrespective of the date of their appointments, provided, however, that the board may enter into a contract with the superintendent of schools for a period of not less than three and not more than five years; and

d. To authorize the superintendent of schools and the administrative staff of the district by by-law, rule, regulation or resolution to exercise on its behalf such of its administrative and ministerial powers

and duties with respect to the administration of the city school district, the purchase, repair, remodeling, improvement or enlargement of school buildings or other buildings or sites and the construction of new buildings as the board deems necessary or desirable for the more efficient administration of the district or for the more expeditious completion of school construction, maintenance or repairs, provided, however, that the board shall not authorize the superintendent of schools and the administrative staff to exercise any powers and duties relating to its investigative or judicial functions.

§ 2554-c. Identification photos of senior high school, junior high school or intermediate school students in the city school district of the city of New York. Upon the recommendation of the principal of a senior high school, junior high school or intermediate school and subject to the approval of the community superintendent for junior high schools or intermediate schools and chancellor for senior high schools, students enrolled in a senior high school, junior high school or intermediate school may be required to be photographed for purposes of identification. The principal of such school may designate the photographer to be used, but the student may not be charged for the cost of such photograph. If required by the principal, such photograph shall be taken within three months after the student's admission to such school. Such photograph shall be kept within the school at a place designated by the principal. At the discretion of the principal, and subject to the approval of the community superintendent for junior high schools or intermediate schools and chancellor for senior high schools, an identification card bearing a photograph of each student may also be required to be kept on the person of such student during hours when the student is attending such school.

§ 2555. Kindergartens, nursery and night schools. 1. The board of education of each city may maintain kindergartens which shall be free to resident children between the ages of four and six years, provided, however, such board may fix a higher minimum age for admission to such kindergartens.

2. A board of education may maintain nursery schools which shall be free to resident children and may fix the age for admission.

3. Night schools, which shall be free to all persons residing in the city, and wherein the common branches and such additional subjects as may be adapted to students applying for instruction are taught on at least two nights each week, for two hours each night, shall be maintained by the board of education on at least one hundred nights.

§ 2556. Buildings, sites, et cetera. 1. A board of education is authorized and it shall have power to purchase, repair, remodel, improve or enlarge school buildings or other buildings or sites, and to construct new buildings, subject to such limitations and restrictions and exceptions as are herein provided.

2. Whenever in the judgment of a board of education it is necessary to select a new site, or to enlarge a present site, or to designate a playground or recreation center, or to acquire title to or lease real property for other educational purposes authorized by this chapter, such board may take options on property desirable for such purposes but before taking title thereto shall pass a resolution stating the necessity therefor, describing by metes and bounds the grounds or territory desired for each of such purposes, and estimating the amount of funds necessary therefor. An item for such amount, if funds are not available for the purchase or lease of such property, may be included in the next annual budget, if not included in a special budget as herein provided.

3. Whenever in the judgment of a board of education the needs of the city require a new building for school purposes or for recreation or other educational purposes authorized by this chapter, or when in its judgment a building should be remodelled or enlarged, such board shall pass a resolution specifying in detail the necessity therefor and estimating the amount of funds necessary for such purpose. An item for such amount, if funds are not available for the construction of such

building, may be included in the next annual budget, if not included in a special budget as herein provided.

4. No site shall be designated except upon a majority vote of a board of education and no building shall be constructed, remodelled or enlarged until the plans and specifications therefor are approved by the board of education.

5. It shall be unlawful for a schoolhouse to be constructed in the city of New York without an open-air playground attached to or used in connection with the same. Existing playgrounds shall not be sold, leased or transferred, or permanently authorized for other uses such as school building construction, renovation, placement or storage of building materials for such work that would eliminate the use of such playground space for outdoor recreational activities unless a plan is established and implemented to provide suitable and adequate physical activities or space to accommodate the physical and recreational needs of the pupils of such building. The provisions of this subdivision shall not apply to school construction or renovation activities that occur on or require the use of such playgrounds for a duration of no more than one year.

* 5-a. (a) Notwithstanding subdivision three-a of section four hundred eight of this chapter, it shall be unlawful for a new schoolhouse to be constructed in the city of New York within five hundred feet of a controlled-access highway unless (i) the president of the New York city school construction authority determines that there is no other appropriate site to erect such schoolhouse; (ii) if such schoolhouse is planned to contain a secondary school, the community district, as such term is defined in section twenty-five hundred ninety-a of this title, in which the site of such schoolhouse is to be located has a projected enrollment rate for secondary school education greater than seventy percent of its capacity, based on the most recent report issued pursuant to section 21-988 of the administrative code of the city of New York; (iii) if such schoolhouse is planned to contain an elementary school or a middle school, the subdistrict, as such term is defined in section 21-989 of the administrative code of the city of New York, in which the site of such schoolhouse is to be located has a projected enrollment rate for elementary school education or middle school education, as

applicable, greater than seventy percent of capacity, based on the most recent report issued pursuant to section 21-988 of the administrative code of the city of New York; (iv) the site of such schoolhouse is located on a property a portion of which is used or is planned to be used for residential or commercial purposes; or (v) plans for such schoolhouse include adequate engineering controls to address air quality, based on regulations promulgated by the New York city department of environmental protection.

(b) For purposes of this subdivision, neither the construction of a new schoolhouse upon the site of an existing schoolhouse nor an addition nor an annex constructed to serve an existing schoolhouse shall be considered construction of a new schoolhouse.

(c) For purposes of this subdivision, a "controlled-access highway" shall mean: (i) a controlled-access highway as defined by section one hundred nine of the vehicle and traffic law under the jurisdiction of the commissioner of transportation which has been functionally classified by the department of transportation as principal arterial - interstate or principal arterial - other freeway/expressway on official functional classification maps approved by the federal highway administration pursuant to part 470.105 of title 23 of the code of federal regulations, as amended from time to time; and (ii) a divided highway under the jurisdiction of the New York state thruway authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections.

(d) Nothing in this subdivision shall be construed to create a private right of action to enforce the terms of this subdivision.

* NB Effective December 21, 2029

6. After a site has been selected and plans and specifications for a building thereon have been approved as provided herein, a board of education in a city having a population of more than four hundred thousand but less than one million may, in its discretion, by regulation deliver such plans and specifications to the common council or other local legislative body which may thereupon, in its discretion, award a contract for the erection of such building in the same manner and in accordance with the provisions of law regulating the awarding of contracts for the construction of municipal buildings of such city.

7. a. The board of education of the city of New York, with the permission of the department of parks and of the board of estimate, may construct schoolhouses and school playgrounds upon a portion of the public parks in the district east of the Bowery and Catharine street and south of Fourth street in such city.

b. The board of education of the city of New York, with the permission of the department of parks and recreation and of the board of estimate, may construct a temporary schoolhouse upon a portion of a public park in the borough of Queens, commonly referred to as Equity Park. Notwithstanding any inconsistent provision of subdivision nine of this section, such park land shall revert to the control and management of the department of parks and recreation seven years after the date of the completion of the construction of such temporary schoolhouse without further action of the board of education or of the board of estimate.

8. In a city having a population of one hundred twenty-five thousand or more and less than two hundred fifty thousand in which the common council, the board of estimate and apportionment and the board of contract and supply and the commissioner of public works or other city officials, or any one or more thereof, had the authority under the law in force prior to June eighth, nineteen hundred seventeen, to erect, remodel, improve, or enlarge school buildings or to purchase supplies or real property for any school purpose, such officers, board or boards shall continue to possess such powers and duties and to perform such functions.

9. When the real property of a city under the control and management of the board of education is no longer needed for educational purposes in the city, such board shall notify the common council of such fact and in a city having no common council, the council or other legislative body or the commissioners of the sinking fund, and such common council or such council or body or such commissioners of the sinking fund, as the case may be, may then sell or dispose of such property in the manner in which other real property owned by the city may be sold or disposed of and the proceeds thereof shall be credited to the funds under the

control and administration of the board of education in such city, except that in a city where the proceeds of such sales were required by statute, in effect prior to June eighth, nineteen hundred seventeen, to be paid to the credit of the sinking fund established and maintained therein, the proceeds of such sales shall continue to be paid to the credit of the sinking fund of such city as required by statute, and except that in a city having a council or a board of estimate and apportionment, such council or board may, by resolution, authorize the use of the proceeds of such sale for other municipal purposes.

10. The board of education shall let all contracts for public work and all purchase contracts to the lowest responsible bidder after advertisement for bids where so required by section one hundred three of the general municipal law.

10-a. In a city having a population of one million or more if the several parts of the work or labor to be done and/or the supplies, materials and equipment to be furnished shall together involve an expenditure of not more than fifteen thousand dollars, the same may be procured on order awarded to the lowest responsible bidder upon bids submitted without public advertisement under such regulations as shall be made by the board of education. Purchases of two hundred fifty dollars or less may be made without competition.

11. In all contracts by a board of education, in a city having a population of one million or more, for the construction, repair, alteration or remodeling of buildings or for the purchase of supplies, furniture or equipment, a stipulation may be inserted for liquidated damages for any breach, failure or delay in the performance thereof; and such board of education is authorized and empowered to remit the whole or any part of such damages as in its discretion may be just and equitable; and in all suits commenced on any such contracts or on any bond given in connection therewith it shall not be necessary for such board, whether plaintiff or defendant, to prove actual or specific damages sustained by reason of any such breach, failure or delay, but such stipulation for liquidated damages shall be conclusive and binding upon all parties.

12. In a city having a population of one million or more a board of education may make rules and regulations governing the qualifications of bidders entering into contracts for the erection and construction of buildings, and for the alteration of buildings when the entire cost of such alteration shall exceed twenty-five thousand dollars. The bidding may be restricted to those who shall have qualified prior to the receipt of bids according to standards fixed by the board of education, provided that notice or notices for the submission of qualifications shall be published in the official publication of the municipality, and in an appropriate trade journal published in such city, at least once, not less than ten days prior to the date fixed for the filing of qualifications.

13. A board of education, in a city having a population of one million or more, may through its duly designated officers, agents or employees enter upon public or private property for the purpose of making surveys, soundings or test borings necessary for the exercise of the powers or the performance of the duties, of such board of education, provided however, that the mayor had formally approved the acquisition of the real property as a school site.

14. a. The chancellor of a city school district in a city having a population of one million or more shall compile an inventory of and issue a written report about the outdoor schoolyards in the city school district. Such inventory and report shall:

(i) identify each outdoor schoolyard located at educational facilities, as defined in subdivision nine of section twenty-five hundred ninety-a of this title, of the city school district. Each outdoor schoolyard shall be identified by the community school district in which the outdoor schoolyard is located, its address, approximate size and physical condition;

(ii) identify which outdoor schoolyards are used for physical education, activity and/or recreation; for each such outdoor schoolyard, a description of how often students of the city school district use the outdoor schoolyard and any limitations on the uses of the schoolyard;

(iii) identify which outdoor schoolyards are not used for physical

education, activity or recreation. For each such schoolyard, an explanation of why it is not being used for physical education, physical activity or recreation by students of the city school district;

(iv) whether each outdoor schoolyard is used and the frequency of such use during the school day and whether it is available for use by students or the general public during after school hours;

(v) for each outdoor schoolyard, a description of the capital plans for construction, placement, renovation and/or reconfiguration thereof, and any plan to increase or decrease the availability and utilization thereof; and

(vi) any other facts, information and recommendations which the chancellor deems necessary to improve the outdoor schoolyards of the educational facilities of the city school district. Such improvements shall be those that enhance the physical education, physical and mental fitness, and well-being of the students of the city school district.

b. On or before December thirty-first, two thousand twelve, the chancellor shall submit the inventory and report, compiled pursuant to paragraph a of this subdivision, to the governor, the temporary president of the senate, the speaker of the assembly, the chairs of the senate and assembly committees on education, and the department.

c. For the purposes of this subdivision, "outdoor schoolyard" means outdoor space which is located at educational facilities, and is used or intended to be used by students for physical education, physical activity and/or recreation.

15. a. The chancellor of a city school district in a city having a population of one million or more shall compile an inventory of and issue a written report and develop recommendations regarding transportable classroom units ("TCU" or also commonly known as a "trailer"). Such inventory, report and recommendations shall:

(i) identify each transportable classroom unit located in the city school district. Each transportable classroom unit shall be identified by the community school district in which it is located, its address with identification of any school building it is part of or associated with, its approximate size, its age, and a description of its physical

condition;

(ii) identify the number of students served within each transportable classroom unit, including the grade level of such students, if applicable, the average class size within each transportable classroom unit, and a description of the amount of the school day the students spend within each transportable classroom unit;

(iii) provide recommendations to minimize the number of transportable classroom units within the city school district.

b. On or before December thirty-first, two thousand seventeen, the chancellor shall submit the inventory, report, and the recommendations to minimize the number of transportable classroom units within the city school district, compiled and developed pursuant to paragraph a of this subdivision, to the governor, the temporary president of the senate, the speaker of the assembly, the chairs of the senate and assembly committees on education, and the department. Annually, on or before December thirty-first, the chancellor shall update such inventory, report and recommendations and provide such updated information and recommendations to the governor, the temporary president of the senate, the speaker of the assembly, the chairs of the senate and assembly committees on education, and the department.

§ 2557. Purchase and sale of real property. The board of education may purchase real property for any of the purposes authorized by law and shall take title thereof in the name of the city, which shall hold said property in trust for the use of such school district and the city is hereby empowered to sell and convey the same when it deems it for the interest of such school district, and when the owner of such property refuses to sell the same or such board is unable to agree with the owner of such property on the purchase price thereof, it shall have the power and authority to institute such proceedings and take any action necessary to acquire title to such property under and pursuant to the provisions of the eminent domain procedure law, except that in a city in which the common council, board of contract and supply or other city officers or body were authorized and empowered by law to acquire title to real property for school purposes under the laws in force on June

eighth, nineteen hundred seventeen, said council, board, officers or body shall continue to possess such powers and shall exercise the same, including the power to acquire real property for said purposes except further that such real property shall be acquired pursuant to the eminent domain procedure law.

§ 2559. Power of removal of member of board of education. For cause shown, and after giving notice of the charge and opportunity of defense, the commissioner of education may remove any member of a board of education. Wilful disobedience of any lawful requirement of the commissioner of education, or a want of due diligence in obeying such requirement or wilful violation or neglect of duty, is cause for removal.

§ 2560. Liability of board of education and community school boards in a city having a population of one million or more inhabitants. 1. Notwithstanding any inconsistent provision of law, general, special or local, or the limitation contained in the provisions of any city charter, any duly appointed member of the board of education in a city having a population of one million or more, the members of each community school board in such city, the teaching or supervising staff, officer, or employee of such board and of each such community school board, member of a committee on special education or subcommittee thereof or authorized participant in the school volunteer program in such city shall be entitled to legal representation and indemnification pursuant to the provisions of, and subject to the conditions, procedures and limitations contained in section fifty-k of the general municipal law, except that any judgment or settlement pursuant to this section shall be payable from the monies of the board of education.

2. Notwithstanding any inconsistent provision of law, general, special or local, or limitations contained in the provision of any city charter, it shall not be within the power of the board of education or a community school board in any school district in a city with a population of one million or more to require a volunteer participating

in any school activities to execute a waiver of responsibility in favor of that board as a condition, either express or implied, of such participation. Such waiver would include, but not be limited to, a release of any party against whom the volunteer may have rights under any existing provision of law for personal injuries incurred during the performance of authorized volunteer duties by an authorized participant in a school volunteer program.

§ 2561. Liability of certain officers and employees of boards of education in a city having a population of one million or more inhabitants. If, in order to furnish needy children or minors with food, shoes, clothing, and other necessities to enable them to attend school as contemplated by law and to benefit from instruction, the board of education of a city having a population of one million or more shall have required, imposed or permitted, the performance of duties by any of its officers and employees, because of which it became necessary or expedient for any such officer or employee to act for the board of education, or to act for or in cooperation with any other agency of government, federal, state or municipal, then irrespective of the fact that the authority to require, impose or permit the performance of such duties may not have been specifically conferred upon said board of education by provisions of this chapter, each such board of education shall be liable for and shall assume liability to the extent that it shall save harmless any such officers or employees for damages arising out of the negligence of any such officer or employee prior to April fifteenth, nineteen hundred thirty-seven, while actually engaged in the performance of such required or permitted duties, provided the officer or employee at the time was acting within the scope of his duties or employment.

§ 2562. Presentation of claims against a board of education of a city having a population of four hundred thousand or more to be pleaded. 1. No action or special proceeding, for any cause whatever, shall be prosecuted or maintained against a board of education of a city having a population of four hundred thousand or more, unless it shall appear by

and as an allegation in the complaint or necessary moving papers that at least thirty days have elapsed since the demand, claim or claims upon which such action or special proceeding is founded were presented to the said board of education for adjustment, and that the officer or body having the power to adjust or pay said claim has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. The said board of education may require any person presenting for settlement an account or claim for any cause whatever against it to be sworn before it or a committee thereof, or before the claims auditor or deputy claims auditor, or before any person designated by said board, touching such account or claim, and when so sworn, to answer orally as to any facts relative to the justness of such account or claim. A member of the board, the claims auditor, or any other person designated as hereinbefore stated, shall have the power to administer an oath to any person who shall give testimony to the justness of such account or claim, and for the purpose of securing such testimony may issue subpoenas for the attendance of witnesses. Wilful false swearing before the said board of education, a committee thereof, the claims auditor or deputy claims auditor, or before any person designated as hereinbefore stated, is perjury and punishable as such.

§ 2563. Meetings of board of education. 1. The annual meeting of a board of education shall be held on the second Tuesday in May, at four o'clock in the afternoon, at which meeting the board shall select a president for the ensuing year, except that the annual meeting of the board of education of the city school district of the city of New York shall be held on the first Tuesday in July.

2. Each of such boards shall also fix the day and hour for holding regular board meetings which shall be at least as often as once each month and shall also prescribe a method for calling special meetings of such board.

§ 2564. Local school board districts. 1. The board of education of the city school district of the city of New York, by resolution duly adopted, shall divide the city school district into such number of local school board districts as such board in its discretion may determine. The board of education may from time to time alter the boundaries of such districts, consolidate two or more districts or parts thereof, or divide any such district or districts as it shall consider necessary. For the purposes of this section, a school decentralization demonstration project in existence on April first, nineteen hundred sixty-eight shall be deemed to be a local school board district.

2. Such board of education, upon the establishment of such local school board districts, shall have the power to appoint, or provide for the election of, and remove at its pleasure, a local school board for each such local school board district, which shall consist of such number of members as the board shall determine from time to time.

3. The board of education, with the approval of the regents, shall have the power to delegate to such local school boards any or all of its functions, powers, obligations and duties in connection with the operation of the schools and programs under its jurisdiction, and may modify or rescind any function, power, obligation and duty so delegated.

4. In accordance with rules and regulations to be promulgated by the board of education, each such local school board shall have the power to employ a local superintendent of schools upon such terms and conditions as such local school board shall determine. Such employment shall be by contract at an annual rate of compensation not in excess of thirty thousand dollars.

§ 2565. Superintendent of schools, associate superintendents, board of superintendents. 1. The superintendent or an associate superintendent of schools of a city in office on June eighth, nineteen hundred seventeen, shall hold his position for the term for which he was chosen and until his successor is chosen. A superintendent or associate superintendent appointed after such date shall hold his position in a

city having a population of two hundred fifty thousand or more for a period not to exceed four years from the date of his appointment and in all cities subject to the pleasure of the board of education, except that in all other cities the superintendent of schools may be appointed for a term of not to exceed five years, provided that the terms or provisions of any employment contract between the superintendent and the board of education relating to an increase in salary, compensation or other benefits, shall not be based on or tied to the terms of any contract or collective bargaining agreement that the board of education has or will enter with the teachers or other employees of the school district.

2. A superintendent or an associate superintendent may vacate his position by filing a written resignation with the board of education. No person shall be eligible to the position of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools or member of a board of examiners in a city unless he shall possess or be entitled to a superintendent's certificate as provided in section three thousand three of this chapter.

3. Notwithstanding the provisions of subdivisions one and two of this section, the superintendent of schools of the Rochester city school district shall serve at the pleasure of the board of education; provided, however, that such term shall, in no event, exceed a period of four years.

§ 2566. Powers and duties of superintendent of schools. The superintendent of schools of a city shall possess, subject to the by-laws of the board of education, the following powers and be charged with the following duties:

1. To be the chief executive officer of such board and the educational system, and to have a seat on the board of education and the right to speak on all matters before the board, but not to vote.

2. To enforce all provisions of law and all rules and regulations relating to the management of the schools and other educational, social and recreational activities under the direction of the board of education.

3. In a city having a population of one million or more, to exercise such administrative and ministerial powers of such board as may be delegated to him by regulation and by-laws of such board in such manner and with the same force and effect as if such powers were given to him by the provisions of the education law.

4. To prepare the content of each course of study authorized by the board of education. The content of each such course shall be submitted to the board of education for its approval and, when thus approved, the superintendent shall cause such courses of study to be used in the grades, classes and schools for which they are authorized.

5. To recommend suitable lists of textbooks to be used in the schools.

6. To have supervision and direction of associate, assistant, district and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, deputy claims auditors, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the city authorized by this chapter and under the direction and management of the board of education, except that in the city school districts of the cities of Buffalo, Rochester, and Syracuse to also appoint, within the amounts budgeted therefor, such associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to said board for its consideration and action; to report to said board of education violations of regulations and cases of insubordination, and to suspend an associate, assistant, district or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next

regular meeting of the board, when all facts relating to the case shall be submitted to the board for its consideration and action.

7. To have supervision and direction over the enforcement and observance of the courses of study, the examination and promotion of pupils, and over all other matters pertaining to playgrounds, medical inspection, recreation and social center work, libraries, lectures and all other educational activities and interest under the management, direction and control of the board of education.

8. To issue such licenses to teachers, principals, directors, school psychiatrists, school psychologists, school medical inspectors, school aurists, school psychiatric social workers, school social case workers, research assistants, teacher-clerks, school clerks, clerical assistants, industrial or trade helpers in vocational schools, school librarians, laboratory assistants, placement and investigation assistants, financial assistants, machine shop assistants, tool boys, and other members of the teaching and supervising staff as may be required under the by-laws and regulations of the board of education in cities in which such board requires its teachers to hold qualifications in addition to or in advance of or different from, where such qualifications are not provided by the commissioner, the minimum qualifications required under this chapter. All such licenses issued prior to the first day of December, nineteen hundred thirty-four, and all appointments made or hereafter made pursuant to such licenses are hereby authorized and validated against any statutory provision, omission, or irregularity, provided the examination for such license was conducted by the board of examiners in accordance with the by-laws and regulations of the board of education, notwithstanding the invalidity of any such by-laws and regulations. All such licenses issued by the chancellor prior to the effective date of a chapter of the laws of 1990, entitled "AN ACT to amend the education law and the administrative code of the city of New York, in relation to appointment of teaching service personnel by abolishing the board of examiners in cities having a population of one million or more and to repeal certain provisions of the education law relating thereto" and all appointments made or hereafter made pursuant to such licenses are hereby authorized and validated, notwithstanding any provision of statute or

regulation to the contrary. Nothing in this chapter shall affect the rights of persons serving pursuant to appropriate licenses issued prior to the effective date of a chapter of the laws of 1990, entitled "AN ACT to amend the education law and the administrative code of the city of New York, in relation to appointment of teaching service personnel by abolishing the board of examiners in cities having a population of one million or more and to repeal certain provisions of the education law relating thereto" or require them to obtain certifications or licenses not previously required of them.

9. Notwithstanding any inconsistent provision of law, the provisions of subdivision six of this section relating to the transfer of teachers may be modified by an agreement that is collectively negotiated pursuant to the provisions of article fourteen of the civil service law.

§ 2567. Protection of rights exercised under licenses issued by a board of education in a city having a population of one million or more. No person shall forfeit any right given to him under a license issued by a board of education in a city having a population of one million or more, pursuant to this chapter, because of absence while in service in the armed forces of the United States or in the service of the American Red Cross. Any person may at any time within six months after his discharge from service in the armed forces of the United States or the American Red Cross make application to the license issuing authority by affidavit setting forth that he or she has been in service in the armed forces of the United States or the American Red Cross during world war II and has been discharged from such service and that he desires the license theretofore issued to him or to her to be reissued as of the date of such application, and it shall be the duty of the licensing authority to reinstate such license as of the date on which application is made.

§ 2568. Superintendent of schools authorized to require medical examination of certain employees of certain boards of education. The superintendent of schools of a city having a population of one million

or more shall be empowered to require any person employed by the board of education of such city to submit to a medical examination by a physician or school medical inspector of the board, in order to determine the mental or physical capacity of such person to perform his duties, whenever it has been recommended in a report in writing that such examination should be made. Such report to the superintendent may be made only by a person under whose supervision or direction the person recommended for such medical examination is employed. The person required to submit to such medical examination shall be entitled to be accompanied by a physician or other person of his own choice. The findings upon such examination shall be reported to the superintendent of schools and may be referred to and considered for the evaluation of service of the person examined or for disability retirement.

§ 2569. Appointment of teachers. a. In a city having a population of one million or more inhabitants, state certification in accordance with the regulations of the commissioner shall be a prerequisite to appointment to any teaching or supervisory position. The commissioner, after consultation with the chancellor, shall identify in the regulations the state certificates which correspond to licenses utilized by the city school district of the city of New York. Where the regulations of the commissioner do not identify a corresponding state certificate, the minimum education and experience requirements promulgated by the chancellor in accordance with subdivision two of section twenty-five hundred ninety-j of this chapter shall be a prerequisite to appointment to any teaching position in such license. In addition, placement upon qualifying eligible lists in accordance with subdivision ten of section twenty-five hundred seventy-three of this article shall be conditional upon satisfactory performance on (i) an interview test administered by the chancellor and (ii) a performance test where required by the chancellor.

b. For purposes of qualifying teachers for service exclusively within a school district wherein instruction is given bi-lingually, all interviews and performance tests provided for by this section shall be given in English and Spanish or any other appropriate second language

and the applicant at the time of application shall designate the language of his choice, except that a written composition as determined by the chancellor under the policies of the city board of education shall be given in English.

§ 2573. Appointment of assistant, district or other superintendents, teachers and other employees; their salaries, et cetera. 1. (a) i. Teachers and all other members of the teaching staff, appointed prior to July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall not exceed two years; provided, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall be one year. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall be so notified by the superintendent of schools in writing not later

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

ii. Teachers and all other members of the teaching staff appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent of schools, for a probationary period of four years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of up to two years, or such teacher has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of up to two years and has been appointed to teach the same subject in day schools on an annual salary, the teacher shall be appointed for a probationary period of a minimum of two years, depending upon the length of the regular substitute service that shall shorten the length of the probationary period; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the teacher shall be appointed for a probationary period of three years; provided further, however, that in cities with a population of one million or more, a teacher appointed under a newly created license, for teachers of

reading and of the emotionally handicapped, to a position which the teacher has held for at least two years prior to such appointment while serving on tenure in another license area who was not dismissed as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the teacher shall be appointed for a probationary period of two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education. Each person who is not to be recommended for appointment on tenure shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of such person's probationary period. In all city school districts subject to the provisions of this article, failure to maintain certification as required by this article and by the regulations of the commissioner shall be cause for removal within the meaning of subdivision five of this section.

(b) i. Administrators, directors, supervisors, principals and all other members of the supervising staff, except executive directors, associate, assistant, district and community superintendents and examiners, appointed prior to July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent or chancellor of schools, for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education.

ii. Administrators, directors, supervisors, principals and all other members of the supervising staff, except executive directors, associate, assistant, district and community superintendents and examiners, appointed on or after July first, two thousand fifteen and authorized by section twenty-five hundred fifty-four of this article, shall be appointed by the board of education, upon the recommendation of the superintendent or chancellor of schools, for a probationary period of four years provided that such probationary period may be extended in accordance with paragraph (b) of subdivision five of this section;

provided, however, that in the case of a principal, administrator, supervisor, or other member of the supervising staff who has been appointed on tenure pursuant to this chapter as an administrator within an authorized administrative tenure area in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a or section three thousand twenty-b of this chapter, the principal, administrator, supervisor or other member of the supervising staff shall be appointed for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education.

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

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

4. Clerks, draftsmen, inspectors, chemists, tabulating machine operators, secretaries, stenographers, copyists, statisticians, janitors, custodians, custodian-engineers, and all other administrative employees of a board of education, unless otherwise provided in this chapter, shall be appointed for a probationary period provided in the civil service law and regulations based thereon. The service of a person appointed to any of such positions may be discontinued by the board of education at any time during such probationary period. Such persons who have served the full probationary period shall hold their respective

positions during good behavior and efficient and competent service, and shall not be removed except for cause after a hearing by the affirmative vote of a majority of the board.

5. (a) At the expiration of the probationary term of any persons appointed for such term prior to July first, two thousand fifteen, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory. Such persons and all others employed in the teaching, service of the schools of a city, who have served the full probationary period, shall hold their respective positions during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of this chapter.

(b) At the expiration of the probationary term of any persons appointed for such term on or after July first, two thousand fifteen, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their position during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty and section three thousand twenty-a of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

6. (a) In a city having a population of four hundred thousand or more, at the expiration of the probationary term of any persons appointed for such term prior to July first, two thousand fifteen, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found satisfactory, and such board of education shall immediately thereafter issue to such persons permanent certificates of appointment. Such persons and all others employed in the teaching service of the schools of such city, who have served the full probationary period shall receive permanent certificates to teach issued to them by the certificating

authority, except as otherwise provided in subdivision ten-a of this section, and shall hold their respective positions during good behavior and satisfactory teaching service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty-a of this chapter.

(b) At the expiration of the probationary term of any persons appointed for such term on or after July first, two thousand fifteen, the superintendent of schools shall make a written report to the board of education recommending for permanent appointment those persons who have been found competent, efficient and satisfactory. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their position during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as provided by section three thousand twenty and section three thousand twenty-a of this chapter. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

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

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

10. (a) In a city having a population of one million or more, recommendations for appointment to the teaching service shall be from the first three persons chosen by random selection from the qualifying eligible lists prepared by the chancellor. Competitive eligible lists in existence at the time of enactment of this subdivision shall not be merged and any such lists shall be exhausted or have expired before

nominations are made from a qualifying list of a subsequent date promulgated hereunder. Qualifying eligible lists for supervisory positions shall be merged with any subsequently promulgated lists in the same license area so that there shall be one continuing non-expiring eligible list for each license area. No competitive eligible list shall remain in force for a longer period than four years, nor have a life of less than three years. No competitive eligible list now in force shall terminate any sooner than four years from the date on which it was promulgated. The board of education, on the recommendation of the chancellor shall designate, subject to the other provisions of this chapter, the kind and grades of licenses which shall be required for service as principal, branch principal, director, supervisor or teacher of a special branch, head of department, assistant, school psychiatrist, school psychologist, school medical inspector, school social worker, school social caseworker, school secretary, industrial or trade helper in vocational schools, school librarian, laboratory assistant, or any other position of the teaching staff together with the academic and professional qualifications required for each kind or grade of license. No person required to have a license under the provisions of this chapter in order to be employed in a position who does not have such license shall have any claim for salary, except that a person who has been assigned to teach in a subject or field not specifically covered in his license but on the same rank or level of service shall be entitled to his salary.

(b) Qualifying eligible lists for teaching and supervisory positions shall consist of the names of all persons who have met the eligibility requirements for appointment as defined by the chancellor pursuant to sections two thousand five hundred ninety-j and two thousand five hundred sixty-nine of this chapter. Where the regulations of the commissioner do not identify a state certificate that corresponds to a license utilized by the city school district, the chancellor shall develop and administer an examination appropriate to the license, provided the development of such examination and the passing score are based upon appropriate validity studies conducted in accordance with professional standards of measurement. For teaching service positions, competitive eligible lists in existence on the effective date of this paragraph shall not be merged. Subsequently promulgated qualifying

eligible lists in the same license area shall be merged so that there shall be one qualifying eligible list for each license area. No candidate shall remain on the qualifying eligible list longer than seven years from the date the candidate is placed on the qualifying eligible list. This paragraph does not affect the examinations for teaching or supervisory service positions announced by the board of examiners prior to the effective date of this paragraph.

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

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

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

10-a. In the city school district of the city of Buffalo, members of the teaching and supervising staff appointed on or after the effective date of this subdivision shall be required to hold a state teaching

certificate, but shall not be required to hold a license issued by the Buffalo city school district. Persons appointed to the teaching and supervising staff prior to such effective date may continue to serve under a license issued by such city school district and the board of education shall be authorized to issue permanent licenses and permanent certificates of appointment after such effective date to such persons who fulfill all announced requirements for the position that were imposed at the time of appointment. Nothing in this chapter shall affect the rights of persons serving pursuant to appropriate licenses issued prior to the effective date of this subdivision or require such persons to obtain certifications or licenses not previously required of them.

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

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

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

and shall be licensed by the board of examiners of the board of education of such city.

15. Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

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

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

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

from such preferred eligible list in order of their placement on such list. At any time when the total number of positions of replacement teacher in such pool exceeds the total number of teachers who will be absent on leave for the ensuing term of school, the board may abolish positions in such pool which are in excess of the number of teachers to be absent on leave as aforesaid, or may use replacement teachers in such pool instead of substitute teachers to replace teachers who are absent for shorter periods than one term. Whenever a particular replacement teacher cannot be used to replace any teacher who is absent on leave for a full term, he or she may similarly be used to replace teachers who are absent for shorter periods. Nothing herein contained shall be construed as preventing the appointment of regular substitute teachers to replace teachers absent on leave when no persons holding positions created pursuant to this subdivision are available for such replacement.

§ 2574. Assistant superintendents in a city having a population of one million or more. The title district superintendent used in any law to designate a district superintendent in the employ of the board of education of a city having a population of one million or more is hereby changed to assistant superintendent. The persons affected by this section shall, under such new title, continue to have the pension rights, salary rights, tenure rights, and all other rights they had under the title district superintendent.

§ 2575. Retirement of employees of board of education. 1. (a) The board of education of a city school district of a city having a population of one hundred thousand or more shall have power to establish a retirement system for all civil employees permanently employed by said board other than superintendents and teachers who may now be retired under the provisions of other retirement laws. In any such city in which there is a bureau of compulsory education, school census, and child welfare established under the provisions of this chapter, all persons, except for attendance teachers and specially certificated attendance officers who are first employed by a board of education of a city having a population of one million or more, beginning on the first day of

September, nineteen hundred sixty-eight, and further except for the director of attendance, assistant director of attendance, chief attendance officer, division supervising attendance officer, and district supervising attendance officer, supervisors of school social workers, who were first employed by a board of education of a city having a population of one million or more, beginning on the first day of September nineteen hundred sixty-nine, of which such a bureau of compulsory education, school census, and child welfare consists shall be members of the retirement system created in accordance with the provisions of this section, provided that any such person who on May fourth, nineteen hundred twenty-six, was a member of another retirement system in such city may continue such membership so long as he or she holds an office or position in such bureau. Transfer of membership of any such persons from another retirement system to a retirement system as herein provided shall be made in accordance with the provisions of section fifty-nine of the civil service law. The board of education of such city shall adopt appropriate rules and regulations for the government, management and control of the retirement of said employees; except that in regard to the actions of the governing board of a retirement system governed by such rules and regulations, the concurrence of one employee representative and one non-employee representative shall be necessary for an act of such board, and there shall be no fewer than two employee representatives of such board. Before they become effective such rules and regulations must be approved by the board of estimate, or the board of estimate and apportionment in a city having such body, and in a city not having such body by the common council or such other officers or bodies as have the management and control of financial affairs similar to that exercised by such board of estimate or board of estimate and apportionment. The board of estimate or the board of estimate and apportionment in a city having such body, and in other cities the officers or bodies performing the functions similar to those of a board of estimate or a board of estimate and apportionment shall appropriate annually the sum necessary to pay the expenses of the administration of this section, except that in the city of New York such appropriations shall be made pursuant to chapter six of the New York city charter, and also to pay such pensions to the employees herein described as they shall be entitled to receive annually

under the rules and regulations prescribed by the board of education and approved by the said board of estimate or board of estimate and apportionment or other authorities.

(b) (1) The rules and regulations prescribed by the board of education and approved by the board of estimate or the board of estimate and apportionment or other authorities named herein shall provide for the annual payment of a pension which shall be a per centum of the average annual personal compensation of an employee for the five years of service immediately preceding his retirement, except as otherwise provided in subparagraph two of this paragraph (b).

(2) Such rules and regulations so prescribed and approved with respect to any such retirement system established in the city school district of a city having a population of one million or more may provide for the annual payment of a pension which shall be a per centum of the compensation of an employee during any period designated in such rules and regulations; provided, however, that such period shall in no event be less than one year or more than five years.

2. In a city having a population of one million or more and having a teachers' retirement board, changes, alterations, amendments or modifications in the rules and regulations established for the administration of this section shall be adopted as follows:

The board of education of said city may adopt and shall submit such changes, alterations, amendments or modifications, hereinafter in this subdivision referred to as changes, to said teachers' retirement board for approval. Said teachers' retirement board shall within thirty days after the submission to it of such changes transmit to said board of education a statement in writing setting forth which of such changes it approves and which it disapproves, if any, and the reasons for such disapproval. If said teachers' retirement board shall approve of all of such changes, then such changes shall immediately become effective and in full force and operation.

If said teachers' retirement board shall disapprove of all or any of such changes and if said board of education and said teachers' retirement board within thirty days thereafter shall fail to agree upon

changes in place of the changes so disapproved, then the changes shall be submitted by said board of education within ten days after the lapse of said thirty days to the commissioner of education who shall have full power to approve, alter or modify the changes disapproved by said teachers' retirement board, and the action of the commissioner of education shall be final, and thereupon the changes approved by said teachers' retirement board and the changes as approved, altered or modified by the commissioner of education shall immediately become effective and in full force and operation.

Should said teachers' retirement board fail either to approve or to disapprove all or any of such changes submitted to it as herein provided, then such changes not approved or not disapproved shall at the expiration of the thirty days immediately following their submission to said teachers' retirement board be deemed to have been approved by said teachers' retirement board and such changes shall immediately become effective and in full force and operation.

Said teachers' retirement board and the trustees of any variable annuity funds created by said rules and regulations may negotiate an agreement whereby said variable annuity funds are commonly invested with the variable annuity funds of said teachers' retirement board. In such event, final authority for investing such funds shall rest with the teachers' retirement board for the period of such agreement. Such agreement shall be for a period not to exceed five years but may be renewed.

3. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan analogous to that authorized by a chapter of the laws of nineteen hundred sixty, entitled "An act to amend the administrative code of the city of New York, in relation to authorizing the addition of pensions-providing-for-increased-take-home-pay and death benefits with

respect to the New York city employees' retirement system." Such resolution of the board of education, however, shall not take effect until and unless it is approved by the board of estimate of such city.

4. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan analogous to that authorized by a chapter of the laws of nineteen hundred sixty-two, entitled "An act to amend the administrative code of the city of New York, in relation to authorizing pensions-providing-for-increased-take-home-pay and death benefits with respect to the New York city employees' retirement system." Such resolution of the board of education, however, shall not take effect until and unless it is approved by the board of estimate of such city.

5. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-three--nineteen hundred sixty-four analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-seven of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

6. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for

the fiscal year nineteen hundred sixty-four--nineteen hundred sixty-five analogous to that authorized for the fiscal year nineteen hundred sixty-three--nineteen hundred sixty-four by chapter five hundred seventeen of the laws of nineteen hundred sixty-three. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

7. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-five--nineteen hundred sixty-six analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

8. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-six--nineteen hundred sixty-seven analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

9. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or

subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-seven-nineteen hundred sixty-eight analogous to that authorized for the fiscal year nineteen hundred sixty-two-nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

10. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pension-providing-for-increased-take-home-pay plan, in addition to the plan authorized by subdivision nine of this section, for members who are employees of the board of education in the titles of attendance teacher, attendance officer, attendance teacher (Spanish speaking), auxiliary attendance teacher, or auxiliary attendance officer, for the period September first, nineteen hundred sixty-seven through June thirtieth, nineteen hundred sixty-eight, analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that the reduced rate of contribution factor to be used on computing the reduction provided for in the resolution authorized by this subdivision in the contributions of such members may be designated by the board of education as three per centum. Such resolution may contain provisions for a period of retroactive applicability analogous to those contained in paragraph thirteen of subdivision j of section B3--36.1 of the administrative code of the city of New York, as such section was added by chapter seven hundred eighty-seven of the laws of nineteen hundred sixty-two. Such resolution may also provide that the amount of the reduction provided for in the resolution in the contributions of any members to whom such resolution applies, attributable to the period of retroactive applicability of such resolution shall be refunded by the system without interest. Such resolution of the board of education, however, shall not

take effect until and unless it is approved by the mayor of such city.

11. Notwithstanding any provision of this section or any other provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-eight--nineteen hundred sixty-nine analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(1) the reduced rate of contribution factor to be used in computing the reduction in contributions of members who are employees of the board of education in the titles of attendance teacher, attendance officer, attendance teacher (spanish speaking), auxiliary attendance teacher, may be designated by the board of education as eight per centum, and provided further, however, that

(2) the reduced rate of contribution factor to be used in computing the reductions of any member who is eligible for the benefits analogous to the career pension plan of the New York city employees' retirement system, if a bill entitled "An act to amend the administrative code of the city of New York and the military law, in relation to providing additional rights, privileges, and benefits for members of the New York city employees' retirement system and establishing an optional career pension plan for certain of such members" is enacted into law, and if the board of education adopts a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to provide a plan analogous to such career pension plan, regardless of whether such member elects the benefits of such analogous plan, may be designated by the board of education as four per centum. Such resolution of the board of education, however, shall not take effect until and unless it is approved by the mayor of such city.

12. Notwithstanding any provisions of this section or any other

provision of law, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred sixty-nine--nineteen hundred seventy analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(1) the reduced-rate-of-contribution factor to be used in computing the reduction in contributions of members who are employees of the board of education in the titles of attendance teacher, attendance officer, attendance teacher (spanish speaking), auxiliary attendance teacher, may be designated by the board of education as eight percentum, and provided further, however, that

(2) the reduced-rate-of-contribution factor to be used in computing the reductions of any member who is a career pension plan member or who is eligible to elect to become a career pension plan member under the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section, regardless of whether such member makes such election, may be designated by the board of education as four percentum, and provided further, however, that

(3) the reduced-rate-of-contribution factor to be used in computing the reductions of any member other than a member mentioned in paragraphs one and two of this subdivision twelve may be designated by the board of education as five per centum, and provided further, however, that

(4) such resolution of the board of education shall not take effect until and unless it is approved by the mayor of such city.

13. Notwithstanding any provisions of this section or any other provision of law to the contrary, in a city having a population of one million or more, the board of education is authorized to adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred

seventy--nineteen hundred seventy-one analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(1) the reduced-rate-of-contribution factor to be used in computing the reductions of any member who is a career pension plan member or who is eligible to elect to become a career pension plan member under the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section, regardless of whether such member makes such election, may be designated by the board of education as four percentum, and provided further, however, that

(2) the reduced-rate-of-contribution factor to be used in computing the reductions of any member other than a member mentioned in paragraph one of this subdivision thirteen may be designated by the board of education as five per centum, and provided further, however, that

(3) such resolution of the board of education shall not take effect until and unless it is approved by the mayor of such city.

14. (1) In the event that:

(a) a bill entitled "An act to amend the administrative code of the city of New York and chapter eight hundred seventeen of the laws of nineteen hundred sixty-nine, entitled, 'An act to amend the administrative code of the city of New York, in relation to providing additional rights, privileges and benefits for members of the New York city employees' retirement system who are career pension plan members or fifty-five-year-increased-service-fraction members, and for certain beneficiaries of such system', in relation to establishing a new career pension plan for certain members of the New York city employees' retirement system" is enacted into law; and

(b) The provisions which govern a retirement system established pursuant to this section with respect to the board of education of a city having a population of one million or more and which were adopted pursuant or subject to this section are amended pursuant or subject to this section so that such provisions include a retirement plan analogous to that set forth in such bill; no plan for pensions-providing-for-increased-take-home-pay shall be adopted for the fiscal year nineteen hundred seventy-one--nineteen hundred seventy-two with respect to the

members of such retirement system.

(2) In the event that such bill referred to in paragraph one of this subdivision fourteen is not enacted into law, such board of education referred to in paragraph one of this subdivision fourteen, is authorized, notwithstanding any provision of this section or any other provision of law to the contrary, to adopt a resolution amending the provisions governing such retirement system adopted pursuant or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred seventy-one--nineteen hundred seventy-two analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(a) the reduced-rate-of-contribution factor to be used in computing the reduction in contributions of members under such plan may be designated by the board of education to be four per centum, and provided further, however, that

(b) such resolution of the board of education shall not take effect unless and until it is approved by the mayor of such city.

15. (1) In the event that:

(a) a bill entitled "An act to amend the administrative code of the city of New York and chapter eight hundred seventeen of the laws of nineteen hundred sixty-nine, entitled, 'An act to amend the administrative code of the city of New York, in relation to providing additional rights, privileges and benefits for members of the New York city employees' retirement system who are career pension plan members or fifty-five-year-increased-service-fraction members, and for certain beneficiaries of such system', in relation to establishing a new career pension plan for certain members of the New York city employees' retirement system" is enacted into law; and

(b) the provisions which govern a retirement system established pursuant to this section with respect to the board of education of a city having a population of one million or more and which were adopted pursuant or subject to this section are amended pursuant or subject to this section so that such provisions include a retirement plan analogous

to that set forth in such bill;
no plan for pensions-providing-for-increased-take-home-pay shall be adopted for the fiscal year nineteen hundred seventy-two--nineteen hundred seventy-three with respect to the members of such retirement system.

(2) In the event that such bill referred to in paragraph one of this subdivision fifteen is not enacted into law, such board of education referred to in paragraph one of this subdivision fifteen, is authorized, notwithstanding any provision of this section or any other provision of law to the contrary, to adopt a resolution amending the provisions governing such retirement system adopted pursuant or subject to the provisions of this section to the extent necessary to put into effect a pensions-providing-for-increased-take-home-pay plan for the fiscal year nineteen hundred seventy-two--nineteen hundred seventy-three analogous to that authorized for the fiscal year nineteen hundred sixty-two--nineteen hundred sixty-three by chapter seven hundred eighty-nine of the laws of nineteen hundred sixty-two, provided, however, that

(a) the reduced-rate-of-contribution factor to be used in computing the reduction in contributions of members under such plan may be designated by the board of education to be four per centum, and provided further, however, that

(b) such resolution of the board of education shall not take effect unless and until it is approved by the mayor of such city.

16. (a) As used in this subdivision, the following terms shall mean and include:

(1) "Board of education". The board of education of a city.

(2) "City". A city having a population of one million or more.

(3) "Rules and regulations". The rules and regulations for the government, management and control of the retirement system adopted pursuant to this section.

(4) "Retirement system". The board of education retirement system established pursuant to the provisions of this section in a city.

(5) (i) "Normal contribution for balance sheet liability purposes". The hypothetical amount which the normal contribution payable in each city fiscal year occurring during the period beginning on July first,

nineteen hundred seventy-four and ending on June thirtieth, nineteen hundred eighty would have equalled if such normal contribution had been required by law to be paid to the contingent reserve fund in the city fiscal year in which the obligation to make such normal contribution accrued and such normal contribution had been required by law to be determined in the manner provided for in items (ii), (iii) and (iv) of this subparagraph.

(ii) Upon the basis of the mortality and other tables effective under the rules and regulations as of July first, nineteen hundred seventy-seven and interest at the rate of five and one-half per centum per annum, the actuary shall determine, as of June thirtieth next preceding each such fiscal year for which such normal contribution is being determined (hereinafter referred to as the "subject fiscal year") the amount of the then total liability for all benefits provided in the rules and regulations, in articles eleven and fourteen of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all then members and beneficiaries, exluding the then liability on account of future annual contributions, for balance sheet liability purposes, on account of reserves-for-increased-take-home-pay (as defined in subparagraph eight of this paragraph), if any, and the then liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund.

(iii) The hypothetical normal rate of contribution with respect to the subject fiscal year shall be the rate per centum obtained:

(A) by adding together:

(1) the present value of all then required future unfunded accrued liability contributions for balance sheet liability purposes (as defined in subparagraph six of this paragraph); and

(2) the present value of all then required future annual contributions, for balance sheet liability purposes, on account of amortization of losses on dispositions of certain securities within the meaning of subdivision six of section seven of the rules and regulations (as defined in subparagraph seven of this paragraph); and

(3) the present value of future member contributions of members subject to article fourteen of the retirement and social security law; and

(4) the amount obtained by adding together the total funds on hand (excluding therefrom the then amount in the annuity savings fund and in the variable annuity savings fund) and the balance sheet liability as of such June thirtieth next preceding the subject fiscal year; and

(B) by subtracting from the amount of the total liability determined pursuant to item (ii) of this subparagraph the sum resulting from the addition prescribed by sub-item (A) of this item; and

(C) by dividing the remainder resulting from the subtraction prescribed by sub-item (B) of this item by one per centum of the then present value of the prospective future salaries of all members, as computed on the basis of the mortality and service tables adopted pursuant to subdivision two of section five of the rules and regulations and in effect on July first, nineteen hundred seventy-seven, and on the basis of interest at the rate of five and one-half per centum per annum.

(iv) The amount of the normal contribution for balance sheet liability purposes hypothetically payable in the subject fiscal year shall be the amount obtained (1) by multiplying such hypothetical normal contribution rate computed with respect to the subject fiscal year by the aggregate annual salaries of the members as of June thirtieth of the subject fiscal year and (2) by adding to the product of such multiplication, interest on such product at the rate of five and one-half per centum per annum for a period of six months.

(6) "Unfunded accrued liability contribution for balance sheet liability purposes". (i) With respect to the city's nineteen hundred seventy-four--nineteen hundred seventy-five fiscal year, such term shall mean a hypothetical amount which, if paid to the contingent reserve fund in forty equal annual installments, beginning with payment of a first installment in the city's nineteen hundred seventy-four--nineteen hundred seventy-five fiscal year, would be the actuarial equivalent, on the basis of interest at the rate of five and one-half per centum per annum, of the remainder computed in the manner prescribed by items (ii) and (iii) of this subparagraph.

(ii) Upon the basis of the actuarial tables in effect as of July first, nineteen hundred seventy-seven for valuation purposes and interest at the rate of five and one-half per centum per annum, there shall be computed, as of June thirtieth, nineteen hundred seventy-four, the amount of the total liability for all benefits provided by the rules

and regulations, in article eleven of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home-pay contributions and the liability for benefits attributable to the annuity savings fund and the variable annuity savings fund.

(iii) From such total liability computed pursuant to item (ii) of this subparagraph there shall be subtracted the sum of:

(A) the present value, as of June thirtieth, nineteen hundred seventy-four, of all future normal costs of the retirement system, computed pursuant to the entry age normal cost method of determining such normal costs; and

(B) the present value, as of June thirtieth, of all required future payments, pursuant to subdivision six of section seven of the rules and regulations (as then in effect), of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(C) the sum obtained by adding together the balance sheet liability as of such June thirtieth, (as such liability is determined pursuant to the provisions of subparagraph seven of paragraph (c) of this subdivision) and the total funds on hand as of such June thirtieth, excluding the amount in the annuity savings fund and the variable annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations.

(iv) With respect to each of the city's fiscal years occurring during the period from July first, nineteen hundred seventy-five to June thirtieth, nineteen hundred eighty, such term shall mean a hypothetical amount which, if paid to the contingent reserve fund in forty equal annual installments, beginning with payment of a first installment in the city's nineteen hundred seventy-five--nineteen hundred seventy-six fiscal year, would be the actuarial equivalent, on the basis of interest at the rate of five and one-half per centum per annum, of the remainder computed pursuant to items (v) and (vi) of this subparagraph.

(v) Upon the basis of the actuarial tables in effect as of July first, nineteen hundred seventy-seven for valuation purposes and interest at the rate of five and one-half per centum per annum, there shall be computed, as of June thirtieth, nineteen hundred seventy-five, the

amount of the total liability for all benefits provided by the rules and regulations, in article eleven of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home-pay contributions and the liability for benefits attributable to the annuity savings fund and the variable annuity savings fund.

(vi) From such total liability computed pursuant to item (v) of this subparagraph, there shall be subtracted the sum of:

(A) the present value, as of June thirtieth, nineteen hundred seventy-five, of all future normal costs of the retirement system, computed pursuant to the entry age normal cost method of determining such normal costs; and

(B) the present value, as of such June thirtieth, of all then required future payments, pursuant to subdivision six of section seven of the rules and regulations (as then in effect), of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(C) the sum obtained by adding together the balance sheet liability as of such June thirtieth, (as such liability is determined pursuant to the provisions of subparagraphs eight to fourteen, inclusive of this sub-item and the total funds on hand, as of such June thirtieth, excluding the amount in the annuity savings fund and the variable annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations.

(7) "Annual contribution, for balance sheet liability purposes, on account of amortization of losses on dispositions of certain securities within the meaning of subdivision six of section seven of the rules and regulations". A hypothetical annual payment to the contingent reserve fund in each of the city's fiscal year occurring during the period beginning on July first, nineteen hundred seventy-four and ending on June thirtieth, nineteen hundred eighty, of the amount of the excess of installments (payable in such year) of losses on prior dispositions of securities within the meaning of subdivision six of section seven of the rules and regulations (related to graduated crediting of gains and amortization of losses on dispositions of certain securities) over installments (creditable in such year) of gains on such prior

dispositions, which annual amount shall be determined in the manner provided for in such subdivision six.

(8) "Annual contribution, for balance sheet liability purposes, on account of reserves-for-increased-take-home-pay". A hypothetical annual payment to the contingent reserve fund in each of the city's fiscal years occurring during the period from July first, nineteen hundred seventy-four to June thirtieth, nineteen hundred eighty, of the amount required to fulfill the public employer obligation, which accrued in such year to make contributions on account of increased-take-home-pay.

(9) "Annual military law contribution for balance sheet liability purposes". A hypothetical annual payment to the contingent reserve fund in each of the city's fiscal years occurring during the period beginning on July first, nineteen hundred seventy-four and ending on June thirtieth, nineteen hundred eighty, of the amount required to fulfill the public employer obligation, which accrued in such year under the provisions of subdivision twenty of section two hundred forty-three of the military law, to pay in behalf of members qualifying for such benefit member contributions with respect to certain periods of military service of such members.

(10) "Deficiency contribution". The annual amount which, under the provisions of paragraph f of subdivision three of section eight of the rules and regulations, the board of education was required to pay to the contingent reserve fund in each of the city's nineteen hundred seventy-four--nineteen hundred seventy-five, nineteen hundred seventy-five--nineteen hundred seventy-six and nineteen hundred seventy-six--nineteen hundred seventy-seven fiscal years.

(11) "Contribution on account of amortization, pursuant to subdivision six of section seven of the rules and regulations, of losses on dispositions of certain securities". The total annual amount by which the sum of the installments of losses, payable pursuant to subdivision six of section seven of the rules and regulations (as in effect prior to July first, nineteen hundred eighty) in each of the city's fiscal years occurring during the period from July first, nineteen hundred seventy-four to June thirtieth, nineteen hundred eighty in relation to dispositions of securities within the meaning of such subdivision six, exceeded the sum of the installments of gains creditable in the same fiscal year in relation to the same disposition of securities.

(b) (1) Notwithstanding any provision of subdivision fifteen of section two of the rules and regulations or any other provision of the rules and regulations or any other provision of law to the contrary, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision sixteen and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund or pension fund of the retirement system in the nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year of the city or in any subsequent fiscal year of the city, "regular interest" shall mean interest as defined in this paragraph and any definition of regular interest in such rules and regulations shall not apply to any such actuarial valuation, determination or appraisal.

(2) Subject to the provisions of item (ii) of subparagraph six of this paragraph, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund or pension fund of the retirement system in the nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year of the city and in each succeeding fiscal year thereof to and including the nineteen hundred seventy-nine--nineteen hundred eighty fiscal year thereof, "regular interest" shall mean interest at five and one-half per centum per annum, compounded annually.

(3) (i) Subject to the provisions of item (ii) of subparagraph six of this paragraph and except as otherwise provided in subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund of the retirement system in the nineteen hundred eighty--nineteen hundred eighty-one fiscal year of the city and in each succeeding fiscal year thereof to and including the nineteen hundred eighty-one--nineteen hundred eighty-two fiscal year thereof,

"regular interest" shall mean interest at the rate of seven and one-half per centum per annum, compounded annually.

(ii) Subject to the provisions of item (ii) of subparagraph six of this paragraph and except as otherwise provided in subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund of the retirement system in the nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year of the city and in each succeeding fiscal year thereof to and including the nineteen hundred eighty-seven--nineteen hundred eighty-eight fiscal year thereof, "regular interest" shall mean interest at the rate of eight per centum per annum, compounded annually.

(iii) Subject to the provisions of item (ii) of subparagraph six of this paragraph and except as otherwise provided in subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund of the retirement system in the nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year of the city and the nineteen hundred eighty-nine--nineteen hundred ninety fiscal year thereof, "regular interest" shall mean interest at the rate of eight and one-quarter per centum per annum, compounded annually.

(4) Subject to the provisions of item (ii) of subparagraph six of this paragraph, and except as otherwise provided in subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision with respect to determination of the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty and balance sheet liability contributions, for the purpose of any actuarial valuation, determination

or appraisal which is made pursuant to the rules and regulations or the provisions of this subdivision and which is used to determine the amount of any contribution required to be paid by the board of education into the contingent reserve fund or pension fund of the retirement system in the city's nineteen hundred ninety--nineteen hundred ninety-one fiscal year and in any subsequent fiscal year thereof, "regular interest" shall mean interest at such rate per annum, compounded annually, as shall be prescribed by the legislature in section 13-638.2 of the administrative code of the city.

(5) On or after May first, nineteen hundred eighty-nine and no later than October thirty-first of such year the retirement board of the retirement system shall submit to the governor, the temporary president and minority leader of the senate, the speaker of the assembly, the majority and minority leaders of the assembly, the state superintendent of financial services, the mayor of the city, and the members of the city council thereof, the written recommendations of the retirement board as to the rate of interest and effective period thereof which should be established by law as "regular interest" for the purpose specified in subparagraph four of this paragraph.

(6) (i) Subject to the provisions of item (iv) of subparagraph three of paragraph (c) of this subdivision, nothing contained in subparagraphs one, two, three, four and five of this paragraph shall be construed as prescribing, for the purpose of crediting interest to individual accounts in the annuity savings fund or to reserves-for-increased-take-home-pay or for any other purpose besides that specified in such subparagraphs, a rate of regular interest other than as prescribed by the applicable provisions of subdivision fifteen of section two of the rules and regulations and subdivision seventeen of this section.

(ii) Subject to the provisions of section 13-638.2 of the administrative code of the city, nothing contained in subparagraphs two, three and four of this paragraph shall be construed as requiring the original unfunded accrued liability contribution, as defined in item (i) of subparagraph five of paragraph (c) of this subdivision, and the revised unfunded accrued liability contribution, as defined in item (ii) of such subparagraph, and the nineteen hundred eighty unfunded accrued liability adjustment, as defined in subparagraph six of such paragraph

(c), and the nineteen hundred eighty-two unfunded accrued liability adjustment, as defined in such subparagraph six, to be determined in any manner other than as prescribed by the applicable provisions of such items and such subparagraph six. Subject to the provisions of such section 13-638.2, nothing contained in subparagraphs two, three and four of this paragraph shall be construed as requiring any balance sheet liability or balance sheet liability contribution computed pursuant to the provisions of subparagraphs seven to sixteen, inclusive, of paragraph (c) of this subdivision to be determined in any manner other than as prescribed in such subparagraphs.

(c) (1) (i) Notwithstanding the provisions of paragraphs b and f of subdivision three of section eight of the rules and regulations or any other provision of the rules and regulations or any other provision of law to the contrary;

(A) the provisions of subparagraphs two, three, four and five of this paragraph (c), as in effect during the period from July first, nineteen hundred seventy-seven to June thirtieth, nineteen hundred eighty, shall govern the contributions payable by the board of education to the contingent reserve fund of the retirement system in the city's nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year and in each city fiscal year thereafter to and including the nineteen hundred seventy-nine--nineteen hundred eighty fiscal year, and no contributions shall be payable by the board of education to such fund in any such fiscal year other than the contributions prescribed by the applicable provisions of such subparagraphs two, three, four and five; and

(B) the applicable provisions of this paragraph, as in effect on and after July first, nineteen hundred eighty, and the provisions of sections 13-638.2, 13-695 and 13-704 of the administrative code of the city and any other applicable laws shall govern the contributions payable by the board of education to the contingent reserve fund in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year and in each city fiscal year thereafter, and no contributions shall be payable by the board of education to such fund in any such fiscal year other than the contributions prescribed by the applicable provisions of this paragraph and such sections and laws.

(ii) The contribution payable by the board of education to such contingent reserve fund in the nineteen hundred seventy-six--nineteen

hundred seventy-seven fiscal year of the city, including, without limitation, the contribution required by paragraph f of subdivision three of section eight of the rules and regulations, shall be governed by the applicable provisions of the rules and regulations as in effect immediately prior to July first, nineteen hundred seventy-seven.

(2) Subject to the provisions of law referred to in sub-item (B) of item (i) of subparagraph one of this paragraph, the board of education shall contribute to the contingent reserve fund:

(i) annually an amount computed pursuant to subparagraph four of this paragraph, to be known as the "normal contribution"; and

(i-A) all unfunded accrued liability installments as required by section 13-638.2 of the administrative code of the city of New York or any other provision of law; and

(i-B) any other payments to the contingent reserve fund as required by applicable law; and

(ii) in each city fiscal year during the period beginning with the fiscal year nineteen hundred seventy-seven--nineteen hundred seventy-eight and ending on the last day of fiscal year nineteen hundred seventy-nine--nineteen hundred eighty, one annual installment of an additional amount computed pursuant to item (i) of subparagraph five of this paragraph, which shall be known as the "original unfunded accrued liability contribution"; and

(iii) in each city fiscal year during the period beginning with fiscal year nineteen hundred eighty--nineteen hundred eighty-one and ending on the last day of fiscal year two thousand fourteen--two thousand fifteen, the annual installment, applicable to such fiscal year, of an additional amount which shall be known as the revised unfunded accrued liability contribution and which shall be determined as provided for in item (ii) of subparagraph five of this paragraph; and

(iv) in each city fiscal year during the period beginning with fiscal year nineteen hundred eighty-one--nineteen hundred eighty-two and ending on the last day of fiscal year two thousand twenty--two thousand twenty-one, the annual installment, applicable to such fiscal year, of an additional amount which shall be known as the balance sheet liability contribution and which shall be determined as provided for in subparagraphs seven to sixteen, inclusive, of this paragraph; and

(v) in fiscal year nineteen hundred eighty--nineteen hundred

eighty-one, the amount of one year's interest, at the rate of seven and one-half per centum per annum, on the amount of the balance sheet liability as of June thirtieth, nineteen hundred eighty, as determined pursuant to the provisions of subparagraphs seven to fifteen, inclusive, of this paragraph; and

(vi) in each city fiscal year, beginning with fiscal year nineteen hundred eighty--nineteen hundred eighty-one and ending on the last day of fiscal year nineteen hundred ninety-four--nineteen hundred ninety-five, the amount required to fulfill the public employer obligation, which accrued in such fiscal year, to make contributions on account of increased-take-home-pay; and

(vii) in each city fiscal year, beginning with fiscal year nineteen hundred eighty--nineteen hundred eighty-one and ending on the last day of fiscal year nineteen hundred ninety-four--nineteen hundred ninety-five, the amount required to fulfill the public employer obligation, which accrued in such fiscal year under the provisions of subdivision twenty of section two hundred forty-three of the military law, to pay in behalf of members qualifying for such benefit, member contributions with respect to certain periods of the military service of such members.

(3) (i) If the nineteen hundred eighty unfunded accrued liability adjustment determined pursuant to subparagraph six of this paragraph is a credit, the total of the amounts required to be contributed to the contingent reserve fund in each city fiscal year, commencing with the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and ending with the two thousand nine--two thousand ten fiscal year, pursuant to items (i), (iii), (iv), (v), (vi) and (vii) of subparagraph two of this paragraph shall be reduced by the amount of one annual installment of such nineteen hundred eighty unfunded accrued liability adjustment.

(ii) (A) If the nineteen hundred eighty unfunded accrued liability adjustment determined pursuant to such subparagraph six is a charge, the board of education shall contribute in each city fiscal year, commencing with the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and ending with the two thousand nine--two thousand ten fiscal year, in addition to the amounts required to be contributed under the provisions of subparagraph two of this paragraph (c), one annual

installment of such nineteen hundred eighty unfunded accrued liability adjustment.

(B) The total of the amounts required to be contributed to the contingent reserve fund in each city fiscal year commencing with the nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year and ending with the two thousand eleven--two thousand twelve fiscal year pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) and the applicable provisions of item (i) of this subparagraph (3) and sub-item (A) of this item (ii) and otherwise pursuant to law shall be reduced by the amount of one annual installment of the nineteen hundred eighty-two unfunded accrued liability adjustment determined pursuant to item (vi) of subparagraph (6) of this paragraph (c).

(C) The total of the amounts required to be contributed to the contingent reserve fund in each city fiscal year commencing with the nineteen hundred eighty-five--nineteen hundred eighty-six fiscal year and ending with the two thousand fourteen--two thousand fifteen fiscal year pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) and the applicable provisions of item (i) of this subparagraph (3) and sub-item (A) of this item (ii) and otherwise pursuant to law shall be reduced by the amount of one annual installment of the nineteen hundred eighty-five unfunded accrued liability adjustment determined pursuant to item (vii) of subparagraph (6) of this paragraph (c).

(iii) Any amount required by the provisions of items (iii), (iv), (vi) and (vii) of subparagraph two of this paragraph and subdivision six of section seven of the rules and regulations to be contributed to the contingent reserve fund in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year or any subsequent fiscal year shall be payable with interest on such amount at a rate per centum per annum equal to the rate per centum per annum required to be used for the purpose of any actuarial valuation, determination or appraisal made to determine the amount of the normal contribution payable to the contingent reserve fund in such fiscal year.

(iv) Any amount required to be contributed to the contingent reserve fund in any fiscal year of the city preceding the nineteen hundred eighty--nineteen hundred eighty-one fiscal year shall be deemed to have

been required to be paid with interest on such amount at a rate per centum per annum equal to the rate per centum per annum required to be used for the purpose of any actuarial valuation, determination or appraisal made to determine the amount of the normal contribution payable to the contingent reserve fund in such fiscal year.

(v) It is hereby declared that the provisions of items (iii) and (iv) of this subparagraph three, insofar as they relate to provisions of the rules and regulations or of this subdivision or other laws requiring payment of employer contributions to the retirement system prior to the effective date of this subparagraph, express the intent of such provisions of the rules and regulations or this subdivision or other laws requiring such payment.

(vi) For the purpose of effectuating the nineteen hundred eighty-eight unfunded accrued liability adjustment provided for in section 13-638.1 of the administrative code of the city of New York, contributions to the contingent reserve fund on account of charges shall be made by the responsible obligor (as defined in paragraph six of subdivision a of such section) or credits shall be allowed to such obligor against contributions otherwise payable by such obligor, as the case may be, to the extent and in the manner provided for in such section. The annual determination of the normal contribution for fiscal years occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, nineteen hundred ninety-eight shall appropriately take account of the nineteen hundred eighty-eight unfunded accrued liability adjustment and the provisions of subparagraph four of this paragraph (c) shall be deemed to be conformably modified for such purpose.

(vii) The board of education and all other responsible obligors (as defined in paragraph ten of subdivision a of section 13-638.2 of the administrative code of the city of New York) shall make all payments to the retirement system required by applicable law in accordance with the time of payment requirements set forth in paragraph (j) of this subdivision. Any responsible obligor which does not make all or any portion of such required payments to the retirement system in a timely manner in fiscal year two thousand twelve--two thousand thirteen, or in any fiscal year thereafter, shall be required to pay interest to the retirement system on such overdue amounts, as determined by the actuary.

The actuary shall determine, at such time as he or she deems appropriate, interest payments on such overdue amounts using a rate of interest equivalent to the valuation rate of interest (as defined in paragraph eleven of subdivision a of section 13-638.2 of the administrative code of the city of New York). Responsible obligors shall make such interest payments on overdue amounts to the retirement system in the manner and at such time as the actuary deems appropriate.

(4) Normal contribution. (i) Notwithstanding the succeeding provisions of this item or the provisions of item (i-A), (ii), (iii) or (iv) of this subparagraph, for fiscal year two thousand eleven--two thousand twelve, and for each fiscal year thereafter, the amount of the normal contribution payable to the contingent reserve fund shall be determined pursuant to the provisions of item (v) of this subparagraph. Upon the basis of the latest mortality and other tables authorized by the applicable provisions of the rules and regulations and regular interest, the actuary shall determine, as of June thirtieth, nineteen hundred eighty and as of each succeeding June thirtieth, the amount of the total liability for all benefits provided in the rules and regulations, in articles eleven and fourteen of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home-pay contributions, if any, and the liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund, provided, however, that in determining such total liability as of June thirtieth, nineteen hundred ninety-five and as of each succeeding June thirtieth, the actuary shall include (A) the liability on account of future increased-take-home-pay contributions, if any, (B) the liability on account of future public employer obligations under the provisions of subdivision twenty of section two hundred forty-three of the military law, to pay in behalf of members qualifying for such benefit, member contributions with respect to certain periods of the military service of such members and (C) the liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund, and provided further that in determining such total liability as of June thirtieth, nineteen hundred ninety-nine and as of each succeeding June thirtieth, the actuary shall include any other liability, as determined

by the actuary, for benefits attributable to the variable annuity programs, and provided further that in determining such total liability as of June thirtieth, two thousand and as of each succeeding June thirtieth, the actuary shall include the amount, if any, as estimated by the actuary, of the total liability of the retirement system on account of payments which the retirement system may be required to make to any other fund without a corresponding offset in the liabilities of the retirement system.

(i-A) Notwithstanding any other provision of law to the contrary, for the purpose of calculating the amount of the normal contribution annually due from the board of education to the contingent reserve fund pursuant to item (iv) of this subparagraph in fiscal year two thousand five--two thousand six, and in each fiscal year thereafter, both the total liability of the retirement system, as calculated by the actuary in accordance with item (i) of this subparagraph, and the normal rate of contribution, as calculated by the actuary in accordance with items (ii) and (iii) of this subparagraph, shall be determined as of June thirtieth of the second fiscal year preceding the fiscal year in which the normal contribution is payable, provided, however, that (A) the actuary shall use for such calculations the mortality and other tables that are applicable at the time he or she performs such calculations; (B) the total funds on hand, as determined by the actuary pursuant to clause five of sub-item (A) of item (ii) of this subparagraph, shall be adjusted by adding to such amount the present value of all employer contributions required to be paid into the contingent reserve fund in the fiscal year next preceding the fiscal year in which the normal contribution is payable, as determined by the actuary; and (C) the present value of the prospective future salaries of all members, as computed by the actuary for the purposes of sub-item (C) of item (ii) of this subparagraph, shall be reduced by the present value of the salaries expected to be paid to all members in the fiscal year next preceding the fiscal year in which the normal contribution is payable, as determined by the actuary.

(ii) The normal rate of contribution shall be the rate per centum obtained:

(A) by adding together:

(1) (a) the amount obtained by adding together the present value of

all required future revised unfunded accrued liability contributions and the present value of all required future payments of the nineteen hundred eighty unfunded accrued liability adjustment, determined pursuant to subparagraph six of this paragraph, if such adjustment is a charge; or

(b) the remainder obtained by subtracting from the present value of all required future revised unfunded accrued liability contributions, the present value of all future installments of the nineteen hundred eighty unfunded accrued liability adjustment required to be credited, if such nineteen hundred eighty adjustment is a credit;

(c) minus (whether (a) or (b) immediately preceding is applicable) the sum of the present value of all future installments of the nineteen hundred eighty-two unfunded accrued liability adjustment and the present value of all future installments of the nineteen hundred eighty-five unfunded accrued liability adjustment; and

(2) the present value of all required future balance sheet liability contributions, plus, in the case of the determination of the normal contribution payable in fiscal year nineteen hundred eighty--nineteen hundred eighty-one, the present value, as of June thirtieth, nineteen hundred eighty, of the payment of interest on the balance sheet liability as required by item (v) of subparagraph two of this paragraph (c); and

(3) the present value of all required future payments, pursuant to subdivision six of section seven of the rules and regulations, of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(4) in the case of the determination of the normal contribution payable in each fiscal year commencing with fiscal year nineteen hundred ninety-five--nineteen hundred ninety-six, the present value of future member contributions of all members; and

(5) the total funds on hand, including the amount of any unpaid money appropriated pursuant to section nine of the rules and regulations and, in the case of the determination of the normal contribution payable in each fiscal year commencing with fiscal year nineteen hundred ninety-five--nineteen hundred ninety-six, including the amount in the annuity savings fund and in the variable annuity savings fund; and

(6) the present value of all other future installments of accrued

liability contributions to the retirement system required by the applicable provisions of section 13-638.2 of the administrative code of the city of New York which are not covered by the preceding paragraphs of this subitem (A); and

(B) by subtracting from the amount of the total liability determined pursuant to item (i) of this subparagraph the sum resulting from the addition prescribed by sub-item (A) of this item; and

(C) by dividing the remainder resulting from the applicable subtraction prescribed by sub-item (B) of this item by one per centum of the present value of the prospective future salaries of all members, as computed by the actuary on the basis of the latest mortality and service tables adopted pursuant to subdivision two of section five of the rules and regulations, and on the basis of regular interest.

(iii) The normal rate of contribution determined by the actuary shall not be less than zero, shall be certified by the actuary after a valuation and shall continue in force until the next succeeding valuation and certification. The actuary shall make a valuation, as of June thirtieth of each year, of the assets and liabilities of the various funds created by the rules and regulations.

(iv)(A) The amount of the normal contribution annually due from the board of education to the contingent reserve fund in each city fiscal year, commencing with the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and ending with the two thousand four--two thousand five fiscal year, shall be the amount obtained by multiplying the normal rate of contribution, as determined by the actuary as of June thirtieth next preceding such fiscal year, by the aggregate annual salaries of the members on such June thirtieth next preceding such fiscal year in which such amount is due and shall be payable in such fiscal year next following such June thirtieth, together with such regular interest thereon which may be due, if any, as calculated by the actuary.

(B) The amount of the normal contribution annually due from the board of education to the contingent reserve fund in each city fiscal year, commencing with the two thousand five--two thousand six fiscal year, shall be the amount obtained by multiplying the normal rate of contribution, as determined by the actuary as of the second June thirtieth preceding the fiscal year in which the normal contribution is

payable, in accordance with the provisions of items (i-A), (ii) and (iii) of this subparagraph, by the aggregate amount of the salaries expected to be paid to the members during the fiscal year in which the normal contribution is payable, as determined by the actuary, and such normal contribution shall be payable in the second fiscal year following the June thirtieth as of which the normal rate of contribution is determined, together with such regular interest thereon which may be due, if any, as calculated by the actuary.

(C) In the case of the normal contribution payable in the nineteen hundred eighty--nineteen hundred eighty-one fiscal year and in any subsequent fiscal year, the term "regular interest," as used in this item (iv) shall mean regular interest as defined by the applicable provisions of subparagraph three or subparagraph four of paragraph (b) of this subdivision.

(v) (A) Notwithstanding the preceding items of this subparagraph or any other provision of law to the contrary, the normal contribution payable to the contingent reserve fund in fiscal year two thousand eleven--two thousand twelve, and in each fiscal year thereafter, shall be the entry age normal contribution, as determined by the actuary pursuant to this item in a manner consistent with the entry age actuarial cost method. The actuary shall determine the entry age normal contribution for each such fiscal year as of June thirtieth of the second fiscal year preceding the fiscal year in which such normal contribution is payable, based on the latest mortality and other tables applicable at the time he or she performs such calculations, and the valuation rate of interest as provided for the retirement system in paragraph two of subdivision b of section 13-638.2 of the administrative code of the city of New York.

(B) In calculating the entry age normal contribution payable in any such fiscal year pursuant to this item, the actuary, in his or her discretion, may make certain adjustments in the calculation methodology, provided that such adjustments are generally accepted as consistent with the entry age actuarial cost method, and are designed, in general, to fund, on a level basis over the working lifetimes of members from their ages at entry, the actuarial present value of benefits to which such members are expected to become entitled, as determined by the actuary. Such generally accepted adjustments in the calculation methodology, in

the discretion of the actuary, may include, but are not limited to, the calculation of the entry age normal contribution (1) on an individual member basis by calculating the amount of the entry age normal contribution attributable to each individual member, and then adding together such individual member amounts, (2) on an aggregate basis for all members or (3) on any combination of an individual member basis and an aggregate basis which is consistent with the entry age actuarial cost method, and the preceding provisions of this sub-item.

(C) For each such fiscal year, the actuary, in his or her discretion, shall determine, in accordance with the provisions of sub-item (B) of this item, the methodology for calculating the entry age normal contribution payable for that particular fiscal year.

(D) The methodology determined by the actuary in accordance with sub-item (C) of this item may provide for the actuary to calculate the entry age normal contribution on an individual member basis by (1) multiplying the entry age normal contribution rate for each individual member, as determined by the actuary, by the salary expected to be paid to that member during the fiscal year in which such normal contribution is payable, and (2) calculating the sum of the individual entry age normal contributions attributable to all such members. The actuary, in his or her discretion, may make any adjustments to such methodology for determining the entry age normal contribution on an individual basis which he or she deems appropriate, and which are consistent with the provisions of sub-item (B) of this item.

(E) In the alternative, the methodology determined by the actuary in accordance with sub-item (C) of this item may provide for the actuary to calculate the entry age normal contribution on an aggregate basis by multiplying the entry age normal contribution rate for all members in the aggregate, as determined by the actuary, by the aggregate amount of the salaries expected to be paid to all members during the fiscal year in which the normal contribution is payable. The actuary, in his or her discretion, may make any adjustments to such methodology for determining the entry age normal contribution on an aggregate basis which he or she deems appropriate, and which are consistent with the provisions of sub-item (B) of this item.

(F) In the alternative, the methodology determined by the actuary in accordance with sub-item (C) of this item may provide for the

calculation of the entry age normal contribution on any other basis which the actuary deems appropriate, and which is consistent with the entry age actuarial cost method and the provisions of sub-item (B) of this item.

(G) (1) Where the methodology determined by the actuary in accordance with sub-item (C) of this item requires the determination of an entry age normal contribution rate for each individual member in order to calculate the entry age normal contribution for each individual member, the actuary shall determine such rate for each such member in accordance with the entry age actuarial cost method, and such rate, as determined by the actuary for each such member, shall be consistent with a method designed, in general, to fund, on a level basis over the working lifetime of that particular member from his or her age at entry, the actuarial present value of benefits to which such member is expected to become entitled, as determined by the actuary.

(2) Where the methodology determined by the actuary in accordance with sub-item (C) of this item requires the determination of an entry age normal contribution rate for all members in the aggregate in order to calculate the entry age normal contribution for all members in the aggregate, the actuary shall determine such rate in accordance with the entry age actuarial cost method, and such rate, as determined by the actuary, shall be consistent with a method designed, in general, to fund, on a level basis over the working lifetimes of members from their ages at entry, the actuarial present value of benefits to which such members are expected to become entitled, as determined by the actuary.

(5) Unfunded accrued liability contributions.--(i) The original unfunded accrued liability contribution shall be an amount which, if paid to the contingent reserve fund in forty equal annual installments, commencing with payment of a first installment in the city's nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year, would be the actuarial equivalent, on the basis of five and one-half percentum interest and the actuarial tables in effect as of July first, nineteen hundred seventy-seven, of the difference between (A) the accrued liability (excluding the liability for benefits attributable to the annuity savings fund and the variable annuity savings fund) on June thirtieth, nineteen hundred seventy-five and (B) the total funds on hand, excluding the amount in the annuity savings fund and the variable

annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations. No contribution or payment to the contingent reserve fund of the retirement system shall be made under the provisions of paragraph f of subdivision three of section eight of the rules and regulations in the nineteen hundred seventy-seven--nineteen hundred seventy-eight fiscal year of the city or in any subsequent city fiscal year. The provisions of such paragraph f shall cease to be effective on July first, nineteen hundred seventy-seven.

(ii) (A) The revised unfunded accrued liability contribution shall be an amount determined as prescribed in sub-items (B), (C), (D), (E), (F), (G), (H), (I) and (J) of this item.

(B) To the amount of the difference constituting the unfunded accrued liability as of June thirtieth, nineteen hundred seventy-five heretofore determined pursuant to the provisions of this subparagraph, as in effect on July first, nineteen hundred seventy-seven, there shall be added interest thereon at the rate of five and one-half per centum per annum for the period from July first, nineteen hundred seventy-five to June thirtieth, nineteen hundred eighty.

(C) There shall be computed, in the manner provided in sub-item (D) of this item, the discounted value of each of the installments of the unfunded accrued liability contribution which, in the absence of the enactment of chapter nine hundred fifty-seven of the laws of nineteen hundred eighty-one, were payable or would have been payable in the city's nineteen hundred seventy-seven--nineteen hundred seventy-eight, nineteen hundred seventy-eight--nineteen hundred seventy-nine, nineteen hundred seventy-nine--nineteen hundred eighty, nineteen hundred eighty--nineteen hundred eighty-one and nineteen hundred eighty-one--nineteen hundred eighty-two fiscal years.

(D) Such discounted value of each such installment referred to in sub-item (C) of this item shall be computed as of January first of the city's second fiscal year preceding the fiscal year in which such installment was payable or would have been payable and on the basis of five and one-half per centum interest per annum on the amount of such installment.

(E) There shall be computed with respect to such discounted value of each such installment, interest thereon from January first of such

second fiscal year preceding the fiscal year in which such installment was or would have been payable to June thirtieth, nineteen hundred eighty at the rate of five and one-half per centum per annum.

(F) The discounted values of all of such installments with respect to such fiscal years, computed as provided for in sub-items (C) and (D) of this item, together with interest on each such installment as provided for in sub-item (E) of this item, shall be added together.

(G) From the sum computed pursuant to sub-item (B) of this item, the sum computed pursuant to sub-item (F) of this item shall be subtracted.

(H) With respect to each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty and ending on June thirtieth, nineteen hundred eighty-two, the revised unfunded accrued liability contribution shall be the annual installment, applicable to such fiscal year, of an amount which, if paid to the contingent reserve fund in thirty-five equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year, would be the actuarial equivalent, on the basis of seven and one-half per centum interest per annum, of the remainder computed pursuant to sub-item (G) of this item.

(I) With respect to each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight, the revised unfunded accrued liability contribution shall be the annual installment, applicable to such fiscal year, of an amount which, if paid to the contingent reserve fund in thirty-three equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-two on the basis of seven and one-half per centum interest per annum, of those installments of the unfunded accrued liability contribution computed pursuant to sub-item (H) of this item (ii), which installments are hypothetically allocated by such sub-item (H) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-two.

(J) With respect to each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on

June thirtieth, two thousand fifteen, the revised unfunded accrued liability contribution shall be the annual installment, applicable to such fiscal year, of an amount which, when paid to the contingent reserve fund in twenty-seven equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the unfunded accrued liability contribution computed pursuant to sub-item (I) of this item (ii), which installments are hypothetically allocated by such sub-item (I) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(6) (i) The nineteen hundred eighty unfunded accrued liability adjustment shall be an amount determined as prescribed in items (ii), (iii), (iv) and (v) of this subparagraph.

(ii) (A) Upon the basis of the actuarial tables in effect as of June thirtieth, nineteen hundred eighty for valuation purposes and interest at the rate of seven and one-half per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty, the amount of the total liability for all benefits provided in the rules and regulations, in articles eleven and fourteen of the retirement and social security law and in any other law prescribing benefits payable by the retirement system on account of all members and beneficiaries, excluding the liability on account of future increased-take-home pay contributions, if any, and the liability for benefits attributable to the annuity savings fund and to the variable annuity savings fund.

(B) From such total liability computed pursuant to sub-item (A) of this item, there shall be subtracted the sum of:

(1) the present value, as of June thirtieth, nineteen hundred eighty, of all future normal costs of the retirement system, computed pursuant to the entry age normal cost method of determining such normal costs; and

(2) the present value, as of such June thirtieth, of all future installments of the balance sheet liability contribution (as defined in subparagraph sixteen of this paragraph); and

(3) the present value, as of such June thirtieth, of all then required future payments, pursuant to subdivision six of section seven of the rules and regulations, of installments of losses in excess of installments of gains on dispositions of securities within the meaning of such subdivision; and

(4) the present value, as of such June thirtieth, of future member contributions of members subject to article fourteen of the retirement and social security law; and

(5) the total funds on hand as of such June thirtieth, excluding the amount in the annuity savings fund and variable annuity savings fund, but including the amount of any unpaid moneys appropriated pursuant to section nine of the rules and regulations.

(iii) (A) If the amount computed pursuant to sub-item (B) of item (ii) of this subparagraph is larger than the amount computed pursuant to sub-item (G) of item (ii) of subparagraph five of this paragraph, the latter amount shall be subtracted from the former amount and the remainder resulting from such subtraction shall constitute a charge.

(B) If the amount computed pursuant to sub-item (B) of item (ii) of this subparagraph is smaller than the amount computed pursuant to sub-item (G) of item (ii) of subparagraph five of this paragraph, the former amount shall be subtracted from the latter amount and the remainder resulting from such subtraction shall constitute a credit.

(iv) (A) If the remainder computed pursuant to item (iii) of this subparagraph is a charge, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, if paid to the contingent reserve fund in thirty equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year, would be the actuarial equivalent, on the basis of seven and one-half per centum interest per annum, of such remainder.

(B) If the remainder computed pursuant to item (iii) of this subparagraph is a credit, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, if credited in thirty equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve

fund pursuant to items (i), (iii), (iv), (v), (vi) and (vii) of subparagraph two of this paragraph, would be the actuarial equivalent, on the basis of seven and one-half per centum interest per annum, of such remainder.

(v) (A) With respect to determination of the amount of contributions payable to the contingent reserve fund in each of the city's nineteen hundred eighty--nineteen hundred eighty-one and nineteen hundred eighty-one--nineteen hundred eighty-two fiscal years, the annual installment of the nineteen hundred eighty unfunded accrued liability adjustment computed pursuant to item (iv) of this subparagraph (6), which installment is applicable to such fiscal years, shall be applied as a charge or a credit, as the case may be, in relation to such contributions payable in such fiscal year.

(B) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, if paid (if a charge) or credited (if a credit) in twenty-eight equal annual installments, commencing with a payment or credit, as the case may be, in the city's nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-two on the basis of seven and one-half per centum interest per annum, of those installments of the nineteen hundred eighty unfunded accrued liability adjustment computed pursuant to item (iv) of this subparagraph (6), which installments are hypothetically allocated by such item (iv) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-two.

(C) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand ten, the nineteen hundred eighty unfunded accrued liability adjustment shall be an amount which, when paid (if a charge) or credited (if a credit) in twenty-two equal annual installments, commencing with a payment or

credit, as the case may be, in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the nineteen hundred eighty unfunded accrued liability adjustment computed pursuant to sub-item (B) of this item (v), which installments are hypothetically allocated by such sub-item (B) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(D) With respect to determination of the amount of contributions payable to the contingent reserve fund in each of such city fiscal years referred to in sub-item (B) or sub-item (C) of this item (v), the annual installment of the nineteen hundred eighty unfunded accrued liability adjustment computed pursuant to sub-item (B) or sub-item (C) of this item (v), which installment is applicable to such fiscal year, shall be applied as a charge or credit, as the case may be, in relation to such contributions payable in such fiscal year.

(vi) (A) The nineteen hundred eighty-two unfunded accrued liability adjustment shall be an amount determined as prescribed in sub-items (B), (C), (D) and (E) of this item (vi).

(B) Upon the basis of the actuarial tables in effect as of June thirtieth, nineteen hundred eighty-one for valuation purposes and interest at the rate of seven and one-half per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty-two, the amount of the actuarial accrued liability of the retirement system, computed pursuant to the entry age normal cost method of ascertaining such actuarial accrued liability.

(C) Upon the basis of the actuarial tables in effect as of June thirtieth, nineteen hundred eighty-two for valuation purposes and interest at the rate of eight per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty-two, the amount of the actuarial accrued liability of the retirement system, computed pursuant to the entry age normal cost method of ascertaining such actuarial accrued liability.

(D) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year

occurring during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight, the nineteen hundred eighty-two unfunded accrued liability adjustment shall be the applicable installments of an amount which, if credited in thirty equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of paragraph (c) of this subdivision sixteen or otherwise pursuant to law, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the excess of the amount computed pursuant to sub-item (B) of this item (vi) over the amount computed pursuant to sub-item (C) of this item (vi).

(E) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand twelve, the nineteen hundred eighty-two unfunded accrued liability adjustment shall be an amount which, when credited in twenty-four equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of paragraph (c) of this subdivision sixteen or otherwise pursuant to law, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the nineteen hundred eighty-two unfunded accrued liability adjustment computed pursuant to sub-item (d) of this item (vi), which installments are hypothetically allocated by such sub-item (D) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(vii) (A) The nineteen hundred eighty-five unfunded accrued liability adjustment shall be an amount determined as prescribed in sub-items (B), (C), (D) and (E) of this item (vii).

(B) Upon the basis of the actuarial tables in effect for valuation purposes with respect to determination of the normal contribution payable to the contingent reserve fund in the city's nineteen hundred eighty-four--nineteen hundred eighty-five fiscal year and interest at the rate of eight per centum per annum, there shall be determined as of June thirtieth, nineteen hundred eighty-five, the amount of the actuarial accrued liability of the retirement system, computed pursuant to the entry age normal cost method of ascertaining such actuarial accrued liability.

(C) Upon the basis of the actuarial tables in effect for valuation purposes with respect to determination of the normal contribution payable to the contingent reserve fund in the city's nineteen hundred eighty-five--nineteen hundred eighty-six fiscal year and interest at the rate of eight per centum per annum, there shall be determined, as of June thirtieth, nineteen hundred eighty-five, the amount of the actuarial accrued liability of the retirement system, computed pursuant to the entry age normal costs method of ascertaining such actuarial accrued liability.

(D) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred eighty-eight, the nineteen hundred eighty-five unfunded accrued liability adjustment shall be the applicable installments of an amount which, if credited in thirty equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-five--nineteen hundred eighty-six fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) or otherwise pursuant to law, would be the actuarial equivalent, on the basis of eight per centum interest per annum, of the excess of the amount computed pursuant to sub-item (B) of this item (vii) over the amount computed pursuant to sub-item (C) of this item (vii).

(E) With respect to determination of the amount of contributions payable to the contingent reserve fund in each city fiscal year occurring during the period beginning on July first, nineteen hundred

eighty-eight and ending on June thirtieth, two thousand fifteen, the nineteen hundred eighty-five unfunded accrued liability adjustment shall be an amount which, when credited in twenty-seven equal annual installments (the first of which installments is to be credited in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year) in reduction of the amounts which the board of education would otherwise be required to pay to the contingent reserve fund pursuant to items (i), (iii), (iv), (vi) and (vii) of subparagraph (2) of this paragraph (c) or otherwise pursuant to law, shall be the actuarial equivalent, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the nineteen hundred eighty-five unfunded accrued liability adjustment computed pursuant to sub-item (D) of this item (vii), which installments are hypothetically allocated by such sub-item (D) to designated fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(7) The balance sheet liability as of June thirtieth, nineteen hundred seventy-four shall be the sum of twenty-five million, eight hundred two thousand, nine hundred seventy-two dollars ($25,802,972), consisting of the sum of:

(i) the discounted value, as of June thirtieth, nineteen hundred seventy-four, of the sum of eleven million, fifty thousand, eight hundred eighty-eight dollars ($11,050,888), which constituted the amount payable to the contingent reserve fund in the city's nineteen hundred seventy-four--nineteen hundred seventy-five fiscal year by the board of education in fulfillment of its obligations to make contributions to the retirement system payable in such fiscal year, such discounting being calculated on the basis of interest at the rate of five and one-half per centum per annum and a discount period of six months extending retroactively from January first, nineteen hundred seventy-five to June thirtieth, nineteen hundred seventy-four and such discounted value being the sum of ten million, seven hundred fifty-eight thousand, nine hundred seventy-nine dollars ($10,758,979); and

(ii) the discounted value, as of June thirtieth, nineteen hundred seventy-four, of the sum of sixteen million, three hundred two thousand, thirty-eight dollars ($16,302,038), which constituted the amount payable

into the contingent reserve fund in the city's nineteen hundred seventy-five--nineteen hundred seventy-six fiscal year by the board of education in fulfillment of its obligations to make contributions to the retirement system payable in such fiscal year, such discounting being calculated on the basis of interest at the rate of five and one-half per centum per annum and a discount period of eighteen months extending retroactively from January first, nineteen hundred seventy-six to June thirtieth, nineteen hundred seventy-four, and such discounted value being the sum of fifteen million, forty-three thousand, nine hundred ninety-three dollars ($15,043,993).

(8) The balance sheet liability as of each June thirtieth succeeding June thirtieth, nineteen hundred seventy-four to and including June thirtieth, nineteen hundred eighty, shall be determined as provided for in subparagraphs nine to sixteen, inclusive, of this paragraph.

(9) To the amount of the balance sheet liability as of June thirtieth next preceding the June thirtieth (which last-mentioned June thirtieth is hereinafter referred to as the "subject June thirtieth") as of which the balance sheet liability is being determined as provided for in subparagraph eight of this paragraph, there shall be added one year's interest on such amount at the rate of five and one-half per centum per annum.

(10) With respect to the city's fiscal year ending on the subject June thirtieth (hereinafter referred to as the "subject fiscal year") there shall be added together the contribution components hereinafter specified in this subparagraph, which components, for the purposes of subparagraphs eight to sixteen, inclusive, of this paragraph, are hypothetically deemed to have accrued in the subject fiscal year and to have been payable therein, as follows:

(i) the amount of the normal contribution for balance sheet liability purposes (as defined in subparagraph five of paragraph (a) of this subdivision); and

(ii) the amount of the applicable installment of the unfunded accrued liability contribution for balance sheet liability purposes (as defined in subparagraph six of paragraph (a) of this subdivision); and

(iii) the amount of the annual contribution, for balance sheet liability purposes, on account of amortization of losses on dispositions of certain securities within the meaning of subdivision six of section

seven of the rules and regulations (as defined in subparagraph seven of paragraph (a) of this subdivision); and

(iv) the amount of the annual contribution, for balance sheet liability purposes, on account of reserves-for-increased-take-home pay (as defined in subparagraph eight of paragraph (a) of this subdivision); and

(v) the amount of the annual military law contribution for balance sheet liability purposes (as defined in subparagraph nine of paragraph (a) of this subdivision).

(11) To the amount resulting from the addition prescribed by subparagraph ten of this paragraph (c), there shall be added interest thereon at the rate of five and one-half per centum per annum from January first of the subject fiscal year to June thirtieth of such fiscal year.

(12) The amount computed pursuant to subparagraph nine of this paragraph in relation to the balance sheet liability as of June thirtieth next preceding the subject June thirtieth (together with one year's interest on such balance sheet liability) shall be added to the amount computed pursuant to subparagraph ten of this paragraph in relation to the subject fiscal year.

(13) From the amount computed pursuant to subparagraph twelve of this paragraph, there shall be subtracted the sum of:

(i) The total amount of the sums paid to the contingent reserve fund during the subject fiscal year by the board of education on account of its obligations, which accrued during the city's second fiscal year preceding the subject fiscal year to provide:

(A) the normal contribution payable in the subject fiscal year under the provisions of subparagraphs two and three of this paragraph, as then in effect; and

(B) the installment of the deficiency contribution (as defined in subparagraph ten of paragraph (a) of this subdivision) or the installment of the original unfunded accrued liability contribution (as defined in item (i) of subparagraph five of this paragraph), as the case may be, payable in the subject fiscal year; and

(C) the amount of the contribution on account of amortization, pursuant to subdivision six of section seven of the rules and regulations, of losses on dispositions of certain securities (as defined

in subparagraph eleven of paragraph (a) of this subdivision) payable in the subject fiscal year; and

(D) the amount payable in the subject fiscal year on account of reserves-for-increased-take-home pay; and

(E) the amount payable in the subject fiscal year in behalf of members pursuant to subdivision twenty of section two hundred forty-three of the military law; plus

(ii) interest on such total amount referred to in item (i) of this subparagraph thirteen at the rate of five and one-half per centum per annum from January first of the subject fiscal year to June thirtieth thereof.

(14) The remainder resulting from the subtraction prescribed by subparagraph thirteen of this paragraph shall be the balance sheet liability as of June thirtieth of the subject fiscal year.

(15) The balance sheet liability as of June thirtieth, nineteen hundred eighty shall be the amount resulting from the successive computations of the balance sheet liability as of each June thirtieth succeeding June thirtieth, nineteen hundred seventy-four up to and including June thirtieth, nineteen hundred eighty as prescribed by subparagraphs eight to fourteen, inclusive, of this paragraph.

(16) The balance sheet liability contribution payable in the city's nineteen hundred eighty-one--nineteen hundred eighty-two fiscal year shall be the first annual installment of an amount which, if paid to the contingent reserve fund in forty equal annual installments, commencing with payment of a first installment in the city's nineteen hundred eighty-one--nineteen hundred eighty-two fiscal year, would be the actuarial equivalent, as of June thirtieth, nineteen hundred eighty-one, on the basis of seven and one-half per centum interest per annum, of an amount equal to the balance sheet liability as of June thirtieth, nineteen hundred eighty.

(16-a) The balance sheet liability contribution payable in each city fiscal year during the period beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred eighty-eight shall be one annual installment of an amount which, if paid to the contingent reserve fund in thirty-nine equal annual installments, commencing with a first payment in the city's nineteen hundred eighty-two--nineteen hundred eighty-three fiscal year, would be the

actuarial equivalent, as of June thirtieth, nineteen hundred eighty-two, on the basis of eight per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-two on the basis of seven and one-half per centum interest per annum, of those installments of the balance sheet liability contribution computed pursuant to subparagraph (16) of this paragraph (c), which installments are hypothetically allocated by such subparagraph (16) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-two.

(16-b) The balance sheet liability contribution payable in each city fiscal year during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, two thousand twenty-one shall be one annual installment of an amount which, when paid to the contingent reserve fund in thirty-three equal annual installments, commencing with a first payment in the city's nineteen hundred eighty-eight--nineteen hundred eighty-nine fiscal year, shall be the actuarial equivalent, as of June thirtieth, nineteen hundred eighty-eight, on the basis of eight and one-quarter per centum interest per annum, of the present value, as of June thirtieth, nineteen hundred eighty-eight on the basis of eight per centum interest per annum, of those installments of the balance sheet liability contribution computed pursuant to subparagraph (16-a) of this paragraph (c), which installments are hypothetically allocated by such subparagraph (16-a) to designated city fiscal years succeeding June thirtieth, nineteen hundred eighty-eight.

(17) Notwithstanding any provision of the rules and regulations or any other provision of law to the contrary, whenever the retirement board, on the recommendation of the actuary, shall determine that it is necessary to increase the reserves held in the annuity reserve fund, the pension reserve fund or the pension fund, such board may direct that the amount so needed shall be transferred thereto from the contingent reserve fund.

(d) (1) During the period commencing on July first, nineteen hundred seventy-seven and ending on June thirtieth, nineteen hundred eighty, special interest at the rate of one and one-half per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund of the retirement system.

(2) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred eighty and ending on June thirtieth, nineteen hundred eighty-two, special interest at the rate of three and one-half per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(3) (i) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred eighty-two and ending on July thirty-first, nineteen hundred eighty-three, special interest at the rate of four per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(ii) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on August first, nineteen hundred eighty-three and ending on June thirtieth, nineteen hundred eighty-five, special interest at the rate of one per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(iii) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred eighty-eight, special interest at the rate of one per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(iv) Subject to the provisions of paragraph (f) of this subdivision, during the period commencing on July first, nineteen hundred eighty-eight and ending on June thirtieth, nineteen hundred ninety, special interest at the rate of one and one-quarter per centum per annum, compounded annually, shall be allowed with respect to the individual account of each member in the annuity savings fund.

(4) Such special interest provided for by subparagraphs (1), (2) and (3) of this paragraph shall be credited to such individual account of each member entitled thereto in the same manner and at the same time as regular interest is required to be credited to such account with respect to the same period of time. Such special interest shall not be considered in determining rates of contributions of members. Nothing contained in this paragraph shall be construed as applicable to any

member who is subject to the provisions of article fourteen or article fifteen of the retirement and social security law.

(e) (1) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one and one-half per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred seventy-seven and ending on June thirtieth, nineteen hundred eighty.

(2) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of three and one-half per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty and ending on June thirtieth, nineteen hundred eighty-two.

(3) (i) Subject to the provisions of paragraph (f) of this subdivision in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of four per centum per annum compounded annually shall be included for each city fiscal year and portion thereof occurring during the period beginning on July first, nineteen hundred eighty-two and ending on July thirty-first, nineteen hundred eighty-three.

(ii) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one per centum per annum compounded annually shall be included for each city fiscal year and portion thereof occurring during the period beginning on August first, nineteen hundred eighty-three and ending on June thirtieth, nineteen hundred eighty-five.

(iii) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred eighty-eight.

(iv) Subject to the provisions of paragraph (f) of this subdivision, in determining the reserve-for-increased-take-home-pay of each member entitled to such a reserve, additional interest at the rate of one and one-quarter per centum per annum compounded annually shall be included for each city fiscal year occurring during the period beginning on July first, nineteen hundred eighty-eight and ending on June thirtieth, nineteen hundred ninety.

(4) Additional interest shall not be considered in determining rates of contribution of members. Nothing contained in this paragraph (e) shall be construed as applicable to any member who is subject to the provisions of article fourteen or article fifteen of the retirement and social security law.

(f) (1) The provisions of subparagraph (2) of paragraph (d) of this subdivision and of subparagraphs (1) and (2) of paragraph (e) of this subdivision, to the extent that any of such provisions grants special or additional interest, as the case may be, for any period prior to July thirty-first, nineteen hundred eighty-two, shall not apply to any person who was not a member on such July thirty-first and shall not apply to any person to whom, on such July thirty-first, a deferred retirement allowance or any part of such a retirement allowance was payable pursuant to the provisions of section thirty-two of the rules and regulations. Nothing contained in paragraphs (d) and (e) of this subdivision shall be construed as granting special or additional interest, as the case may be, to any person with respect to any period wherein such person was not a member entitled to be credited with regular interest for the same period or was not a discontinued member entitled to be credited, as a discontinued member, with regular interest for the same period.

(2) (i) The provisions of item (i) of subparagraph (3) of paragraph (d) of this subdivision sixteen, to the extent that such item grants special interest for any period prior to December sixteenth, nineteen hundred eighty-two, and the provisions of item (i) of subparagraph (3) of paragraph (e) of this subdivision, to the extent that such item grants additional interest for any period prior to such date, shall not apply to any person who was not a member on such date and shall not apply to any person to whom, on such date, a deferred retirement allowance or any part of such a retirement allowance was payable

pursuant to the provisions of section thirty-two of the rules and regulations.

(ii) The provisions of item (iv) of subparagraph (3) of paragraph (d) of this subdivision sixteen, to the extent that such item grants special interest for any period prior to the date of enactment of this item (ii) of this subparagraph (2) of this paragraph (f) (as such date is certified, pursuant to section forty-one of the legislative law), and the provisions of item (iv) of subparagraph (3) of paragraph (e) of this subdivision, to the extent that such item grants additional interest for any period prior to such date shall not apply to any person who was not a member on such date and shall not apply to any person to whom, on such date, a deferred retirement allowance or any part of such a retirement allowance was payable pursuant to the provisions of section thirty-two of the rules and regulations.

(3) Nothing contained in paragraphs (d) and (e) of this subdivision shall be construed as granting special or additional interest, as the case may be, to any person with respect to any period wherein such person was not a member entitled to be credited with regular interest for the same period or was not a discontinued member entitled to be credited, as a discontinued member, with regular interest for the same period.

(g) (1) As used in this paragraph, the term "funds" shall mean the funds created in accordance with the provisions of the rules and regulations other than the variable annuity funds provided for by the rules and regulations.

(2) Subject to the provisions of subparagraph (4) of this paragraph, in addition to regular interest annually allowed for the period from July first, nineteen hundred seventy-seven to June thirtieth, nineteen hundred eighty on the mean amount for the preceding year in each of the funds created in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one and one-half per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest was credited to such funds with respect to such period.

(3) Subject to the provisions of subparagraph (4) of this paragraph,

in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty to June thirtieth, nineteen hundred eighty-two on the mean amount for the preceding year in each of the funds created in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of three and one-half per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(4) (i) Subject to the provisions of subparagraph (5) of this paragraph (g), in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty-two to July thirty-first, nineteen hundred eighty-three on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of four per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(ii) Subject to the provisions of subparagraph (5) of this paragraph, in addition to regular interest annually allowed for the period from August first, nineteen hundred eighty-three to June thirtieth, nineteen hundred eighty-five on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(iii) Subject to the provisions of subparagraph (5) of this paragraph (g), in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty-five to June thirtieth, nineteen hundred eighty-eight on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of

the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(iv) Subject to the provisions of subparagraph (5) of this paragraph (g), in addition to regular interest annually allowed for the period from July first, nineteen hundred eighty-eight to June thirtieth, nineteen hundred ninety on the mean amount for the preceding year in each of the funds provided for in accordance with the provisions of the rules and regulations, there shall be annually allowed with respect to such period supplementary interest at the rate of one and one-quarter per centum per annum on such mean amount for the preceding year in each of such funds. Such supplementary interest shall be annually credited to such funds at the same time and in the same manner as regular interest is credited to such funds with respect to such period.

(5) The provisions of subparagraphs (2), (3) and (4) of this paragraph shall not apply to or affect (i) the allowance of interest on or the crediting of interest to accounts of members or discontinued members in the annuity saving fund or (ii) the allowance of interest on or the crediting of interest to reserves-for-increased-take-home-pay of members or discontinued members or (iii) the determination of the amount of any benefit payable to any member or beneficiary.

(h-1) The allowance of special interest, additional interest and supplementary interest, if any, with respect to any fiscal year of the city beginning on or after July first, nineteen hundred ninety shall be governed by the applicable provisions of section 13-638.2 of the administrative code of the city.

(h-2) The provisions of paragraph (d) of this subdivision, as such paragraph applies to the contributions made by a member and the benefits provided thereby, shall apply separately and independently to the tax-deferred annuity net contributions, if any, of such member and the benefits provided thereby, except as otherwise provided by section thirty-three of the rules and regulations.

(h-3) The provisions of subdivisions f and h of section 13-638.2 of the administrative code of the city (to the extent that such

subdivisions f and h apply to this retirement system), as such subdivisions f and h apply to the contributions made by a member and the benefits provided thereby, shall apply separately and independently to the tax-deferred annuity net contributions, if any, of such member and the benefits provided thereby, except as otherwise specified in section thirty-three of the rules and regulations.

(i) (1) Notwithstanding the provisions of section nine of the rules and regulations or any other provision of the rules and regulations or any other law to the contrary, but subject to the provisions of subparagraphs two, three and four of this paragraph, all income, interest and dividends derived from deposits and investments authorized by the rules and regulations, which income, interest and dividends were heretofore or are hereafter received during any fiscal year commencing on or after July first, nineteen hundred eighty, shall be used in such fiscal year for the purposes hereinafter specified in this subparagraph (to the extent that such income, interest and dividends are sufficient for such purposes), in the order of priority herein stated, as follows:

(A) first, to pay into the funds of the retirement system the amounts of regular interest which are required to be paid into such funds in such fiscal year by reason of being required to be allowed to such funds pursuant to the provisions of paragraph a of subdivision two of section seven of the rules and regulations, and to pay into such funds the amounts of supplementary interest, if any, required to be so paid in such fiscal year under the provisions of paragraph (g) of this subdivision, and to pay into the annuity savings fund the amounts of special interest, if any, required to be so paid in such fiscal year under the provisions of paragraph (d) of this subdivision, and to pay into the contingent reserve fund the amounts of additional interest, if any, required to be paid in such fiscal year under the provisions of paragraph (e) of this subdivision;

(B) second, to pay into the contingent reserve fund the amount of any losses in excess of gains (i) which net losses the retirement system sustained during such fiscal year by reason of sales or other dispositions of securities, and (ii) for which net losses the retirement system is required to be reimbursed in such fiscal year, and (iii) to which net losses subdivision six of section seven of the rules and regulations, relating to graduated crediting of gains and amortization

of losses on dispositions of certain securities, does not apply;

(C) third, if the total amount of such income, interest and dividends received during such fiscal year is in excess of the total amount required to make, in such fiscal year, the payments prescribed by items (A) and (B) of this subparagraph, the amount of such excess shall be paid into the contingent reserve fund and shall become a part of the assets of such fund.

(2) (A) Notwithstanding any other provision of this subdivision or any other law to the contrary, the term "all income, interest and dividends derived from deposits and investments", as used in paragraph (f) of this subdivision (as such subdivision was in effect prior to July first, nineteen hundred eighty), shall be construed, in relation to disposition of all income, interest and dividends received by the retirement system in each of the city's nineteen hundred seventy-six--nineteen-hundred seventy-seven and nineteen hundred seventy-seven--nineteen hundred seventy-eight obligations fiscal years (as such fiscal years were defined by paragraph (a) of this subdivision prior to such July first) as meaning the remainder obtained by subtracting from such income, interest and dividends the sum of (i) the amounts of regular, supplementary and special interest required to be allowed and paid into the appropriate funds of the retirement system in such fiscal year pursuant to the applicable provision of subdivision two of section seven of the rules and regulations and this subdivision and (ii) the amount of any losses in excess of gains (1) which net losses were sustained by the retirement system during such fiscal year and which net losses were sustained by reason of sales or other dispositions of securities, and (2) to which net losses the provisions of subdivision six of section seven of the rules and regulations do not apply.

(B) for the purposes of the order of priority governing the disposition of such remainder in the payment fiscal year with respect to each such obligations fiscal year (as such disposition was prescribed by the provisions of this subdivision as in effect during each such payment fiscal year) the provisions of items (A) and (B) of subparagraph (i) of such paragraph (f) shall be deemed to have been inapplicable and the order of priority for such disposition shall be first, the use set forth in item (C) of such subparagraph, second, the use set forth in item (D) of such subparagraph, third, the use set forth in item (E) of such

subparagraph and fourth, the use set forth in item (F) of such subparagraph, as such items were in effect during such payment fiscal year.

(3) (a) All income, interest and dividends which were derived from deposits and investments authorized by the rules and regulations and which were received during each of the city's nineteen hundred seventy-eight--nineteen hundred seventy-nine and nineteen hundred seventy-nine--nineteen hundred eighty fiscal years shall be used in each such fiscal year for the purposes hereinafter stated in this subparagraph, in the order of priority herein stated, as follows:

(A) first, (i) to pay into the funds of the retirement system the amounts of regular interest which are required to be paid into such funds in such fiscal year wherein such income, interest and dividends were received, which interest is so payable by reason of being required to be allowed to such funds in such fiscal year pursuant to the provisions of paragraph a of subdivision two of section seven of the rules and regulations and (ii) to pay into such funds the amounts of supplementary interest required to be so paid in such fiscal year under the applicable provisions of paragraph (d) of this subdivision, and (iii) to pay into the annuity savings fund the amounts of special interest required to be so paid in such fiscal year under the applicable provisions of paragraph (d) of this subdivision, and (iv) to pay into the contingent reserve fund the amounts of additional interest required to be paid in such fiscal year under the applicable provisions of paragraph (e) of this subdivision;

(B) second, to pay into the contingent reserve fund the amount of any losses in excess of gains (i) which net losses were sustained by the retirement system during such fiscal year in which such income, interest and dividends were received and which net losses were sustained by reason of sales or other dispositions of securities, and (ii) for which net losses the retirement system is required to be reimbursed in such fiscal year, and (iii) to which net losses subdivision six of section seven of the rules and regulations, relating to graduated crediting of gains and amortization of losses on dispositions of certain securities, does not apply; and

(C) third, to pay into the contingent reserve fund the amount, if any, by which,

(i) the total of all losses which the retirement system sustained during such fiscal year by reason of sales of securities within the meaning of subdivision six of section seven of the rules and regulations and which the board of education would otherwise be required to amortize pursuant to such subdivision, exceeds

(ii) the total of all gains which were realized during such fiscal year by reason of sales of securities within the meaning of such subdivision and which would otherwise be required by such subdivision to be credited in favor of the board of education in installments.

(b) If the total amount of such income, interest and dividends received during each such fiscal year referred to in item (a) of this subparagraph is in excess of the total amount required to make, in the same fiscal year, the payments prescribed by sub-items (A), (B) and (C) of such item (a), the amount of such excess shall be paid into the contingent reserve fund as of June thirtieth of such fiscal year and shall become a part of the assets of such fund as of such date.

(4) Nothing contained in subparagraphs one, two and three of this paragraph shall be construed as applicable to income, interest and dividends resulting from deposits or investments made under the variable annuity program of the retirement system.

(j)(1) The board of education or the New York city school construction authority shall make monthly payments, in twelve equal installments, with respect to the respective obligations which such board or authority incurs to pay sums to the retirement system.

(2) In the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year and in each city fiscal year thereafter, the equal monthly payments shall be in respect of obligations which accrue in such fiscal year and shall be made in such fiscal year on or before the last day of each month.

(2-a) Where a responsible obligor (as defined in paragraph ten of subdivision a of section 13-638.2 of the administrative code of the city of New York) is required to make payments to the retirement system pursuant to applicable provisions of law in fiscal year two thousand twelve--two thousand thirteen, and in any fiscal year thereafter, and the provisions of this paragraph or the provisions of any other applicable law do not otherwise specifically require such responsible obligor to make such payments by a particular date or dates during such

fiscal year, such responsible obligor shall make such payments either (i) in total on or before January first of such fiscal year, or (ii) in twelve equal monthly installments, as determined by the actuary, with each monthly installment to be paid on or before the last day of each month.

(3) The retirement board of the retirement system may waive the requirements of the foregoing provisions of this paragraph with respect to time of payment to such system, provided that any such waiver of time of payment in any instance shall not apply to the time of subsequent payments unless there shall be a subsequent waiver.

17. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section.

(b) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Member." Any person included in the membership of the retirement system as provided in section three of the rules and regulations.

(2) "Actuarial equivalent benefit." Any benefit which pursuant to the rules and regulations or by law is required to be an actuarial equivalent or pursuant to the rules and regulations or by law is required to be determined on the basis of an actuarial equivalent.

(3)(i) "Seven percent member for actuarial equivalent benefit purposes." A member who meets all of the following conditions:

(A) paragraph (c) of this subdivision (relating to the definition of members to whom regular interest at seven per centum per annum, compounded annually, applies) applies to such member; and

(B) an actuarial equivalent benefit (other than a variable annuity program benefit) has become payable by the retirement system to or on account of such member; and

(C) it is provided by a resolution adopted by the retirement board (A) that a mortality table which does not differentiate on the basis of sex shall be used to calculate such actuarial equivalent benefit or a portion of such benefit, or (B) that the modified Option 1 pension computation formula (as defined in subparagraph thirteen of this

paragraph) shall be used to calculate such actuarial equivalent benefit.

(ii) Except in cases to which the modified Option 1 pension computation formula applies pursuant to a resolution adopted by the retirement board, nothing contained in sub-item (C) of item (i) of this subparagraph shall be construed as referring to or including any calculation of an actuarial equivalent benefit (or portion of such benefit) payable to any person where such calculation is required by retirement board resolution to be made through the use of a sex-differentiated mortality table.

(4) "Tier I member." A member whose benefits (other than a supplemental retirement allowance) are prescribed by the rules and regulations and who is not subject to the provisions of article eleven, article fourteen or article fifteen of the retirement and social security law.

(5) "Tier II member." A member who is subject to the provisions of article eleven of the retirement and social security law.

(6) "Tier III member." A member who is subject to the provisions of article fourteen of the retirement and social security law.

(7) "Tier IV member." A member who is subject to the provisions of article fifteen of the retirement and social security law.

(8) "Tier III member entitled to a vested benefit." A Tier III member who is entitled to a deferred vested benefit under the provisions of section five hundred sixteen of the retirement and social security law.

(9) "Tier IV member entitled to a vested benefit." A Tier IV member who is entitled to a deferred vested benefit under the provisions of section six hundred twelve of the retirement and social security law.

(10) "Education service." Service as a paid official or employee of the board of education of the city of New York as now constituted, or of any prior board, body or agency of which it is the successor in school affairs in the territory now comprised within the city and school district of New York, or the New York city school construction authority, and allowable as provided in section four of the rules and regulations.

(11) "Discontinued member." A fifty-five-year-increased-service-fraction member (as defined in subdivision thirty-one of section two of the rules and regulations) who has discontinued education-service and has a vested right to a deferred retirement allowance under the

provisions of section thirty-two of the rules and regulations.

(12) "Variable annuity program benefit." Any benefit under the variable annuity program of the retirement system which is payable from the variable annuity reserve fund or the variable pension reserve fund.

(13) (i) "Modified Option 1 pension computation formula." The method of computing the pension component of an Option 1 retirement allowance payable to a Tier I member and the amount of the Option 1 benefit payable to the beneficiary or estate of such member who selected or selects (or is deemed to have selected) Option 1 as to such pension component, which method of computation is as prescribed by the succeeding items of this subparagraph.

(ii) The initial reserve for such pension component shall be computed through use of mortality tables which do not differentiate on the basis of sex (hereinafter referred to as "gender-neutral mortality tables") and an interest assumption consisting of regular interest of seven per centum per annum, compounded annually.

(iii) Solely for the purpose of use as the minuend from which the payments of such pension component to such member are subtracted in order to determine the amount of the Option 1 benefit payable, upon such member's death, to such member's beneficiary or estate by reason of such Option 1 selection in relation to such pension component, the present value of such member's maximum pension, as it was at the time of such member's retirement, shall be deemed to be the greatest of:

(A) such present value determined on the basis of gender-neutral nortality tables and an interest assumption consisting of regular interest of seven per centum per annum, compounded annually; or

(B) such present value determined on the basis of the female mortality tables and the regular interest applicable to such member in effect immediately prior to the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision; or

(C) such present value determined on the basis of the male mortality tables and the regular interest applicable to such member in effect immediately prior to the date of enactment of this subdivision.

(iv) The pension component payable to such member shall be computed on the basis of gender-neutral mortality tables and an interest assumption consisting of regular interest of seven per centum per annum, compounded annually, so that:

(A) the present value, as it was at the time of such member's retirement, of such component; plus

(B) the present value, as it was at the time of such member's retirement, of the amount payable to such member's Option 1 beneficiary or estate upon the death of the member as provided for by the applicable provisions of item (v) of this subparagraph;

shall be equal to the Option 1 initial reserve determined for such pension component with respect to such member pursuant to the provisions of item (ii) of this subparagraph.

(v) Where such member dies before he or she has received payments on account of such pension component equal to the present value of such member's maximum pension as computed pursuant to item (iii) of this subparagraph, the Option 1 benefit payable to the beneficiary or estate of such deceased member, by reason of such Option 1 selection in relation to such pension component, shall be the remainder obtained by subtracting from such present value determined pursuant to such item (iii) in relation to such pension component, the total of such Option 1 payments on account of such pension component received by or payable to such member for the period prior to his or her death.

(vi) In relation to the Option 1 benefits determined pursuant to the method of computation set forth in this subparagraph by reason of discontinuance of education service by a discontinued member, the phrase "time of such member's retirement" as set forth in items (iii) and (iv) of this subparagraph, shall be deemed, for the purposes of this subparagraph, to mean the date of commencement of the retirement allowance of such discontinued member.

(14) "Selection of mode of benefit." The choice made by a member (as permitted by and pursuant to the requirements of the rules and regulations or applicable law governing such choice by such member) as to whether the maximum amount of his or her retirement allowance or a component thereof shall be payable or such retirement allowance or a component thereof shall be payable under an option selected by the member. The term "selection of mode of benefit" shall include a case where the maximum retirement allowance or a maximum component thereof becomes payable because of a member's omission, within the time permitted by the rules and regulations or applicable law, to select the maximum benefit or an option.

(15) "Best-of-three-computations method." (i) A method (as prescribed by a resolution of the retirement board of the retirement system) under which a retirement allowance (or portion thereof) payable to a member is required to be determined for such member so that:

(A) if such retirement allowance (or portion thereof) does not include a variable annuity program benefit, such retirement allowance is the greatest of:

(1) such retirement allowance (or portion thereof) determined on the basis of gender-neutral mortality tables and regular interest at the rate of seven per centum per annum; or

(2) such retirement allowance (or portion thereof) determined on the basis of female mortality tables and the regular interest applicable to such member as of a time prescribed in such resolution; or

(3) such retirement allowance (or portion thereof) determined on the basis of male mortality tables and the regular interest applicable to such member as of a time prescribed in such resolution; and

(B) if such retirement allowance (or portion thereof) includes a variable annuity program benefit, then the part of such retirement allowance (or portion thereof) other than any variable annuity program benefit is determined in the manner provided for by sub-item (A) of this item and such variable annuity program benefit (or portion thereof) is the greatest of:

(1) such variable annuity program benefit (or portion thereof) determined on the basis of gender-neutral mortality tables and a uniform rate of interest of four percent, as such rate of interest is provided for in section forty-four of the rules and regulations; or

(2) such variable annuity program benefit (or portion thereof) determined on the basis of female mortality tables and such uniform rate of interest of four percent; or

(3) such variable annuity program benefit (or portion thereof) determined on the basis of male mortality tables and such uniform rate of interest of four percent.

(ii) Where, under the provisions of any such resolution of the retirement board, the modified Option 1 pension computation formula (as defined in subparagraph thirteen of this paragraph) applies to any member, the term, "best-of-three-computations method," where used in relation to such member, shall be deemed to include such modified Option

1 pension computation formula, to the extent that such formula governs the determination of the pension component (or portion thereof) of such member's retirement allowance.

(16) "Person entitled to a recomputation of benefits." Any person who meets all of the conditions stated below in this subparagraph:

(i) such person, during the period beginning on August first, nineteen hundred eighty-three and ending on the date next preceding the date of enactment (as such termination date of eligibility for option re-selection (as defined in subparagraph nineteen of this paragraph), (A) retired or retires for age or service or superannuation or for ordinary or accident disability, or (B) discontinued or discontinues education service so as to become a discontinued member, or (C) terminated or terminates employment so as to become a Tier III member entitled to a vested benefit or a Tier IV member entitled to a vested benefit; and

(ii) such person's retirement allowance (or portion thereof), by reason of such retirement or discontinuance of education service or termination of employment, is required by a resolution adopted by the retirement board to be re-determined pursuant to (A) the best-of-three-computations method (as defined in subparagraph fifteen of this paragraph), or (B) the gender-neutral computations method (as defined in subparagraph eighteen of this paragraph); and

(iii) a first payment (if such person, at the time of retirement, discontinuance of education service or termination of employment, was a Tier I member, Tier II member or Tier III member) on account of his or her retirement allowance (as such retirement allowance was determined prior to the termination date of eligibility for option re-selection) was made prior to such termination date of eligibility for option re-selection; or (if such person, at the time of retirement, or termination of employment, was a Tier IV member), his or her effective date of retirement (or date of commencement of benefits, if he or she was a Tier IV member entitled to a vested benefit) occurred prior to the termination date of eligibility for option re-selection.

(17) "Joint and survivor option." (i) Any option under which, at the time when such option is selected, a choice is made which includes both:

(A) a benefit payable for the lifetime of the retired or vested member by whom or in whose behalf such option is selected; and

(B) a benefit (1) which consists of an amount equal to or constituting a percentage of such retired or vested member's benefit and (2) which is payable for the lifetime of a designated beneficiary selected at the time when such option is selected.

(ii) In any case where an option described in item (i) of this subparagraph includes a provision prescribing that if the designated beneficiary predeceases such retired or vested member, a maximum benefit shall become payable to such member, such option shall nevertheless be deemed to be a joint and survivor option.

(18) "Gender-neutral computations method." A method (as prescribed by a resolution of the retirement board of the retirement system) under which a retirement allowance (or portion thereof) payable to a member is required to be determined in the following manner:

(i) if such retirement allowance (or portion thereof) does not include a variable annuity program benefit, such retirement allowance (or portion thereof) is determined on the basis of gender-neutral mortality tables and regular interest at the rate of seven per centum per annum, without reference to any other actuarial mortality or interest assumption; or

(ii) if such retirement allowance (or portion thereof) includes a variable annuity program benefit, then the part of such retirement allowance (or portion thereof) other than any variable annuity program benefit is determined in the manner provided for by item (i) of this subparagraph, and such variable annuity program benefit (or portion thereof) is determined on the basis of gender-neutral mortality tables and a uniform rate of interest of four percent (as such rate of interest is provided for in section forty-four of the rules and regulations), without reference to any other actuarial mortality or interest assumption.

(19) "Termination date of eligibility for option re-selection" shall mean October first, nineteen hundred eighty-seven, provided that if the executive director of the retirement system certifies to the retirement board that as of such October first, or any later termination date which the retirement board may establish pursuant to the provisions of this subparagraph nineteen, it will not be administratively feasible to process benefits (including conversion from fixed to variable benefits and vice versa) under the best-of-three-computations method (as defined

in subparagraph fifteen of this paragraph (b)) and/or the gender-neutral computations method (as defined in subparagraph eighteen of this paragraph (b)) for any persons who are entitled, pursuant to law and/or retirement board resolution, to benefits so computed, then the retirement board, by resolution, may extend the termination date of eligibility for option re-selection, as applicable to such persons, to a later date, provided further, however, that any such extension or extensions directed by the retirement board upon such certification or certifications shall not result in any such extended termination date later than eighteen months after October first, nineteen hundred eighty-seven. In the event that any such extension is directed by a resolution of the retirement board adopted prior to the date of enactment of this subparagraph nineteen, such extension, upon the enactment of this subparagraph, shall be valid and effective as of the date of adoption of such resolution in the same manner and to the same extent as if such enactment had occurred before such date of adoption.

(c) Notwithstanding any provision of subdivision fifteen of section two of the rules and regulations or any other law to the contrary, commencing on August first, nineteen hundred eighty-three, and continuing thereafter, "regular interest", in the cases of persons who were members on July thirty-first, nineteen hundred eighty-three or who thereafter became or become members, shall mean, subject to the provisions of paragraphs (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o) of this subdivision, interest at seven per centum per annum, compounded annually.

(d) (1) (i) Subject to the provisions of items (ii) and (iii) of this subparagraph, regular interest at the rate of seven per centum per annum, compounded annually, shall be used as the actuarial interest assumption for determining any actuarial equivalent benefit (other than a variable annuity program benefit) payable to or on account of any seven percent member for actuarial equivalent benefit purposes.

(ii) Where an actuarial equivalent benefit is required by retirement board resolution to be determined for any seven percent member for actuarial equivalent benefit purposes through the use of the modified Option 1 pension computation formula (as defined in subparagraph thirteen of paragraph (b) of this subdivision), the actuarial interest assumptions used in making such determination shall be as prescribed in

such formula.

(iii) Where it is provided by board resolution that a portion of an actuarial equivalent benefit shall be determined for any seven percent member for actuarial equivalent benefit purposes on the basis of gender-neutral mortality tables, and that the remainder of such benefit shall be determined on the basis of mortality tables which are not gender-neutral, regular interest at the rate of seven per centum per annum, compounded annually, shall be used as the actuarial interest assumption for determining the portion of such benefit required by such resolution to be determined on the basis of gender-neutral mortality tables and such rate of regular interest shall not apply to the determination of the remainder of such benefit.

(2) Notwithstanding that the process of determining whether a member is a seven percent member for actuarial equivalent benefit purposes may include, for the purpose of ascertaining the highest applicable benefit, alternative hypothetical benefit calculations utilizing a rate of regular interest other than such rate of seven per centum, nothing contained in paragraph (c) of this subdivision or in subparagraph one of this paragraph shall be construed as requiring that in the determination of any actuarial equivalent benefit (other than a variable annuity program benefit) payable to or on account of any member who is not a seven percent member for actuarial equivalent benefit purposes, any rate of interest be used other than regular interest, as prescribed by the applicable provisions of subdivision fifteen of section two of the rules and regulations.

(e) The provisions of subparagraph one of paragraph (d) of this subdivision shall not apply to any person who, prior to August first, nineteen hundred eighty-three, retired as a member of the retirement system for age or service or superannuation or for ordinary or accident disability and who was such a retiree immediately prior to such August first; provided, however, that where any such retiree retired pursuant to subdivision two of section ten of the rules and regulations or retired for ordinary or accident disability, and such retiree re-entered or re-enters education service and on or after July thirty-first, nineteen hundred eighty-three, was or is restored to membership in the retirement system, the provisions of such subparagraph one, from and after such date of restoration to membership, shall apply to such

restored member with respect to determination of any actuarial equivalent benefit which is both (1) a benefit to which he or she became or becomes entitled upon his or her subsequent retirement or subsequent discontinuance of service so as to qualify for benefits, and (2) a benefit which is not a continuation, without change, of a benefit which had previously become payable to him or her by reason of his or her prior retirement; provided further that nothing contained in the preceding provisions of this paragraph shall be construed as making subparagraph one of such paragraph (d) applicable to any such member who was not or is not a seven percent member for actuarial equivalent benefit purposes at such time of subsequent retirement or subsequent discontinuance of service.

(f) (1) Subject to the provisions of subparagraph two of this paragraph, the provisions of subparagraph one of paragraph (d) of this subdivision shall not apply to any Tier I or Tier II member who, (A) prior to August first, nineteen hundred eighty-three discontinued service under such circumstances that such member became a discontinued member and acquired a vested right to receive a retirement allowance pursuant to section thirty-two of the rules and regulations (and, in the case of a Tier II member, article eleven of the retirement and social security law), and (B) was such a discontinued member immediately prior to such August first.

(2) If such a discontinued member returned or returns to education service and on or after July thirty-first, nineteen hundred eighty-three and before payability of his or her retirement allowance as such member began or begins, again became or becomes an active member pursuant to the applicable provisions of such section thirty-two, the provision of subparagraph one of such paragraph (d) shall apply to him or her on and after the date of such resumption of active membership; provided that nothing contained in the preceding provisions of this subparagraph shall be construed as making the provisions of subparagraph one of such paragraph (d) applicable to any such member who was not or is not a seven percent member for actuarial equivalent benefit purposes at the time of subsequent retirement or subsequent discontinuance of service so as to qualify for benefits.

(3) Subject to the provisions of subparagraph four of this paragraph, the provisions of subparagraph one of paragraph (d) of this subdivision

shall not apply to any Tier III or Tier IV member who, (i) prior to August first, nineteen hundred eighty-three, terminated employment under such circumstances that such member became a Tier III member entitled to a vested benefit or a Tier IV member entitled to vested benefit and (ii) had such status immediately prior to such August first.

(4) If a member who became entitled to a vested benefit as described in subparagraph three of this paragraph returned or returns to education-service and, on or after July thirty-first, nineteen hundred eighty-three and before payability of his or her vested benefit began or begins, resumed or resumes status as an active member of the retirement system, the provisions of subparagraph one of paragraph (d) of this subdivision shall apply to him or her on and after the date of such resumption of active membership, providing that nothing contained in the preceding provisions of this subparagraph shall be construed as making the provisions of subparagraph one of such paragraph (d) applicable to any such member who was not or is not a seven percent member for actuarial equivalent benefit purposes at the time of subsequent retirement or of subsequent discontinuance of service so as to qualify for benefits.

(g)(1) Subject to the provisions of subparagraph two of this paragraph and to the provisions of paragraph (i) of this subdivision, the selection of mode of benefit (as defined in subparagraph fourteen of paragraph (b) of this subdivision) which, prior to the termination date of eligibility for option re-selection (as defined in subparagraph nineteen of paragraph (b) of this subdivision), a person entitled to a recomputation of benefits (as defined in subparagraph sixteen of such paragraph (b)) made or makes in relation to the retirement allowance (or any component thereof) which became or becomes payable to him or her prior to such termination date of eligibility for option re-selection, shall be the selection of mode of benefit applicable to the recomputed retirement allowance (or any corresponding component thereof) to which he or she is entitled under the best-of-three-computations method or the gender-neutral computations method, and any such person entitled to a recomputation of benefits pursuant to the best-of-three-computations method or the gender-neutral computations method shall not be entitled to make any change in such selection of mode of benefit.

(2) (i) Notwithstanding the provisions of subparagraph one of this

paragraph, a person entitled to a recomputation of benefits shall be entitled, to the extent and in the manner prescribed in the succeeding items of this subparagraph, to change the original selection of mode of benefit applicable to the retirement allowance (or any component thereof) which became or becomes payable to him or her prior to the termination date of eligibility for option re-selection.

(ii) In any case where the original selection of mode of benefit of a person entitled to a recomputation of benefits was a selection of a joint and survivor option (as defined in subparagraph seventeen of paragraph (b) of this subdivision), no change from such original selection of a joint and survivor option may be made under this subparagraph to any other selection of mode of benefit if the designated beneficiary selected with respect to such joint and survivor option by such person entitled to a recomputation is not alive at the time of filing of the form whereby such person entitled to a recomputation seeks to change, pursuant to this subparagraph, his or her original selection of such joint and survivor option.

(iii) Except for a change of selection of mode of benefit prohibited by item (ii) of this subparagraph, any original selection of mode of benefit may be changed pursuant to this subparagraph to another selection of mode of benefit, provided all of the conditions set forth in items (iv), (vi) and (viii) of this subparagraph are met.

(iv) Subject to the provisions of items (vii) and (viii) of this subparagraph, a person entitled to a recomputation of benefits may, pursuant to this subparagraph, effect any such permissible change of his or her original selection of mode of benefit by executing, acknowledging and filing with the retirement system, within the applicable period of time prescribed by item (vi) of this subparagraph, a new selection of mode of benefit. If the original selection of mode of benefit of the person filing such new selection was a selection of a joint and survivor option, such new selection shall be void and of no effect unless (a) the designated beneficiary named in such original selection of a joint and survivor option signs and acknowledges, in the form for such new selection of mode of benefit, a consent to such changed selection of mode of benefit, and (b) such original designated beneficiary is alive on the date of filing of such new selection.

(v) The retirement system shall mail to each person entitled to a

recomputation of benefits a letter showing amounts of benefits, as recomputed for such person under the best-of-three-computations method or the gender-neutral computations method, for modes of benefit other than joint and survivor options, together with a statement advising such person that upon request, the amounts of recomputed benefits under joint and survivor options will be provided.

(vi) The period of time within which any such person entitled to a recomputation may file a new selection of mode of benefit as provided for in items (iii) and (iv) of this subparagraph shall be sixty days after the date of issuance set forth in such letter mailed to such person pursuant to item (v) of this subparagraph; provided, however, that if, pursuant to the request of such person, a later letter setting forth benefits information in relation to a new selection of a mode of benefit is mailed to such person by the retirement system, such period of time for filing a new selection of mode of benefit shall be thirty days after the date of issuance set forth in such later letter.

(vii) Upon the filing of a new selection of mode of benefit pursuant to this subparagraph by any such person entitled to a recomputation, such new selection shall be irrevocable and such person shall not be entitled to file any other selection of mode of benefit with respect to such retirement allowance (or any component thereof) which became payable to him or her prior to the termination date of eligibility for option re-selection.

(viii) No new selection of mode of benefit filed pursuant to the preceding items of this subparagraph shall be valid or effective as a change of mode of benefit or for any other purpose unless the person entitled to a recomputation of benefits who files such new selection is alive on the date (hereinafter referred to as the "validating date") three hundred sixty-five days after the date of filing of such new selection of mode of benefit. If such person filing such new selection of mode of benefit is alive on the validating date with respect to such new selection, such new selection shall become valid and effective on such validating date; provided, however, that from and after the effective date of retirement of such person making such valid and effective new selection of mode of benefit (if he or she retired for age or service or superannuation or for ordinary or accident disability) or from and after the date on which payability of the original benefits of

such person began (if he or she was a discontinued member or discontinued sanitation member or Tier III member entitled to a vested benefit or Tier IV member entitled to a vested benefit), such new selection of mode of benefit shall supersede such original selection of mode of benefit and shall apply to and govern the amount of benefits payable to such person or to his or her designated beneficiary or estate.

(h) Subject to the provisions of paragraph (i) of this subdivision, in any case where a member of the retirement system who retired before August first, nineteen hundred eighty-three pursuant to subdivision two of section ten of the rules and regulations or for ordinary or accident disability re-entered or re-enters its membership on or after July thirty-first, nineteen hundred eighty-three, nothing contained in paragraphs (c), (d) and (e) of this subdivision shall be construed as authorizing or permitting him or her to change any selection of mode of benefit (as defined in subparagraph fourteen of paragraph (b) of this subdivision) made by him or her with respect to any benefit which, upon his or her subsequent retirement or discontinuance of service so as to qualify for benefits, is payable to him or her as a continuation, without change, of a benefit which had previously become payable to him or her by reason of his or her prior retirement.

(i) Nothing contained in paragraph (g) or paragraph (h) of this subdivision shall be construed as preventing:

(1) any person (A) who, during the period beginning on August first, nineteen hundred eighty-three and ending on the date next preceding the date of enactment (as certified pursuant to section forty-one of the legislative law) of this paragraph retired or retires pursuant to subdivision two of section ten of the rules and regulations or for ordinary or accident disability and (B) who is subject to such paragraph (g) and (C) who on or after July thirty-first, nineteen hundred eighty-three, re-entered or re-enters education service and again became or becomes a member of the retirement system; or

(2) any re-entered member referred to in such paragraph (h); upon his or her subsequent retirement, from exercising any right, which any other applicable law or any provision of the rules and regulations grants to him or her under such circumstances, to make a selection of mode of benefit (as defined in subparagraph fourteen of paragraph (b) of this

subdivision).

(j) Notwithstanding any provisions of paragraph (c) of this subdivision prescribing a rate of regular interest of seven per centum per annum, compounded annually, for specified members described in such paragraph, the rate of regular interest which shall be applied to fix the rate of interest on any loan to any such member eligible to borrow shall be four per centum per annum, compounded annually.

(k) (1) Where any variable annuity program benefit (as defined in subparagraph twelve of paragraph (b) of this subdivision) which is an actuarial equivalent benefit (as defined in subparagraph two of such paragraph (b)) is payable to any person by reason of:

(i) the retirement of a member for age or service or superannuation or for ordinary or accident disability, where such retirement occurred on or after August first, nineteen hundred eighty-three or hereafter occurs; or

(ii) discontinuance of service or termination of employment of a member, where such discontinuance or termination occurred or occurs on or after such August first under such circumstances that such member became or becomes (A) a discontinued member possessing a vested right to receive a retirement allowance pursuant to section thirty-two of the rules and regulations (and, in the case of a Tier II member, article eleven of the retirement and social security law) or (B) a Tier III member entitled to a vested benefit or a Tier IV member entitled to a vested benefit; or

(iii) the death, on or after such August first, of a member:

the rate of interest used to determine such variable annuity program benefit shall be that prescribed by section forty-four of the rules and regulations.

(2) The retirement board may by resolution direct that different computations, based on different mortality tables, shall be used to determine separate portions of a variable annuity program benefit payable as described in subparagraph one of this paragraph.

(l) In any case where any provision of this subdivision has the effect, in relation to any person, of amending, modifying or supplementing any provision of the rules and regulations referred to in subdivision f of section thirty-three of the rules and regulations (relating to the tax-deferred annuity program of the retirement system),

such provisions of the rules and regulations, for the purpose of applying such subdivision f to such person, shall be deemed to include such amendment, modification or supplementation.

(m) Modified Option 1 pension computation formula. (1) The retirement board may by resolution direct that under such circumstances as are designated in such resolution, benefits under Option 1 which consist of or are derived from the pension component of a retirement allowance and which are payable to or on account of members who:

(i) became members prior to the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision; and

(ii) retired or retire on or after August first, nineteen hundred eighty-three, for age or service or superannuation or for ordinary or accident disability, or on or after such August first, discontinued or discontinue service so as to become discontinued members; shall be determined under the modified Option 1 pension computation formula.

(2) If the retirement board makes a direction for use of such formula pursuant to the provisions of subparagraph one of this paragraph, it may also direct by resolution:

(i) that any member who is subject to the modified Option 1 pension computation formula may elect, at such time and in accordance with such procedures as are prescribed in such resolution, that such formula shall not apply to such member and that the initial reserve determined for the purpose of providing the benefits payable by reason of his or her selection of Option 1 and the pension component of his or her Option 1 retirement allowance shall be determined on the basis of gender-neutral mortality tables and regular interest of seven per centum per annum, compounded annually; and

(ii) that the benefit payable, upon the death of the member making such election, to his or her beneficiary or estate shall be the difference between such Option 1 initial reserve and the total of the payments of such pension component received by or payable to such member for the period prior to his or her death; and

(iii) that where any member subject to the modified Option 1 pension computation formula retired before the effective date of the retirement board resolution adopted pursuant to subparagraph one of this paragraph, and where the first payment on account of the retirement allowance of

any discontinued member subject to such formula was made before the effective date of such resolution, such retiree or discontinued member, within such period of time after such effective date and in accordance with such procedures as are prescibed in such resolution, may elect the method of Option 1 benefit determination set forth in items (i) and (ii) of this subparagraph.

(3) In any case where, pursuant to board resolution, a benefit is required to be determined under the modified Option 1 pension computation formula and the determination of such benefit is also required by a board resolution adopted pursuant to item (iii) of subparagraph one of paragraph (d) of this subdivision to reflect different computations of separate portions of such benefits the methods of computation under the modified Option 1 pension computation formula shall be appropriately adjusted so as to give effect to the provisions of such resolution adopted pursuant to such item (iii).

(n) Any reference in this subdivision to retirement for service shall be deemed, for the purpose of this subdivision, to include retirement pursuant to the provisions of subdivision two of section ten of the rules and regulations.

(o) The rate of regular interest applicable to determination of the rate of member contribution of any member whose last membership began prior to the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision shall be the rate of regular interest which was applicable, under the provisions of the rules and regulations in effect prior to such date of enactment, to the determination of the rate of member contribution of such member, and nothing contained in the preceding paragraphs of this subdivision shall be construed as applicable to the determination of the rate of member contribution of any such member whose last membership so began or as changing or affecting the rate of member contribution of any such member.

(p) (1) In any case where:

(i) a conversion of a fixed benefit or portion thereof to a variable benefit is elected pursuant to section forty-two of the rules and regulations; and

(ii) pursuant to any provision of law and/or the rules and regulations and/or any resolution of the retirement board adopted thereunder, the

rate of regular interest and/or the mortality tables which were required to be used in the actuarial determination of such fixed benefit being converted, are different from the rate of regular interest and/or mortality tables would have been required to be used to determine a like variable benefit as of the same date (hereinafter referred to as the "calculation date") as of which such fixed benefit was required to be determined as an actuarial equivalent; the composition of the variable portion of each instalment of benefit for each month of the conversion period shall be determined in the manner prescribed in subparagraph two of this paragraph (p).

(2) The amount, in units, of the variable portion for any such conversion month to which subparagraph one of this paragraph applies shall be equal to the number of units in the previous month's variable portion, if any, plus a number of units which is the actuarial equivalent, as of the calculation date, of the fixed portion converted each month. Such actuarial equivalent units for each such month shall be determined on the basis of the unit value for such month, in accordance with a scientific formula which recognizes the difference in the rates of regular interest and/or mortality tables referred to in subparagraph one of this paragraph.

(3) In any case where:

(i) a conversion of a variable benefit is elected pursuant to section forty-two of the rules and regulations; and

(ii) pursuant to any provision of law and/or the rules and regulations and/or any resolution of the retirement board adopted thereunder, the rate of regular interest and/or mortality tables which were required to be used in the actuarial determination of such variable benefit being converted are different from the rate of regular interest and/or mortality tables which would have been required to be used to determine a like fixed benefit as of the same date (hereinafter referred to as the "calculation date") as of which such variable benefit was required to be determined as an actuarial equilvalent; the composition of the fixed portion of each instalment of benefit for each month of the conversion period shall be determined in the manner prescribed in subparagraph four of this paragraph.

(4) The amount of the fixed portion for any such conversion month to which subparagraph three of this paragraph applies shall be equal to the

previous month's fixed portion, if any, plus a fixed amount which is the actuarial equivalent, as of the calculation date, of the number of units converted each month. Such actuarial equivalent fixed amount for each such month shall be determined on the basis of the unit value for such month, in accordance with a scientific formula which recognizes the difference in the rates of regular interest and/or mortality tables referred to in subparagraph three of this paragraph.

(q) Notwithstanding any other provision of this section, an option selection made pursuant to this subdivision and the rules and regulations governing such choice previously filed by a member or retired member may be changed no later than thirty days following the date of payability of his or her retirement allowance. A retired member who has been retired for disability may change an option selection previously filed no later than (1) thirty days following the date on which such member's application for disability retirement was approved by the retirement board or (2) thirty days following the date on which such retiree was retired for disability, whichever is later.

18. (a) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Board of education". The board of education of a city.

(2) "Board of education retirement system". The board of education retirement system established pursuant to the provisions of this section in a city.

(3) "City". A city having a population of one million or more.

(4) "Rules and regulations". The rules and regulations for the government, management and control of the board of education retirement system adopted pursuant to the provisions of this section.

(5) "Provisional employee". Any person employed by the board of education on the basis of a provisional appointment pursuant to section sixty-five of the civil service law.

(6) "Education service". Service as a paid official or employee of the board of education or the New York city school construction authority, and allowable as provided in section four of the rules and regulations or, in the case of a tier II member or a tier IV member, allowable pursuant to the provisions which respectively govern the service credit

of such a member of the board of education retirement system.

(7) "Former provisional employee". Any person permanently employed by the board of education:

(i) who is a transferred contributor in the New York city employees' retirement system pursuant to section B3-57.0 or 13-188 of the administrative code of the city of New York; and

(ii) who first acquired membership in the New York city employees' retirement system as a provisional employee of the board of education; and

(iii) whose last period of permanent employment by the board of education was immediately preceded by his employment by the board of education as a provisional employee.

(8) "Tier II member". A member of a public retirement system who is subject to the provisions of article eleven of the retirement and social security law.

(9) "Tier IV member". A member of a public retirement system who is subject to the provisions of article fifteen of the retirement and social security law.

(b) (1) Notwithstanding the provisions of paragraph (a) of subdivision one of this section or any provision of the rules and regulations or any other provision of law to the contrary, membership in the board of education retirement system shall include any provisional employee in education service who elects to become a member in the manner prescribed by the applicable provisions of subparagraph two, subparagraph three or subparagraph four of this paragraph.

(2) Any such provisional employee who is not a member of the New York city employees' retirement system at the time he or she elects to become a member of the board of education retirement system may make such an election of membership by filing with the board of education retirement system a duly executed and acknowledged application for membership.

(3) Any such provisional employee who is a member of the New York city employees' retirement system at the time he or she elects to become a member of the board of education retirement system may make such an election of membership by filing simultaneously with the board of education retirement system a duly executed and acknowledged application for membership and a duly executed and acknowledged request that his or her membership and service credit in the New York city employees'

retirement system be transferred to the board of education retirement system.

(4)(i) Beginning July first, two thousand twenty-four, upon the entry into employment of any employee eligible to elect membership in the retirement system pursuant to subparagraphs one, two and three of this paragraph or any other applicable provision of law, and provided such employee is not a member in the retirement system or any other public retirement system of the city or state of New York as of such entry date in covered employment, such employee shall be enrolled in the retirement system effective ninety-one days after the commencement of employment. Notwithstanding the preceding, if such employee files with the retirement system an application to opt out of membership within ninety days after commencement of employment, the retirement system shall refrain from enrolling such employee unless and until such employee subsequently files an application for membership with the retirement system, or is otherwise subsequently mandated to enroll by the rules and regulations of the retirement system or any applicable law. The employer and the applicable union for the retirement system shall jointly provide written notice to the employee informing the employee that he or she has the option to opt-out of the automatic enrollment program. Such notice shall be provided to the employee on three occasions: on or before the thirtieth day, the sixtieth day and the ninetieth day prior to automatic enrollment in the retirement system. The automatic enrollment of eligible employees as provided for in this subparagraph shall not be construed to modify the right of eligible employees to join the retirement system as of the first date of covered employment by filing an application for membership with the retirement system. The employer shall inform the employee in writing of the right to join the system as well as the fact that the employee shall be enrolled in the retirement system on the ninety-first day after commencement of employment, unless such employee files with the retirement system an application to opt out of membership prior to such date. Any eligible employee who elects to opt out of membership in the retirement system within the ninety day period shall retain the right to join such system by subsequently filing an application for membership so long as such employee remains in covered employment.

(ii) Every current employee who is eligible for membership in the

retirement system on July first, two thousand twenty-four, and who is not a member in the retirement system or any other public retirement system of the city or state of New York, shall be enrolled in the retirement system effective October first, two thousand twenty-four, unless such employee files with the retirement system an application to opt out of membership before October first, two thousand twenty-four. Such automatic enrollment in the retirement system shall not be construed to waive any of the eligibility requirements for previous service credit.

(iii) The automatic enrollment of eligible employees as provided for in this subparagraph shall not be construed to modify the rights and obligations of any employee whose participation in the retirement system is mandated by the rules and regulations of the retirement system or any applicable law, and such mandated members may not opt out of membership.

(iv) If an employee who is automatically enrolled in the retirement system pursuant to the provisions of this paragraph is a member of a union, the retirement system shall provide written notice to the union of the employee's enrollment within thirty days of the employee's enrollment in the retirement system.

(v) The provisions of this subparagraph shall apply to full-time employees and part-time employees. The provisions of this subparagraph shall not apply to provisional employees.

(c) (1) Notwithstanding the provisions of section B3-57.0 or 13-188 of the administrative code of the city of New York or any provision of the rules and regulations or any other provision of law to the contrary, membership in the board of education retirement system shall include any former provisional employee who, while employed in education service, elects to become a member in the manner prescribed by subparagraph two of this paragraph.

(2) Any such former provisional employee may make such an election of membership by filing simultaneously with the board of education retirement system, within six months after the date of enactment (as certified pursuant to section forty-one of the legislative law) of this subdivision, a duly executed and acknowledged application for membership and a duly executed and acknowledged request that his or her membership and service credit in the New York city employees' retirement system be transferred to the board of education retirement system.

(d) Any election of membership in the board of education retirement system made pursuant to paragraph (b) or paragraph (c) of this subdivision shall be irrevocable.

(e) (1) Upon the filing of a request for a transfer with the board of education retirement system as provided for in subparagraph three of paragraph (b) of this subdivision or subparagraph two of paragraph (c) of this subdivision, the board of education retirement system shall file such request for a transfer with the New York city employees' retirement system. Upon the filing of such request for a transfer with the New York city employees' retirement system, such retirement system shall make a transfer of reserves and accumulated contributions to the board of education retirement system in the manner required by section forty-three of the retirement and social security law.

(2) Nothing contained in the preceding provisions of this subdivision or of any other law shall be construed (i) as imposing any restriction under the third sentence of subdivision d of such section forty-three on the determination of the salary base for benefit computation purposes with respect to any person whose membership and service credit are transferred to the board of education retirement system pursuant to the applicable preceding provisions of this subdivision, or (ii) as making the last sentence of such subdivision d applicable to any such transferee.

(3) Any employee of the board of education of the city of New York who is a member of the New York city employees' retirement system may elect to transfer membership to the New York city board of education retirement system. Any election pursuant to this section shall be made no later than the one hundred eightieth day next succeeding the date on which the provisions hereof become effective by filing a written notice thereof with the administrative head of the New York city employees' retirement system, and the New York city board of education retirement system, and, once made and filed, such election shall be irrevocable. Where an employee of the board of education becomes a member of the New York city board of education retirement system pursuant to this section, the New York city employees' retirement system shall make a transfer of reserves, contributions, and credits to the New York city board of education retirement system in the manner required by section forty-three of the retirement and social security law.

(f) Notwithstanding the provisions of paragraph (a) of subdivision one of this section or any provision of the rules and regulations or any other provision of law to the contrary, membership in the board of education retirement system shall include any person employed by the New York city police department in the title of school crossing guard who becomes a member in the manner prescribed by the provisions of subdivision g of section 13-638.4 of the administrative code of the city of New York or by the provisions of subparagraph four of paragraph (b) of this subdivision.

(g)(1) For purposes of this paragraph, the terms "career pension plan member", "career pension plan position" and "fifty-five-year-increased-service-fraction member" shall have the meanings set forth in paragraphs twenty-eight, twenty-nine and thirty-one, respectively, of section two of the rules and regulations.

(2) For purposes of this paragraph, the term "fractional plan member" shall mean a member of the board of education retirement system holding a career pension plan position who is not a career pension plan member or a fifty-five-year-increased-service-fraction member, and who is not subject to the provisions of article eleven, fourteen or fifteen of the retirement and social security law.

(3) Notwithstanding any provision of this section or any other provision of law to the contrary, effective October first, nineteen hundred ninety-three, the rules and regulations shall be deemed to be amended so as to provide that any fractional plan member in education service on such date, who holds a career pension plan position on such date, shall, on such date, be deemed to have elected to become a career pension plan member under the same terms and conditions, and with the same rights, benefits, privileges and obligations as are applicable to similarly situated members of the New York city employees' retirement system, as provided in subdivision m of section 13-162 of the administrative code of the city of New York, as enacted by the act which added this paragraph.

(h) (1) For the purposes of this paragraph, including, without limitation, the use, pursuant to subparagraph two of this paragraph, of the provisions of paragraphs one, two and three of subdivision c of section 13-162 of the administrative code of the city of New York and subparagraph (a) of paragraph four of such subdivision (as amended by

the provisions of the chapter of the laws of nineteen hundred ninety-five which added this paragraph) to prescribe certain of the additional rights, privileges, benefits and obligations hereunder, of career pension plan members and increased-service-fraction members, the following items of this subparagraph one shall apply:

(i) the terms "career pension plan", "career pension plan member", "career pension plan position" and "fifty-five-year-increased-service-fraction-member" shall have the meanings set forth in paragraphs twenty-seven, twenty-eight, twenty-nine and thirty-one, respectively, of section two of the rules and regulations;

(ii) the term "city-service", as used in the provisions of subdivision c of such section 13-162 referred to in the opening paragraph of this paragraph one shall be deemed to mean "education-service", as defined in subparagraph six of paragraph (a) of this subdivision;

(iii) the term "career pension plan qualifying service", as used in such provisions of subdivision c of section 13-162, shall mean "creditable career pension plan service" as defined in paragraph thirty-eight of section two of the rules and regulations;

(iv) the pension referred to in item (ii) of subparagraph (a) of paragraph four of such subdivision c of section 13-162 shall be deemed to mean the pension referred to in subdivision seven of section twelve of the rules and regulations; and

(v) the provisions of subparagraph (b) of paragraph four of subdivision c of such section 13-162 shall be deemed inapplicable to career pension plan members and fifty-five-year-increased-service-fraction members who are subject to the provisions of this paragraph.

(2) Notwithstanding any provision of the rules and regulations or this section or any other provision of law to the contrary, the rules and regulations shall be deemed to be amended so as to provide that on and after the effective date of this paragraph:

(i) each career pension plan member, subject to the succeeding subparagraphs of this paragraph, shall have the same additional rights, privileges, benefits and obligations and be subject to the same additional terms and conditions with respect to withdrawing his or her election to be a career pension plan member as are provided for in

relation to a similarly situated career pension plan member of the New York city employees' retirement system by the chapter of the laws of nineteen hundred ninety-five which added this paragraph; and

(ii) each fifty-five-year-increased-service-fraction member, subject to the succeeding subparagraphs of this paragraph, shall have the same additional rights, privileges, benefits and obligations and be subject to the same additional terms and conditions with respect to electing to be a career pension plan member as are provided for in relation to a similarly situated fifty-five-year-increased-service-fraction member of the New York city employees' retirement system by the chapter of the laws of nineteen hundred ninety-five which added this paragraph.

(3) In any case where a member effects a change in his or her retirement plan pursuant to the preceding subparagraphs of this paragraph, his or her normal rate of member contribution as a member of such changed plan shall be fixed pursuant to the appropriate provisions of the rules and regulations with respect to rates of member contribution of members of such changed plan.

(4) Nothing contained in subparagraph two of this paragraph shall be construed as diminishing or impairing:

(i) any right granted to any career pension plan member by the provisions of paragraph ten of subdivision m of section 13-162 of the administrative code of the city of New York, where the provisions of such paragraph ten are made applicable to such member by paragraph (g) of this subdivision; and

(ii) any right granted to a career pension plan member by subparagraph (a) of paragraph one of subdivision c of section thirty of the rules and regulations to withdraw from the career pension plan.

(5) Notwithstanding any provision of the rules and regulations or this section or any other provision of law to the contrary, the rules and regulations shall be deemed to be amended so as to provide that:

(i) subject to the provisions of item (ii) of this subparagraph five, in any case where, on or after the effective date of this paragraph, a fifty-five-year-increased-service-fraction member dies in service while such a member, after completing twenty or more years of creditable career pension plan service, such member shall be deemed to have died as a career pension plan member, if status as such a career pension plan member at the time of his or her death would result in a benefit larger

than the benefit which would be payable if such member died while a fifty-five-year-increased-service-fraction member; and

(ii) in any case where a member referred to in item (i) of this subparagraph five is a Tier II member at the time of his or her death, any change in the plan membership of such member pursuant to such item (i) shall not change, alter or affect the applicability of article eleven of the retirement and social security law to such member.

(i) A retired member of the board of education retirement system shall have the right, at any time after the retired member's retirement, to execute and file a dues deduction authorization card with such retirement system authorizing the deduction from the retired member's retirement allowance of membership dues and the payment thereof to a retiree organization of which the retired member certifies he or she is then a member and which the retired member certifies is then affiliated with either an employee organization certified or recognized as the collective bargaining representative of all employees in the negotiating unit of which the retired member was a part prior to his or her retirement or an employee organization with which such employee organization is then affiliated. The comptroller shall thereafter deduct from the retirement allowance of such retired member the amount of membership dues required to be paid by such retired member, and shall transmit the sum so deducted to said retiree organization. Such authorization shall continue in effect until revoked in writing by such retired member.

(j) Notwithstanding any other provision of law or rule, a retired member of the board of education retirement system of the city of New York shall be permitted to repay the outstanding balance of a loan taken pursuant to the rules and regulations of the retirement system at any time. Benefits payable after the repayment of the loan shall not be subject to any actuarial reduction imposed as a result of an outstanding balance.

** 19. Pick up of Tier I and Tier II member contributions by the employer. (a) For the purposes of this subdivision:

(1) The terms "board of education," "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs one, three and four, respectively, of paragraph (a) of subdivision sixteen of this section; and

(2) the terms "member," "Tier I member" and "Tier II member" shall have the meanings set forth in subparagraphs one, four and five, respectively, of subparagraph (b) of subdivision seventeen of this section.

(b) the following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Basic rate of contribution as a Tier I or Tier II member." (i) Subject to the provisions of clauses (ii) and (iii) of this subparagraph one, the term "basic rate of contribution as a Tier I or Tier II member" shall mean the proportion of the earnable compensation of a Tier I member or Tier II member required by the provisions of subparagraph (i) of paragraph f of subdivision one of section eight of the rules and regulations and any other applicable provisions of the rules and regulations or law to be deducted from the personal compensation of such member as his or her member contributions, exclusive of any increase in such contributions resulting from an election by such member pursuant to law to effect such an increase, or any decrease in such contributions on account of any program for increased-take-home-pay or pursuant to subdivision one of section one hundred thirty-eight-b of the retirement and social security law (relating to election to decrease member contributions by contributions due on account of social security coverage).

(ii) In any case where it is provided in the rules and regulations that the deduction from a member's compensation on account of member contributions required to be made by a Tier I member or Tier II member shall not be in excess of fifteen per centum unless the member so elects, and such member makes such election, any per centum of such deduction in excess of fifteen per centum with respect to such member shall not be included in such member's basic rate of contribution as a Tier I or Tier II member.

(iii) In any case where a Tier I member or Tier II member who is a fifty-five-year-increase-service-fraction member (as defined in subdivision thirty-one of section two of the rules and regulations) has elected or elects, pursuant to paragraph g of subdivision one of section eight of the rules and regulations, to contribute to the retirement system at a rate one per centum less than such member's normal rate of

contribution, such member's basic rate of contribution as a Tier I or Tier II member, during any period wherein such election is in effect, shall be one per centum less than such member's normal rate of contribution as a fifty-five-year-increased-service-fraction member. In any case where any such member elects pursuant to such paragraph g to discontinue such reduction, such election to discontinue shall not be deemed, for the purposes of subparagraph four of this paragraph (b) to be an election to increase member contributions above the level prescribed by the member's basic rate of contribution as a Tier I or Tier II member, and upon such discontinuance, such member's basic rate of contribution as a Tier I or Tier II member shall be his or her normal rate of contribution as a fifty-five-year-increased-service-fraction member.

(2) "Contributing Tier I or Tier II member." With respect to any payroll period as to which the status of a Tier I member or Tier II member as to required member contributions is to be determined, the term "contributing Tier I or Tier II member" shall mean any Tier I member or Tier II member other than any Tier I member or Tier II member who is not required to contribute during such payroll period because of his or her then currently effective election, pursuant to subparagraph f of paragraph one of section eight of the rules and regulations, not to contribute.

(3) "Employer responsible for pick up." The public employer by which a Tier I member or Tier II member is employed.

(4) "Tier I or Tier II member contributions eligible for pick up by the employer." (i) With respect to any payroll period for a contributing Tier I or Tier II member (as defined in subparagraph two of this paragraph (b)), the amount of member contributions which, in the absence of a pick up program applicable to such member pursuant to this subdivision, would be required by law to be deducted, on account of such member's basic rate of contribution as a Tier I or Tier II member (as defined in subparagraph one of this paragraph), from the personal compensation of such member for such payroll period, after (A) giving effect to any reduction in such contributions required under any program for increased-take-home-pay or pursuant to subdivision one of section one hundred thirty-eight-b of the retirement and social security law and (B) excluding any deductions from such compensation (or redeposits,

restorations or payments) on account of (1) loans or withdrawal of excess contributions or (2) any election by any such member, pursuant to any applicable provision of the rules and regulations, to increase his or her member contributions above the level prescribed by his or her basic rate of contribution as a Tier I or Tier II member or (3) any other cause not attributable to the member's basis rate of contribution as a Tier I or Tier II member after reduction in such rate, if any, as described in item (A) of this clause (i).

(ii) If no deductions on account of any such member's basic rate of contribution as a Tier I or Tier II member are required by the rules and regulations to be made from the personal compensation of such member for any payroll period, such member shall not have, for such payroll period, any Tier I or Tier II member contributions eligible for pick up by the employer. The amount of Tier I or Tier II member contributions eligible for pick up by the employer of any Tier I member or Tier II member for any payroll period shall be determined solely on the basis of personal compensation paid to such member for such payroll period by his or her public employer. A Tier I member or Tier II member shall not have any Tier I or Tier II member contributions eligible for pick up by the employer with respect to any payroll period for which he or she is not paid personal compensation by his or her public employer.

(5) "Starting date for pickup." The first day of the first whole payroll period commencing after the date which is sixty days after the internal revenue service shall have issued a ruling that member contributions picked up pursuant to this subdivision are not includible as gross income for federal income tax purposes until distributed or made available.

(c) Notwithstanding any other provision of the law to the contrary, on and after the starting date for pick up, the employer responsible for pick up shall pick up and pay into the annuity savings fund (subject to the provisions of subparagraph four of paragraph (f) of this subdivision) the Tier I or Tier II member contributions eligible for pick up by the employer which each Tier I member and Tier II member would otherwise be required to make on and after such starting date.

(c-1) Notwithstanding any other provision of law to the contrary, the employer responsible for pick up shall, in the case of a member who is a participant in the age fifty-five improved benefit retirement program

(as defined in paragraph ten of subdivision a of section four hundred forty-five-d of the retirement and social security law), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision d of such section four hundred forty-five-d, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three otherwise would require such deductions.

(c-2) Notwithstanding any other provision of law to the contrary, the employer responsible for pick up shall, in the case of a member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraph three of subdivision d of section four hundred forty-five-i of the retirement and social security law, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such paragraph three otherwise would require such deductions.

(d) An amount equal to the amount of such picked up contributions shall be deducted by the employer responsible for pick up from the personal compensation of such member (as such compensation would be in the absence of a pick up program applicable to him or her hereunder) and shall not be paid to such member. Such deduction shall be effected by means of subtraction from such member's current personal compensation (as so defined), or offset against future pay increases, or a combination of such methods.

(e) (1) * The member contributions and additional member contributions picked up pursuant to this subdivision for any Tier I member or Tier II member shall be paid by the employer responsible for pick up in lieu of an equal amount of the member contributions and additional member contributions otherwise required to be paid by such member under the provisions of the rules and regulations or the retirement and social security law, and shall be deemed to be and treated as employer contributions pursuant to subsection h of section four hundred fourteen

of the United States internal revenue code, as amended, for the purposes, under federal law, for which such subsection h so classifies such picked up contributions. Subject to the provisions of paragraph (d) of this subdivision, for all other purposes, including but not limited to:

* NB Effective until notice of ruling by Internal Revenue Service per ch. 627/2007 §22

* The member contributions and additional member contributions picked up pursuant to this subdivision for any Tier I member or Tier II member shall be paid by the employer responsible for pick up in lieu of an equal amount of the member contributions and additional member contributions otherwise required to be paid by such member under the provisions of the rules and regulations or the retirement and social security law, including any member contributions required to be made for the purchase of credit for previous service or credit for military service pursuant to subparagraph three of this paragraph, provided, however, that contributions picked up for the purchase of credit for military service shall be deposited in the employer contribution account in accordance with subdivision four of section one thousand of the retirement and social security law, and shall be deemed to be and treated as employer contributions pursuant to subsection h of section four hundred fourteen of the United States internal revenue code, as amended, for the purposes, under federal law, for which such subsection h so classifies such picked up contributions. Subject to the provisions of paragraph (d) of this subdivision, for all other purposes, including but not limited to:

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22

(i) the obligation of such member to pay New York state and New York city income and/or wages or earnings taxes and the withholding of such taxes; and

(ii) the determination of the amount of such member's Tier I or Tier II member contributions eligible for pick up by the employer or additional member contributions required to be picked up pursuant to paragraph c-one or c-two of this subdivision; and

(iii) the determination of the amount of any retirement allowance or other retirement system benefit payable to or on account of such member

or any other retirement system right, benefit or privilege of such member;

the amount of the member contributions and additional member contributions picked up pursuant to this subdivision shall be deemed to be a part of the employee personal compensation of such member and such member's gross personal compensation (as it would be in the absence of a pick up program applicable to him or her hereunder) shall not be deemed to be changed by such member's participation in such program.

(2) Nothing contained in subparagraph one of this paragraph (e) shall be construed as superseding the provisions of section four hundred thirty-one of the retirement and social security law or any similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

* (3) Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member eligible to purchase credit for previous service with a public employer pursuant to this section or to purchase credit for military service pursuant to article twenty of the retirement and social security law, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions required therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to the completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of the agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22

(f) (1) For the purpose of determining the retirement system rights, benefits and privileges of any Tier I member or Tier II member whose Tier I or Tier II member contributions eligible for pick up by the

employer are picked up pursuant to this subdivision (including the procurement of loans by any such member), such picked up member contributions, subject to the provisions of subparagraph four of this paragraph (f), shall be deemed to be and treated (i) as member contributions made by such member pursuant to law and (ii) as a part of such member's accumulated deductions.

(2) For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the age fifty-five improved benefit retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-d of the retirement and social security law), the additional member contributions of such participant picked up pursuant to paragraph (c-one) of this subdivision shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of such section four hundred fifty-five-d.

(2-a) For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the age fifty-five retirement program (as defined in paragraph ten of subdivision a of section four hundred forty-five-i of the retirement and social security law), the additional member contributions of such participant picked up pursuant to paragraph c-two of this subdivision shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of section four hundred forty-five-i of the retirement and social security law.

(3) Interest on contributions picked up for any Tier I member or Tier II member pursuant to this subdivision (other than additional member contributions picked up pursuant to paragraph c-one or c-two of this subdivision) shall accrue in favor of the member and be payable to the retirement system at the same rate, for the same time periods, in the same manner and under the same circumstances as interest would be required to accrue in favor of the member and be payable to the retirement system on such contributions if they were made by such member in the absence of a pick up program applicable to such member under the provisions of this section.

(4) Where member contributions of any Tier I member or Tier II member are picked up and paid into the annuity savings fund pursuant to this section, such picked up contributions shall be credited to a separate

account within the individual account of such member in such fund, so that a separate record of the amount of such picked up contributions is maintained.

(5) For the purpose of determining the retirement system rights, benefits and privileges of any Tier I member or Tier II member who is a participant in a variable annuity program of the retirement system, his or her picked up member contributions shall, to the extent and in the proportions appropriate pursuant to his or her election to participate in such program, be deemed to be and treated as a part of his or her accumulated deductions and/or credits in his or her account in the variable annuity savings fund. A separate record shall be kept showing any such variable annuity savings fund account credits attributable to any such picked up contributions.

(6) Nothing contained in this paragraph (f) shall be construed as granting member contributions or additional member contributions picked up under this subdivision any status, under federal law, other than as employer contributions, pursuant to subsection h of section four hundred fourteen of the United States internal revenue code, for the federal purposes for which such subsection h so classifies such picked up contributions.

(g) No member whose member contributions or additional member contributions are required to be picked up pursuant to this subdivision shall have any right to elect that such pick up, with accompanying deduction from the personal compensation of such member as prescribed by paragraph (d) of this subdivision, shall not be effectuated.

** NB Expires per ch. 681/92 § 16

* 20. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section.

(b) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Tax-deferred annuity program". The tax-deferred annuity program established pursuant to the provisions of section thirty-one hundred nine-A of this chapter and section thirty-three of the rules and regulations.

(2) "Annuity savings fund". The annuity savings fund under the tax-deferred annuity program.

(3) "Annuity reserve fund". The annuity reserve fund under the tax-deferred annuity program.

(4) "Variable annuity savings fund". The variable annuity savings fund under the tax-deferred annuity program.

(5) "Variable annuity reserve fund". The variable annuity reserve fund under the tax-deferred annuity program.

(6) "Tax-deferred annuity account". The tax-deferred annuity account maintained in the tax-deferred annuity program by a participant in such program.

(c) (1) Notwithstanding any provision of the rules and regulations or any other provision of law to the contrary, a participant in the tax-deferred annuity program who, pursuant to the applicable provisions of the rules and regulations and/or the retirement and social security law, retires for service or disability, or who discontinues service with a vested right to receive a deferred retirement allowance, may elect to defer commencement of the distribution of his or her tax-deferred annuity account to the latest date permitted by the provisions of section 403(b) of the internal revenue code pertaining to the commencement of distribution of tax-deferred annuities, by filing an election for such deferral of distribution with the retirement system during the time period which:

(i) for a service retiree, commences on the day such person's application for service retirement is filed with the retirement system, and which ends on the day prior to the effective date of retirement; or

(ii) for a disability retiree, commences on the day such person receives notification from the retirement system that it has approved his or her retirement for disability, and which ends on the thirtieth day after such receipt of notification; or

(iii) for a member who discontinues service with a vested right to receive a deferred retirement allowance, commences thirty days prior to the date of such discontinuance of service, and which ends on the day such retirement allowance becomes payable pursuant to the applicable provisions of the rules and regulations and/or the retirement and social security law.

(2) A participant in the tax-deferred annuity program who, pursuant to

the provisions of subparagraph one of this paragraph, has elected to defer commencement of the distribution of his or her tax-deferred annuity account to the latest date for distribution referred to in such subparagraph one may revoke such election by filing a revocation of such election with the retirement system at any time prior to such latest date. Where a participant has made such a revocation, the distribution of his or her tax-deferred annuity account shall be made thereafter in accordance with the applicable provisions of the rules and regulations.

(3) Where a participant in the tax-deferred annuity program has elected, pursuant to the provisions of subparagraph one of this paragraph, to defer commencement of the distribution of his or her tax-deferred annuity account to the latest date for distribution referred to in such subparagraph one, the application of any provision of the rules and regulations which requires the transfer of his or her tax-deferred annuity account from the annuity savings fund to the annuity reserve fund and/or from the variable annuity savings fund to the variable annuity reserve fund upon the retirement of such participant shall be delayed until the commencement of distribution of his or her tax-deferred annuity account pursuant to such retirement and, upon such commencement of distribution, such account shall be so transferred in accordance with such provision.

(4) Where a participant has made an election pursuant to the provisions of subparagraph one of this paragraph, the distribution of the entire amount in such participant's tax-deferred annuity account, including any portion of such amount to be distributed pursuant to an option for the payment of retirement benefits selected by such participant pursuant to the rules and regulations or an applicable provision of the retirement and social security law, shall not extend beyond the maximum period permitted by the provisions of section 403(b) of the internal revenue code pertaining to the distribution of tax-deferred annuities.

(d) The rules and regulations may be amended pursuant to the procedures set forth in subdivision two of this section to establish rules and regulations governing the borrowing by a participant in the tax-deferred annuity program of contributions accumulated in his or her tax-deferred annuity account, provided that in establishing and administering such rules and regulations, no action shall be taken that

would render the tax-deferred annuity program in violation of section 403(b) of the internal revenue code.

(e) Notwithstanding any other provision of law, or any rule or regulation, or the provisions of any retirement board resolution to the contrary:

(1) on or after the first business day immediately following the effective date of this paragraph, interest shall be allowed at the rate of seven percent per annum, compounded annually, on the tax-deferred accounts in the annuity savings fund of participants (i) who hold a position represented by the recognized teacher organization for collective bargaining purposes, or (ii) who held such a position at the time they retired or discontinued service with vested rights to a retirement allowance and elected to defer commencement of distribution of their tax-deferred accounts in accordance with paragraph (c) of this subdivision; and

(2) the provisions of subparagraph one of this paragraph shall not affect the rate of interest being charged on new loans from the tax-deferred annuity program, and the rate of interest that was being charged on such loans immediately prior to the effective date of this paragraph shall be used for new loans from the tax-deferred annuity program made on or after the effective date of this paragraph, unless the rules and regulations governing loans from the tax-deferred annuity program are amended pursuant to paragraph (d) of this subdivision to establish a different rate of interest applicable to such loans; and

(3) where a participant in the tax-deferred annuity program has elected to transfer all or a portion of the amount credited to his or her tax-deferred account in the annuity savings fund to a tax-deferred account in the variable annuity savings fund, the retirement system shall effectuate such transfer as expeditiously as is administratively feasible.

* NB There are 2 sub 20's

* 20. Eligible rollover distributions. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four of paragraph (a) of subdivision sixteen of this section.

(b) Notwithstanding anything to the contrary contained in section twenty-six of the rules and regulations, in the event that, under the

terms of this section or the rules and regulations, a person becomes entitled to a distribution from the retirement system which constitutes an "eligible rollover distribution" within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code, such distributee may elect, subject to any rules and regulations adopted pursuant to paragraph (c) of this subdivision, to have such distribution, or a portion thereof, paid directly to an "eligible retirement plan" within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code.

(c) The retirement board is authorized to adopt such written administrative procedures as it finds to be necessary in administering the provisions of this subdivision, provided that they are not inconsistent with the applicable provisions of the internal revenue code and the rules and regulations thereunder.

* NB There are 2 sub 20's

21. Certain distributions and transfers by participants in the tax-deferred annuity program. (a) For the purposes of this subdivision:

(1) the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four of paragraph (a) of subdivision sixteen of this section; and

(2) the term "tax-deferred annuity program" shall mean the program authorized by section three thousand one hundred nine-A of this chapter as set forth in section thirty-three of the rules and regulations of the retirement system.

(b) (1) Notwithstanding any other provision of law to the contrary, in the event that a person becomes entitled to a distribution from the tax-deferred annuity program which constitutes an "eligible rollover distribution" within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code (as such section is made applicable to the tax-deferred annuity program by paragraph ten of subsection b of section four hundred three of the internal revenue code), the person may elect, subject to any rules and regulations adopted pursuant to paragraph (c) of this subdivision, to have such distribution, or a portion thereof, paid directly to an eligible retirement plan within the meaning of paragraph thirty-one of subsection a of section four hundred one of the internal revenue code.

(2) Nothing contained in section twenty-six or section thirty-three of the rules and regulations shall be construed to prohibit a participant in the tax-deferred annuity program from electing to transfer all or a portion of his or her tax-deferred annuity net contributions to another annuity contract described in subsection b of section four hundred three of the internal revenue code where a non-taxable trustee-to-trustee transfer of tax-deferred annuities is permitted by subsection b of section four hundred three of such code and the applicable rules, regulations and rulings thereunder.

(c) The retirement board is authorized to adopt such written administrative procedures as it finds to be necessary in administering the provisions of this subdivision provided that they are not inconsistent with the applicable provisions of the internal revenue code and the rules and regulations thereunder.

22. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section, and the terms "Tier I member", "Tier II member", "education service" and "discontinued member" shall have the meanings set forth in subparagraphs four, five, ten and eleven, respectively, of paragraph (b) of subdivision seventeen of this section, and the term "fifty-five-year-increased-service-fraction member" shall have the meaning set forth in paragraph thirty-two of section two of the rules and regulations.

(b) Notwithstanding any other provision of law, subdivision a of section thirty-two of the rules and regulations shall be deemed to be amended to provide that any member of the retirement system who:

(1) discontinues education service on or after July first, nineteen hundred sixty-eight, other than by death, retirement or dismissal; and

(2) is a fifty-five-year-increased-service-fraction member at the time of such discontinuance; and

(3) (i) prior to such discontinuance, completed five or more years of allowable service; and

(4) does not withdraw his or her accumulated deductions in whole or in part; shall have a vested right to receive a deferred retirement allowance as provided in section thirty-two of the rules and

regulations.

(c) Nothing contained in paragraph (b) of this subdivision shall change, alter or affect the applicability of the provisions of article eleven of the retirement and social security law to any Tier II member who becomes a discontinued member pursuant to the provisions of paragraph (b) of this subdivision.

(d) Notwithstanding any other provision of law, a Tier I discontinued member with ten or more years of credited service in the retirement system who dies before a retirement benefit becomes payable and who is otherwise not entitled to a death benefit from the retirement system shall be deemed to have died on the last day that he or she was in service upon which his or her membership was based for purposes of eligibility for the payment of a death benefit pursuant to the provisions of section twenty of the rules and regulations. The death benefit payable in such case shall be one-half of that which would have been payable had such member died on the last day that service was rendered.

23. (a) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "BERS" or "retirement system". The board of education retirement system of the city of New York established pursuant to the provisions of this section.

(2) "BERS rules and regulations". The rules and regulations for the government, management and control of BERS adopted pursuant to the provisions of this section.

(3) "Retirement board". The board established as the head of the retirement system pursuant to sections five and five-a of the BERS rules and regulations.

(b)(1) In addition to the powers conferred upon it by the BERS rules and regulations or by any other provision of law, the retirement board shall, on or before April first of each year, establish a budget sufficient to fulfill the powers, duties and responsibilities set forth in the BERS rules and regulations and any other provision of law which sets forth the benefits of members of the retirement system. Said budget shall also include the amounts withheld for the purpose of paying the

expenses attributable to the tax-deferred annuity program pursuant to the provisions of subdivision b of section thirty-three of the BERS rules and regulations, and the amounts deposited in the variable annuity expense fund pursuant to the provisions of subdivision 1 of section thirty-six of the BERS rules and regulations. The retirement board shall, if necessary, draw upon the assets of the retirement system to fund the portion of such budget which is not derived from subdivision b of section thirty-three of the BERS rules and regulations and subdivision 1 of section thirty-six of the BERS rules and regulations, provided that such action shall be subject to the provisions of subparagraphs two, three, four and five of this paragraph and paragraphs (c), (d), (e) and (f) of this subdivision. The provisions of this subdivision shall not be applicable to the payment of investment expenses pursuant to section 13-705 of the administrative code of the city of New York and nothing contained herein shall be construed as abolishing, limiting or modifying any power of the retirement board to provide for the payment of investment expenses pursuant to section 13-705 of such code.

(2) If a budget has not been adopted by the commencement of the new fiscal year, the budget for the preceding fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new budget is adopted.

(3) Any budget in effect pursuant to subparagraph one or two of this paragraph shall be modifiable during such succeeding fiscal year.

(4) Notwithstanding any other provision of law, the retirement board shall have the power either directly or by delegation to the executive director of the retirement system to obtain by employment or by contract the goods, property and services necessary to fulfill its powers within the appropriation authorized by the retirement board pursuant to subparagraph one of this paragraph.

(5) The provisions of chapter seventeen of the New York city charter shall continue to apply to the retirement system and the retirement system shall constitute an agency for the purposes of such chapter seventeen. The retirement board shall not obtain any legal services by the retention of employees or by contract unless the corporation counsel shall consent thereto.

(6) All contracts for goods or services entered into by the retirement

system shall be procured as described for school districts in article five-A of the general municipal law. The retirement board shall be the governing body as described in such law.

(7) The provisions of subparagraphs four and six of this paragraph shall not apply to any contract or contracts relating to the variable annuity funds and tax-deferred annuity program pursuant to sections thirty-three and thirty-six of the BERS rules and regulations.

(c) Notwithstanding the provisions of paragraph (a) of subdivision one of this section or any other provision of law or any provision of the BERS rules and regulations to the contrary, any resolution of the retirement board which establishes a budget or modifies a budget pursuant to the provisions of subparagraph one or three of paragraph (b) of this subdivision shall require the concurrence of at least one retirement board member who is appointed to the board of education by the mayor of the city of New York, and as otherwise required by law. The provisions of this paragraph shall apply only to resolutions of the retirement board which establish or modify a budget pursuant to this subdivision, and nothing contained in this paragraph shall be construed to apply to any other vote of the retirement board. No assets of the retirement system shall be drawn upon pursuant to the provisions of subparagraph one of paragraph (b) of this subdivision unless authorized by a budget or budget modification established by a resolution of the retirement board.

(d) Employment by the retirement system shall constitute education service for the purposes of the BERS rules and regulations and any other provision of law which governs the crediting of service for members of the retirement system; provided, however, that nothing contained herein shall be construed as granting membership rights in the retirement system to a contractor of the retirement system or such contractor's employees.

(e) Whenever the assets of the retirement system are drawn upon pursuant to the provisions of subparagraph one of paragraph (b) of this subdivision, all monies so withdrawn shall be made a charge to be paid by each participating employer otherwise required to make contributions to the retirement system no later than the end of the fiscal year next succeeding the time period during which such assets were drawn upon, provided, however, that where such charge is for assets so withdrawn in

fiscal year two thousand four--two thousand five or in any fiscal year thereafter, such charge shall be paid by each such participating employer no later than the end of the second fiscal year succeeding the time period during which such assets were drawn upon. The actuary for the retirement system shall calculate and allocate to each such participating employer its share of such charge by multiplying such charge by a fraction, the numerator of which shall consist of the total salaries of the employees of each participating employer as of the June thirtieth succeeding the withdrawal of assets and the denominator of which shall consist of the total salaries of members of the retirement system as of such June thirtieth. All charges to be paid pursuant to this subdivision shall be paid at the regular rate of interest utilized by the actuary in determining employer contributions to the retirement system pursuant to the provisions of paragraph two of subdivision b of section 13-638.2 of the administrative code of the city of New York.

(f) The funds withdrawn from the retirement system shall not be utilized for any purpose other than the budget established by the retirement board. All expenditures of the retirement system shall be subject to audit by the comptroller of the city of New York, who may make recommendations, including but not limited to, procedures designed to improve accounting and expenditure control. All expenditures of the retirement system shall be reported to the mayor's office of management and budget and the budgetary office of all participating employers.

(g) The executive director of the retirement system, who shall be appointed by the retirement board, shall perform such duties as may be conferred upon him or her by the chairperson of the retirement board, by resolution adopted by the retirement board, or by law.

* 24. (a) The following terms, as used in this subdivision, shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Board of education". The board of education of a city.

(2) "City". A city having a population of one million or more.

(3) "Retirement system". The board of education retirement system established pursuant to the provisions of this section in a city.

(4) "Rules and regulations". The rules and regulations for the government, management and control of the retirement system adopted pursuant to this section.

(5) "Retirement board". The retirement board of the retirement system provided for in section five-a of the rules and regulations.

(6) "Retirement benefits". Benefits payable to a beneficiary by the retirement system which are subject to the limitations imposed by section 415(b) of the Internal Revenue Code.

(7) "Beneficiary". A person who is receiving retirement benefits from the retirement system.

(8) "Excess benefit plan". The excess benefit plan established by this subdivision for the sole purpose of paying benefits as permitted under section 415(m) of the Internal Revenue Code.

(9) "Eligible participant". A beneficiary who is entitled to replacement benefits from the excess benefit plan for a plan year in accordance with paragraphs (d) and (e) of this subdivision.

(10) "Replacement benefits". The benefits payable by the excess benefit plan to an eligible participant as determined pursuant to paragraph (e) of this subdivision.

(11) "Internal Revenue Code". The Federal Internal Revenue Code of 1986, as amended.

(12) "Plan year". The limitation year of the retirement system as provided in section six hundred twenty of the retirement and social security law.

(b) There is hereby established an excess benefit plan, the sole purpose of which shall be to provide replacement benefits, as permitted by section 415(m) of the Internal Revenue Code, to beneficiaries whose annual retirement benefits have been reduced because such benefits exceed the limitations imposed by section 415(b) of the Internal Revenue Code. The excess benefit plan shall be administered by the retirement board.

(c) There is hereby established a fund to be known as the excess benefit fund which shall be maintained for the sole purpose of providing replacement benefits to eligible participants in the excess benefit plan established by this subdivision, as permitted under section 415(m) of the Internal Revenue Code. Such fund shall consist of such employer contributions as shall be made thereto pursuant to paragraph (f) of this subdivision. Such contributions to the excess benefit fund shall be held separate and apart from the assets held by the other funds of the retirement system, provided, however, that the assets of the excess

benefit fund may be invested with the other retirement system assets, but such excess benefit fund assets shall be accounted for separately from the other retirement system assets.

(d) All beneficiaries of the retirement system whose retirement benefits for a plan year are being reduced because of section 415(b) of the Internal Revenue Code shall be eligible participants in the excess benefit plan for that plan year. Participation in the excess benefit plan shall be determined for each plan year. No beneficiary of the retirement system shall be an eligible participant in the excess benefit plan for any plan year for which his or her retirement benefits are not reduced because of section 415(b) of the Internal Revenue Code.

(e)(1) For each plan year in which a beneficiary is an eligible participant in the excess benefit plan, such eligible participant shall receive replacement benefits from the excess benefit plan equal to the difference between the full amount of the retirement benefits otherwise payable to the eligible participant for that plan year prior to any reduction because of section 415(b) of the Internal Revenue Code, and the retirement benefits payable to the eligible participant for that plan year as reduced because of section 415(b) of the Internal Revenue Code. No replacement benefits for any plan year shall be paid pursuant to this paragraph to any beneficiary who is not receiving retirement benefits from the retirement system for that plan year.

(2) Replacement benefits pursuant to this subdivision shall be paid at the same time and in the same manner as the retirement benefits which are being replaced. At no time shall an eligible participant be permitted directly or indirectly to defer compensation under the excess benefit plan.

(f)(1) The required employer contributions to the excess benefit fund for each plan year shall be an amount, as determined by the actuary, which is necessary to pay the total amount of replacement benefits that are payable pursuant to this subdivision to eligible participants for that plan year.

(2) Such required employer contributions shall be paid into the excess benefit fund from an allocation of the employer contribution amounts paid by the board of education and other public employers pursuant to the applicable provisions of subdivision sixteen of this section and other applicable provisions of law. Such allocation of employer

contribution amounts shall be paid into the excess benefit fund at such times and in such amounts as determined by the actuary.

(3) The benefit liabilities of the excess benefit plan shall be funded on a plan year to plan year basis, provided, however, that any employer contributions to the excess benefit fund, including any investment earnings on such contributions, which are not used to pay replacement benefits for the current plan year shall be used to pay replacement benefits for future plan years.

(g) The right of an eligible participant to receive replacement benefits pursuant to this subdivision, and the replacement benefits received pursuant to this subdivision, shall be exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment or any other process whatsoever, and shall be unassignable, except as otherwise specifically provided for benefits payable by the retirement system.

* NB There are 2 sb 24's

* 24. Notwithstanding any provisions of the rules or regulations or any other provision of law to the contrary, in a city having a population of one million or more, the board of education shall adopt a resolution amending the provisions governing any retirement system adopted pursuant to or subject to the provisions of this section to the extent necessary to grant a retired member the right, at any time after his or her retirement, to execute and file a dues deduction authorization card with the member's retirement system authorizing the payment of voluntary contributions to the political committee, as defined in section fourteen-one hundred of the election law, of such member's employee organization; (or a retirees' association chartered by the member's employee organization) provided such organization is certified or recognized pursuant to article fourteen of the civil service law as the representative of employees in the negotiation unit in which such member was employed. Such authorization shall continue in effect until revoked in writing by such member. The comptroller shall determine the cost of administrative deductions for voluntary contributions to the political committees; and the cost incurred by the retirement system in administering such contributions shall be paid from the funds of the political committee.

* NB There are 2 sb 24's

25. (a) For the purposes of this subdivision, the terms "rules and regulations" and "retirement system" shall have the meanings set forth in subparagraphs three and four, respectively, of paragraph (a) of subdivision sixteen of this section.

(b) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that a member of the retirement system shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code, and such member died while on such active duty or service in the uniformed services on or after June fourteenth, two thousand five while serving on such active military duty or in the uniformed services.

(c) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that any requirement that applications for accidental disability be filed within a limited time period after the happening of such accident shall not apply to a vested member incapacitated as a result of a qualifying World Trade Center condition as defined in section two of the retirement and social security law.

(d)(1)(i) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if any condition or impairment of health is caused by a qualifying World Trade Center condition as defined in section two of the retirement and social security law, it shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident not caused by such member's own willful negligence, unless the contrary be proved by competent evidence.

(ii) The New York city board of education retirement board is hereby authorized to promulgate rules and regulations to implement the

provisions of this paragraph.

(2)(i) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if a member who participated in World Trade Center rescue, recovery or cleanup operations as defined in section two of the retirement and social security law, and subsequently retired on a service retirement, an ordinary disability retirement, an accidental disability retirement, a performance of duty disability retirement, or was separated from service with a vested right to deferred payability of a retirement allowance and subsequent to such retirement or separation is determined by the head of the retirement system or applicable medical board to have a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, upon such determination by the New York city board of education retirement board or applicable medical board, it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired or vested had the condition been known and fully developed at the time of the member's retirement or separation from service with vested rights, unless the contrary is proven by competent evidence.

(ii) The New York city board of education retirement board shall consider a reclassification of the member's retirement or vesting as an accidental disability retirement effective as of the date of such reclassification.

(iii) Such member's retirement option shall not be changed as a result of such reclassification.

(iv) The member's former employer at the time of the member's retirement shall have an opportunity to be heard on the member's application for reclassification by the New York city board of education retirement board according to procedures developed by the New York city board of education retirement board.

(v) The New York city board of education retirement board is hereby authorized to promulgate rules and regulations to implement the provisions of this paragraph.

(e) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if a retiree or vestee who: (1) has met the criteria of paragraph (d) of this subdivision and retired on a service or disability retirement, would have met the criteria if not already retired on an accidental disability, or was separated from service with a vested right to deferred payability of a retirement allowance; and (2) has not been retired for more than thirty-five years; and (3) dies from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such retiree or vestee shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on such retiree's or vestee's part. Such retiree's or vestee's eligible beneficiary, as set forth in title twenty-one of the rules and regulations, shall be entitled to an accidental death benefit as provided by title twenty-one of the rules and regulations, however, for the purposes of determining the salary base upon which the accidental death benefit is calculated, the retiree or vestee shall be deemed to have died on the date of such retiree's or vestee's retirement or separation from service with vested rights. Upon the retiree's or vestee's death, the eligible beneficiary shall make a written application to the head of the retirement system within the time for filing an application for an accidental death benefit as set forth in title twenty-one of the rules and regulations requesting conversion of such retiree's service, vested right or disability retirement benefit to an accidental death benefit. At the time of such conversion, the eligible beneficiary shall relinquish all rights to the prospective benefits payable under the service or disability retirement benefit, or vested right to such benefit, including any post-retirement death benefits, since the retiree's or vestee's death. If the eligible beneficiary is not the only beneficiary receiving or entitled to receive a benefit under the service or disability retirement benefit (including, but not limited to, post-retirement death benefits or benefits paid or payable pursuant to the retiree's option selection), or that will be eligible under the vested right the accidental death benefit payments to

the eligible beneficiary will be reduced by any amounts paid or payable to any other beneficiary.

(f) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that if a member who: (1) has met the criteria of paragraph (d) of this subdivision; (2) dies in active service or after separating from service with a vested right to deferred payability of a retirement allowance, but prior to the payability of that retirement allowance; and (3) dies from a qualifying World Trade Center condition, as defined in section two of the retirement and social security law, as determined by the applicable head of the retirement system or applicable medical board, then unless the contrary be proven by competent evidence, such member shall be deemed to have died as a natural and proximate result of an accident sustained in the performance of duty and not as a result of willful negligence on his or her part. Such member's eligible beneficiary, as set forth in title twenty-one of the rules and regulations shall be entitled to an accidental death benefit provided he or she makes written application to the head of the retirement system as set forth in title twenty-one of the rules and regulations.

§ 2575-a. Transfer of certain board of education administrative employees' to school clerical services of the board of education of the city of New York. Notwithstanding any other provision of this law to the contrary, any employee who has completed at least twenty years of continuous board of education administrative service, or other service as a member of the board of education retirement system, and having accepted appointment to the school clerical or pedagogical service of the board of education of the city of New York, may continue membership in the board of education retirement system and shall be permitted to contribute to such system and receive credit for services rendered to the school clerical or pedagogical service of the board of education of the city of New York as if such service was education service.

§ 2575-b. Transfer of attendance teachers and specially certificated

attendance officers to the New York City teachers' retirement system. Any attendance teacher or specially certificated attendance officer who is a member of the board of education retirement system of the City of New York shall have the right to transfer his membership to the teachers' retirement system of the City of New York. In order to effect such transfer, such member must given notice to the board of education retirement system of the City of New York, on or before December thirty-first, nineteen hundred sixty-nine, of his intention to transfer to the said teachers' retirement system. Upon receipt of such notice, the board of education retirement system shall transfer to such teachers' retirement system the reserves, including the reserve for increased take-home pay, on such member's benefits in the manner provided by section forty-three of the retirement and social security law. The former system shall also transfer to the latter system the member's accumulated deductions which shall become such member's accumulated deductions in the latter system. A person so transferring shall be deemed to have been a member of the system to which he has transferred during the entire period of membership service credited to him in the system from which he has transferred. Such transferee shall be entitled to all the rights, privileges and benefits of the system to which he has transferred. Upon his retirement, the mortality table in effect in the teachers' retirement system of the City of New York on the date when he last became a member of the board of education retirement system shall apply.

§ 2575-c. Transfer of the director of attendance, assistant director of attendance, chief attendance officer, division supervising attendance officers and district supervising attendance officers, supervisors of school social workers to the New York city teachers' retirement system. Any director of attendance, assistant director of attendance, chief attendance officer, division supervising attendance officers, and district supervising attendance officers, supervisors of school social workers who are members of the board of education retirement system of the city of New York shall have the right to transfer his membership to the teachers' retirement system of the city of New York. In order to effect such transfer, such member must give notice to the board of

education retirement system of the city of New York, on or before December thirty-first, nineteen hundred seventy, of his intention to transfer to said teachers' retirement system. Upon receipt of such notice, the board of education retirement system shall transfer to such teachers' retirement system the reserves, including the reserve for increased take home pay, or such member's benefits in the manner provided by section forty-three of the retirement and social security law. The former system shall also transfer to the latter system the member's accumulated deductions which shall become such member's accumulated deductions in the latter system. A person so transferring shall be deemed to have been a member of the system to which he has transferred during the entire period of membership service credited to him in the system from which he has transferred. Such transferee shall be entitled to all the rights, privileges and benefits of the system to which he has transferred. Upon his retirement, the mortality table in effect in the teachers' retirement system of the city of New York on the date when he last became a member of the board of education retirement system shall apply.

§ 2575-d. Payment of benefits by board of education retirement system of the city of New York in cases where workmen's compensation is or may be payable; reimbursement of such retirement system from workmen's compensation awards. The rules and regulations for the government, management and control of the board of education retirement system of the city of New York may be amended pursuant to the provisions of subdivision two of section twenty-five hundred seventy-five of this chapter to provide that:

(1) the retirement board of such retirement system, pending the final determination of a claim for workmen's compensation benefits, may authorize payment of all or any part of benefits which are payable under such rules and regulations and with respect to which benefits limitations or restrictions based on workmen's compensation benefits are applicable under such rules and regulations; and

(2) in the event that such authorization is granted by the retirement board, such retirement system shall be entitled to reimbursement out of the unpaid installment or installments of compensation due under the

workmen's compensation law provided that claim therefor is filed with the workmen's compensation board, together with proof of the fact and amount of payment.

§ 2575-e. Eligibility of retirees for membership in the board of education retirement system of the city of New York. Notwithstanding any inconsistent provision of sections 13-267 and 13-379 of the administrative code of the city of New York, or any other provision of this chapter, or the code, or any other law, a person otherwise eligible for membership in the board of education retirement system of the city of New York, who files with the board a statement duly executed and acknowledged consenting for the period of his or her active membership in the system to the suspension of all present benefits provided wholly or partly by the city through any other retirement system or pension fund and consenting and agreeing to membership and to the deductions for annuity purposes prescribed in this chapter shall be a member of the board of education retirement system of the city of New York. Upon the subsequent retirement of such person from the board of education retirement system of the city of New York, he or she shall receive benefits based on creditable service not included in the service upon which his or her retirement allowance or pension from such other retirement system or pension fund is or would be based, and, upon such subsequent retirement, payment of the benefits provided through such other retirement system or pension fund, which had been suspended, shall be resumed.

§ 2575-f. Transfer of employees represented by the united federation of teachers to the New York city teachers' retirement system. Any employee represented by the united federation of teachers who is a member of the New York city board of education retirement system shall have the right to transfer their membership to the teachers' retirement system of the City of New York. To affect such a transfer, a member must give notice to the New York city board of education retirement system, within one year of such member becoming eligible for membership in the said teachers' retirement system, of such member's intention to transfer

to the said teachers' retirement system. Membership in the united federation of teachers is not required to be covered under this section. Upon receipt of such notice, the New York city board of education system shall transfer to such teachers' retirement system the reserve on such members' benefits in the manner provided by subdivisions c and d of section forty-three of the retirement and social security law and notwithstanding subdivision l of such section. The former system shall also transfer to the latter system the member's contributions, which shall become such member's contributions in the latter system. A person so transferring shall be deemed to have been a member of the system to which such member has transferred during the entire period of membership service credited to such member in the system from which such member has transferred. Such transferee shall be entitled to all the rights, privileges and benefits of the system to which they have transferred.

§ 2576. Annual estimate. 1. The board of education in each city having a population of less than one million shall prepare annually an itemized estimate for the current or ensuing fiscal year of such sum of money as it may deem necessary for the purposes stated in this section, after crediting thereto the amount anticipated in the next apportionment of school funds from the state and the estimated amount to be received from all other sources. Such itemized estimate in such cities shall be filed at such times and in such manner as city departments or officers are required to submit estimates for such departments or officers. The board of education in each other city shall prepare annually an itemized estimate for the ensuing fiscal year and file the same on or before the first day of September. Such estimates shall be for the following purposes:

a. The salary of the superintendent of schools, associate, district or assistant or other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, claims auditors, deputy claims auditors, medical inspectors, nurses, attendance officers, clerks, custodians and janitors and the salary, fees or compensation of all other employees appointed or employed by said board of education. In addition, the expenses of personnel utilized to fulfill the internal

audit function pursuant to section twenty-one hundred sixteen-b of this title.

b. The other necessary incidental and contingent expenses, including ordinary repairs to buildings and the purchase of fuel and light, supplies, textbooks, school apparatus, books, furniture and fixtures and other articles and service necessary for the proper maintenance, operation and support of the schools, libraries and other educational, social or recreational affairs and interests under its management and direction. The provisions of this section in regard to the purchase of light shall not apply to a city having a population of one million or more.

c. The remodelling or enlarging of buildings under its control and management, the construction of new buildings for uses authorized by this chapter and the furnishing and equipment thereof, the purchase of real property for new sites, additions to present sites, playgrounds or recreation centers and other educational or social purposes, and to meet any other indebtedness or liability incurred under the provisions of this chapter or other statutes, or any other expenses which the board of education is authorized to incur. Nothing contained in this chapter shall prevent the financing, in whole or in part, of any expenditure enumerated in this subdivision pursuant to the local finance law.

2. In the city school districts of Syracuse, Rochester and Yonkers such estimate shall be filed with the mayor or city manager. Such officer shall place such estimate before the board of estimate and apportionment or other similar body at the same time and in the same manner as estimates from city departments or officers are placed before said board or body, and such estimate shall thereafter be subject to the same consideration, action and procedure as all other estimates from city departments or officers and said board or body may increase, diminish or reject any item contained in said estimate, except for fixed charges for which the city is liable and subject to the limitations provided by subdivision five-b of this section. When such estimate is adopted, the said board or body shall file it with the common council.

4. In the city school district of Buffalo such estimate shall be filed with the officer authorized to receive other department estimates and the same acted on by such officer and by the council of such city in the same manner and with the same effect as other department estimates except that such actions shall be subject to the limitations provided by subdivision five-b of this section. The council is also authorized, in its discretion, to include in such budget a sum for any of the purposes enumerated in paragraph c of subdivision one of this section, and any further amount for such purposes as may be authorized by a tax election held in such city pursuant to the provisions of this chapter. After the adoption of such budget the council shall cause the amount thereof to be included in the tax and assessment roll of the city and the same shall be collected in the same manner and at the same time as other taxes of the city are collected, and placed to the credit of the board of education.

* 5. In the city school district of the city of New York, such estimate shall be filed with the mayor. Actions on such estimates shall be subject to the limitations provided by subdivision five-a of this section. The board of education shall administer all moneys appropriated or available for educational purposes in the city, subject to the provisions of law relating to the audit and payment of salaries and other claims by the comptroller.

* NB Effective until June 30, 2028

* 5. In a city which had, according to the federal census of nineteen hundred forty, a population of one million or more such estimate shall be filed with the mayor. If the total amount requested in such estimate shall be equivalent to or less than an amount equal to the average proportion of the total expense budget of such city, as amended, appropriated for the purposes of the city school district of such city in the three fiscal years of such city immediately preceding the year for which said estimate is filed, the city shall appropriate such amount. If the total amount contained in such estimate shall exceed the amount so computed, such estimate shall, as to such excess, be subject to such consideration and such action by the board of estimate, the council, and the mayor as that taken upon departmental estimates submitted to the mayor. The city is authorized to make additional appropriations for educational purposes authorized by this chapter. The

board of education shall administer all moneys appropriated or available for educational purposes in the city, subject to the provisions of law relating to the audit and payment of salaries and other claims by the comptroller.

* NB Effective June 30, 2028

5-a. a. For the purposes of this subdivision, the terms:

(i) "city funds" shall mean funds of the city of New York derived from any source except funds contained within the capital budget and funds derived from any federal, state or private sources over which the city has no discretion.

(ii) "city amount" shall mean the total amount of expenditures funded by city funds for the support of the city school district of the city of New York, not including city payments to bond or note holders for debt service or payments for pension benefits for employees of such district, as contained within the budget as adopted by the city of New York.

(iii) "base year" shall mean the fiscal year immediately preceding the fiscal year for which the budget referred to in subparagraph (ii) of this paragraph is adopted. The initial base year shall be fiscal year ending June thirtieth, two thousand three.

b. The city amount in a budget adopted by the council pursuant to section two hundred fifty-four of the New York city charter shall not be less than the city amount appropriated in the base year as determined at the time of adoption of the budget for the ensuing fiscal year and shall be consistent with the requirements of the certification described in subdivision six of section two hundred eleven-d of this chapter. Provided, however, in the event the total amount of city funds relied upon to balance such budget is lower than the total amount of city funds appropriated in the base year, determined at the time of adoption of such budget pursuant to a process developed by the department in consultation with the city of New York and the labor organization representing teachers that identifies a methodology for the allocation of appropriations between fiscal years and prescribes a form upon the approval of the director of budget for the certifications required by this subdivision, the city amount may be reduced by up to the same percentage as the overall percentage decrease in city funds between the

base year and the ensuing fiscal year. Before such budget may be certified pursuant to section two hundred fifty-six of the New York city charter, the mayor of the city of New York and an independent certified public accountant shall certify to the commissioner, in a form prescribed by the commissioner upon the approval of the director of budget, that the city amount appropriated in such budget is (i) in compliance with this paragraph; (ii) consistent with the requirements of subdivision six of section two hundred eleven-d of this chapter; and (iii) sufficient to ensure individual schools can meet the class size compliance targets set forth in subdivision two of section two hundred eleven-d of this chapter. If a budget is adopted pursuant to section two hundred fifty-four of the New York city charter or certified pursuant to section two hundred fifty-six of such charter in violation of this paragraph, the council shall have sixty days to adopt a budget compliant with this paragraph and have such budget certified in accordance with the provisions of this paragraph. Should the budget not be adopted and certified within sixty days, the amount by which the budget is non-compliant shall be withheld from the foundation aid allotment until such time as the budget is certified as compliant with this paragraph.

c. Actual budget expenditures shall be certified in October following the close of the fiscal year to ensure compliance with paragraph b of this subdivision. If the budget expenditures are not compliant with paragraph b of this subdivision, the council will appropriate funds in the amount of the discrepancy as part of the November modification, pursuant to subdivision b of section one hundred seven of the New York city charter.

5-b. a. For the purposes of this subdivision, the terms:

(i) "city funds" shall mean funds of each city having a population of one hundred twenty-five thousand or more inhabitants and less than one million inhabitants derived from any source except funds contained within the capital budget, funds from county sales tax revenues shared with such city, funds derived from any federal source and funds derived from any state or private sources over which the city has no discretion, as defined pursuant to regulations developed by the commissioner and approved by the director of the budget.

(ii) "city amount" shall mean the total amount of expenditures funded by city funds for the support of the city school district of each city having a population of one hundred twenty-five thousand or more inhabitants and less than one million inhabitants, not including city payments to bond or note holders for debt service payments of such district, as contained within the budget as adopted by such city.

(iii) "base year" shall mean the fiscal year immediately preceding the fiscal year for which the budget referred to in subparagraph (ii) of this paragraph is adopted. The initial base year shall be the fiscal year ending June thirtieth, two thousand seven.

b. The city amount shall not be less than the city amount appropriated in the base year determined at the time of adoption of the budget for the ensuing fiscal year, and shall not be less than the city amount expended in the base year determined as of the end of the school year. Provided, however, in the event the total amount of city funds relied upon to balance such budget is lower than the total amount of city funds appropriated in the base year, as determined at the time of adoption of such budget, the city amount may be reduced by up to the same percentage as the overall percentage decrease in city funds between the base year and the ensuing fiscal year.

c. Upon the enactment of a city budget, for the two thousand nine--two thousand ten school year budget and annually thereafter, the chief executive officer of the city, as defined pursuant to subdivision five-a of section 2.00 of the local finance law, shall annually certify to the commissioner, in a form prescribed by the commissioner upon approval of the director of the budget, as to the city amount in such budget, the city amount in the base year, and that the city amount appropriated in such budget is in compliance with paragraph b of this subdivision.

d. The school district audit report certified to by an independent certified public accountant or an independent accountant pursuant to section twenty-one hundred sixteen-a of this title for the two thousand eight--two thousand nine school year budget and annually thereafter shall include a certification by the accountant, in a form prescribed by the commissioner upon approval of the director of the budget, as to the

city amount expended in the school year covered by such audit report, the city amount in the prior school year, and that the city amount expended in the school year covered by such audit report is in compliance with paragraph b of this subdivision.

6. A board of education may, to meet emergencies which may arise, submit a special estimate in which items for extraordinary expenses may be submitted to meet such emergencies. Such estimate shall contain a complete statement of the purposes for which the items are requested and the necessity therefor. The same method of procdure shall be followed in submitting such estimate and such estimate shall be subject to the same consideration and action as is required in the submission, consideration and action upon the regular annual estimate submitted by a board of education. The common council or other legislative body in such city shall have power to make the appropriations requested by a board of education in such special estimate.

7. A board of education shall not incur a liability or an expense chargeable against the funds under its control or the city for any purpose in excess of the amount appropriated or available therefor or otherwise authorized by law.

8. In a city in which, under the statutes in effect prior to June eighth, nineteen hundred seventeen, it was provided that the estimate of expenditures for the support and maintenance of the public schools of the city shall not be less than a specified per capita sum, based on the number of pupils enrolled in the public schools of the city, the amount authorized or required to be included in the estimate of school expenditures as provided in this article shall not be less than the per capita sum specified in such statute.

9. In any city in which the annual estimate and budget of the board of education is subject to change by some other city authority, such annual budget shall give detailed schedules for all purposes and shall indicate the entire amount to be expended by the board of education for school purposes, including the amount to be levied for debt service on account of bonds, notes or certificates of indebtedness issued for school

purposes, whether the amount to be expended is on account of local revenues or to be derived from state aid. The total amount on account of local revenues and the total amount to be derived from state aid shall be separately indicated. In any such city having a population of less than one million the annual estimate and budget shall contain a statement of the amount of revenues over and above those set forth in the budget for the preceding year, which the board of education estimates it will receive in the current year. Any surplus funds shall at the close of the fiscal year be transferred to an existing capital fund or appropriated by the proper authority to other school purposes.

10. In any city with a population of one million or more, amounts appropriated to effectuate the implementation of a five-year educational facilities capital plan for such city shall be appropriated as a single item in such city's capital budget in accordance with subdivision four of section twenty-five hundred ninety-p of this chapter.

§ 2577. Annual financial report. In any city in which the annual financial report of the fiscal officer, board of estimate and apportionment, or other official, board or body of the city, does not contain information required by this section, the board of education shall annually cause to be published in the official paper of such city or in pamphlet form for general distribution, a full and detailed account of all moneys received by the board of education for its account and use, and all moneys expended therefor giving the items of receipts and expenditures in full. Such annual report, unless the same is otherwise annually published as provided herein, shall also contain a full and complete statement of any bonds issued the preceding year for school purposes and the disposition made or to be made of the proceeds of such bonds.

§ 2579. Payment of obligations. 1. If a city shall issue obligations for any of the purposes enumerated in paragraph c of subdivision one of section twenty-five hundred seventy-six of this chapter, the principal and interest of such obligations shall be paid out of moneys raised by

tax therefor in the same manner as other school moneys are raised, when such obligations and the interest thereon shall become due and payable.

2. If a city having a population of four hundred thousand or more but less than one million shall issue obligations to defray, in whole or in part, the expense of the construction, improvement and equipment of school buildings or the purchase or acquisition of school sites, the proceeds of the sale of such bonds shall be paid into the treasury of the city and placed to the credit of the board of education. As such obligations become due the municipal authorities of the city shall include in the tax levy, and assess upon the property of the city, the amount necessary to pay such bonds and interest thereon.

3. In a city having a population of one million or more, such city may in its discretion annually cause to be raised such sums of money as may be required for the purposes enumerated in paragraph c of subdivision one of section twenty-five hundred seventy-six of this article, in the manner provided by law for the raising of money for such purposes.

§ 2580. Funds; custody and disbursement. 1. Public moneys apportioned to a city by the state and all funds raised or collected by the authorities in a city for school purposes or to be used by the board of education for any purpose authorized in this chapter, or any other funds belonging to a city and received from any source whatsoever for similar purposes, shall be paid into the treasury of such city and shall be credited to the board of education. The funds so received into such treasury shall be kept separate and distinct from any other funds received into the said treasury. The officer having the charge thereof shall give such additional security for the safe custody thereof as the corporate authorities of such city shall require.

2. Such funds shall be disbursed by authority of the board of education upon written orders drawn on the city treasurer or other fiscal officer of the city. Such orders shall be signed by the superintendent of schools and the secretary of the board of education or such other officers as the board may authorize. If a claims auditor

shall have been appointed, orders shall be signed by the claims auditor; provided, however, that the board may require, in addition, the signature of such other officer or officers as it may by resolution direct. Orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person or corporation to whom they are payable.

3. Fixed salaries, principal of and interest on indebtedness and amounts becoming due upon lawful contracts for periods exceeding one year may be disbursed without prior audit of the board of education. By resolution duly adopted, the board may determine to enter into a contract to provide for the deposit of the periodic payroll of the school district in a bank or trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

4. It shall be unlawful for a city treasurer or other officer having the custody of such city funds to permit their use for any purpose other than that for which they are lawfully authorized; they shall be paid out only on audit of the board of education or as otherwise provided herein. Payments from such funds shall be made only by checks signed by the treasurer or other custodian of such moneys and payable to the person or persons entitled thereto and countersigned either by the comptroller, or in a city having no comptroller, by an officer designated by the officer or body having the general control of the financial affairs of such city. The board of education of such city shall make, in addition to such classification of its funds and accounts as it desires for its own use and information, such further classification of the funds under its management and control and of the disbursements thereof as the comptroller of the city, or the officer or body having the general control of the financial affairs of such city, shall require, and such board shall furnish such data in relation to such funds and their disbursements as the comptroller or such other financial officer or body of the city shall require.

§ 2581. Certain corporate schools entitled to participate in funds of board of education of city of New York. The corporate schools entitled

to participate in the funds of the board of education of the city of New York are as follows: The schools established and maintained by the Five Points House of Industry, the industrial schools established and maintained under the charge of the Children's Aid Society in the city of New York, the schools of the American Female Guardian Society, the Roman Catholic Orphan Asylum, the Brooklyn Home for Children, the Orphan Home and the Convent of Mercy, and the Child Care Center (formerly Tuberculosis Preventorium for children). The New York Institute for the Blind shall receive a ratable proportion of the fund for every blind pupil in such institution without regard to age.

Such schools shall be subject to the general supervision of the board of education of the city of New York, but shall be under the immediate direction of their respective trustees, managers and directors.

§ 2582. Trustees of corporate schools entitled to participate in funds of the board of education of the city of New York may convey to city of New York and be merged. The trustees, managers and directors of any of the corporate schools of the city of New York entitled to participate in the apportionment of the funds of the board of education of such city may, at any time, convey their school houses and sites to the city of New York and transfer any of their schools to the board of education of such city on terms and in a manner to be agreed upon and prescribed by such board of education, so as either to merge such corporate schools in the public schools or adopt them as public schools and the same shall then be public schools.

§ 2583. Certain schools to report as to moneys and attendance; accidental omission to report. The board of education of the city of New York shall require from the officers conducting schools by appointment of the board, and from the trustees, managers or directors of the corporate schools entitled to participate in the funds of the board of education of the city of New York, an annual report in writing dated the thirty-first day of December, which shall be signed and certified by a majority of such officers, trustees, managers or

directors, and which report shall state: the whole number of schools within their jurisdiction; the length of time each school shall have been kept open; the whole number of pupils over four and under twenty-one years of age who shall have been taught free of expense to such pupils in their schools, during the year ending with the date of the report, which number shall be ascertained by adding to the number of children on register at the commencement of each year, the number admitted during that year, which shall be considered the total for that year; the average number that has actually attended such schools during the year, to be ascertained by the teachers keeping an exact account of the number of pupils present every school day or half day, which, being added together, and divided by four hundred sixty, or if less than a year by the number of school sessions, shall be considered the average of attending pupils, which average shall be affirmed or sworn to by the principal teacher of the school; a detailed statement of the amount of moneys received or expended for their respective schools during the year, from or by the commissioner of finance of such city, and of the purposes for and the manner in which the same shall have been expended; a particular account of the state of the schools, and of the property and affairs of each school under their care; the titles of all books used; and such other information as such board of education shall require.

In making the apportionment among the several schools no share shall be alloted by such board to any school or society from which no sufficient annual report shall have been received for the year ending on the last day of December immediately preceding the apportionment. Whenever an apportionment of the funds of the board of education of the city of New York shall not be made to any school, in consequence of any accidental omission to make any report required by law or to comply with any other regulation or provision of law, the board of education of such city, in its discretion, may direct an apportionment to be made to such school according to the equitable circumstances of the case, to be paid out of the funds of the board of education on hand, or if such funds shall have been distributed, out of the funds to be received in a succeeding year.

§ 2584. Bonds of employees. The board of estimate and apportionment of a city, or in a city having no board of estimate and apportionment, the body or officer performing the duties performed by a board of estimate and apportionment, which may now legally require bonds of employees may continue to require bonds of such employees in such amount as such board of estimate and apportionment or other body or officer shall determine. In all other cities bonds may be required of such employees by the board of education. The premiums on such bonds shall be paid by the city.

§ 2585. Continuation in office of boards, bureaus, teachers, principals and other employees, et cetera. 1. Except as otherwise provided herein the boards, bureaus, teachers, principals, supervisors, superintendents, heads of departments, assistants to principals, examiners, supervisors of lectures, directors and all other officers and employees of the school systems or of boards of education of the several cities of the state, lawfully appointed or assigned before June eighth, nineteen hundred seventeen, shall continue to hold their respective positions for the term for which they were appointed or until removed as provided in subdivision five of section twenty-five hundred twenty-three of this article.

2. If a board of education abolishes an office or position and creates another office or position for the performance of duties similar to those performed in the office or position abolished, the person filling such office or position at the time of its abolishment shall be appointed to the office or position thus created without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled.

3. Whenever a board of education abolishes a position under this chapter, the services of the teacher having the least seniority in the system within the tenure of the position abolished shall be discontinued.

4. If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled. The persons on such preferred list shall be reinstated or appointed to such corresponding or similar positions in the order of their length of service in the system.

* 5. (a) The use of artificial intelligence systems as defined by section one hundred three-e of the state technology law shall not affect (i) the existing rights of employees pursuant to an existing collective bargaining agreement, or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or (ii) transfer of existing duties and functions currently performed by employees of the school district to an artificial intelligence system.

(c) The use of such artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment and civil service status. The collective bargaining unit membership status of all existing employees of the board of education shall be preserved and protected.

* NB Repealed July 1, 2028

§ 2586. Anniversary day as a holiday for pupils in the public schools of the borough of Brooklyn and in the borough of Queens, city of New York. The first Thursday in June in each year, except in those years when the first Thursday in June occurs in the same week with Memorial day, and in such years the second Thursday in June, known as anniversary

day, and celebrated in commemoration of the organization of Sunday schools, is hereby made and declared to be a holiday for pupils in all the public schools in the borough of Brooklyn and in the borough of Queens, city of New York, and pupils shall not be required to attend the public schools in such boroughs on such day.

§ 2586-a. Diwali as a holiday in the public schools of the city of New York. The fifteenth day of the eighth month of the Indian calendar in each year, known as Diwali, is hereby made and declared to be a holiday in all the public schools in the city school district in the city of New York and such public schools shall not be in session on such day.

§ 2587. Tenure in fashion institute of technology. 1. The following words and phrases, as hereinafter used, and for the purposes of this section, shall have the following meanings:

a. "Community college" shall mean fashion institute of technology, a community college sponsored by the board of education of the city of New York.

b. "Board" shall mean the board of trustees of fashion institute of technology.

c. "Instructional staff" shall mean the persons employed in the community college in the positions of president, dean, director, assistant dean, assistant director, chairman of department or division, senior instructor, instructor, lecturer, college registrar, college bursar, laboratory technician, college administrative assistant, instructor technologist, college librarian, assistant librarian; or in any position which the board in its discretion may add thereto.

d. "Tenure" shall mean the right of a person to hold his position during good behavior and efficient and competent service, and not to be removed therefrom except for cause in the manner hereinafter provided.

2. All members of the permanent instructional staff under the jurisdiction of the board shall have tenure.

3. The permanent instructional staff shall consist of:

a. All persons employed on an annual salary basis in the community college in the positions of senior instructor, librarian, assistant librarian, college registrar, college bursar or college administrative assistant, who, on the date on which this section is enacted, are serving in any of the positions enumerated in this paragraph and have completed at least four full years of continuous service on an annual salary from the date of their appointment to any of the positions enumerated in this paragraph, or who have so served at least three full years and have been appointed for a fourth full year.

b. All other persons employed on an annual salary basis in the community college in the positions of senior instructor, librarian, assistant librarian, college registrar, college bursar, college administrative assistant, or in any position hereafter created which the board in its discretion may designate as a tenure position, who, after serving on an annual salary in any of the positions enumerated or provided for in this paragraph for three full years continuously, have been appointed or shall be appointed for a fourth full year, except as provided in subdivision four of this section, provided that in determining the tenure rights of such persons time served as an instructor shall be counted.

c. Any regularly appointed member of the teaching or supervising staff of the board of education of the city of New York who, on the date on which this section is enacted, is serving in the community college in the position of senior instructor, librarian, assistant librarian, college registrar, college bursar or college administrative assistant, pursuant to an assignment by the superintendent of schools of the board of education of the city of New York, and has or thereafter shall have completed three full years of continuous service in any of the positions enumerated in this paragraph, or in any position hereafter created which the board may designate as a tenure position, shall be entitled to

become a member of the permanent instructional staff of the community college with tenure in the position in which he is then serving in the community college providing such person, within three months after such completion of three full years of continuous service, shall notify the president of the community college in writing of his election to become a member of the permanent instructional staff of the community college with tenure in the position in which he is then serving in the community college, and provided further that such person shall within the same period resign from his position in the board of education of the city of New York. Such person shall have the absolute right, notwithstanding his election to become a member of the permanent instructional staff of the community college with tenure, to continue as a member of the retirement system of which he was a member immediately prior to such election, without any loss or diminution in his rights, status or privileges in such retirement system. Any regular license issued by the superintendent of schools of the board of education of the city of New York, held by such person at the time he becomes entitled to tenure in the community college shall continue to be valid during his continuance of service in the community college.

4. Nothing herein contained shall be construed as conferring or permitting tenure, or service credit toward the achievement of tenure, in the positions of president, dean, director, assistant dean, chairman of department or division, or assistant director. Appointments to such position or removal therefrom, however, shall not deprive the person so appointed or removed of tenure in highest position on the instructional staff held with tenure prior to his appointment to such office or conjointly with such office, nor shall such appointment or the holding of such position or removal from such position deprive any person of service credit toward the achievement of tenure under the provisions of this section.

5. A certificate of permanent tenure shall be issued by the board upon the enactment of this section to each person then employed in the community college who, on or prior to the date of such enactment, shall have satisfied the requirements for entitlement to tenure prescribed by this section. In the case of any person now or hereafter employed in the

community college, who, after such date of enactment, satisfies such requirements for entitlement to tenure, a certificate of permanent tenure shall be issued by the board to such person, upon the completion by such person of such requirements.

6. For the purpose of appointments and promotions in the instructional staff which may be made after the date on which this section is enacted, the board shall determine to what extent examinations are practicable to ascertain merit and fitness for each of the positions under its jurisdiction, and, insofar as examinations are deemed practicable, shall determine to what extent it is practicable, that such examinations be competitive. Any examination held in accordance with the provisions of this subdivision shall be set and administered through any agency which the board may from time to time create or designate. The superintendent of schools of the board of education of the city of New York may, upon the request of the president of the community college, direct the medical board of the board of education of the city of New York to render such service as the president of the community college may request to assist the board and the president of the community college in the ascertainment of merit and fitness for appointment to or relative to service in instructional positions in the community college.

7. Neither tenure as conferred through the operation of this section nor the period requisite for the achievement of tenure shall be affected by transfer within the community college, or by promotion, or by change of title, except that a person upon whom tenure is conferred through the operation of this section and who may be transferred to any position in the community college, or who may be promoted, or whose title may be changed, shall have tenure in his new position, provided such position is not one of those enumerated in subdivision four of this section. Nothing herein contained shall be construed to prevent the board from assigning any person having tenure to any appropriate position on the staff, but no such assignment shall carry with it a reduction in rank or a reduction in salary other than the elimination of any additional emolument provided for administrative positions.

8. A position held by a person upon whom tenure is conferred through

the operation of this section may be abolished or discontinued by the board for reasons which are not discriminatory against a particular person or persons. In the event that a position in a specified subject is to be abolished or discontinued, such position shall be that of the person last appointed to such position; provided, however, that all persons in such position upon whom tenure is not conferred by the operation of this section shall be dismissed before the position of any other person in such subject is abolished or discontinued. If the board abolishes or discontinues the position of a person upon whom tenure is conferred through the operation of this section and can find no position in the community college which can be efficiently and capably filled by such person, then his name shall be placed and shall remain for three years on a preferred eligible list of candidates for reappointment to fill a vacancy that may thereafter occur in a position which can be efficiently and capably filled by such person or to fill a newly created position which can be efficiently and capably filled by such person. Reappointment from such preferred eligible list to a position in a specified subject shall be made in the order of the original appointment of the persons on such preferred eligible list. Any person reappointed from such preferred eligible list shall be reappointed at a salary not less than that which he was receiving when his position was abolished or discontinued. Any person whose name is placed on such preferred eligible list as hereinbefore provided shall, for the purpose of maintaining his status in any retirement system of which he is a member, be deemed to be on leave of absence without pay.

9. Persons granted tenure under the provisions of this section shall not be removed except for cause, after a hearing and by a majority vote of the board. Charges against a person entitled to tenure under the provisions of this section may be preferred by the president, any member or members of the board, or the board itself. Such charges and all specifications of such charges shall be filed with the board, which shall cause a copy thereof to be served upon the person accused, and such person shall have ten days from the date of the service of such charges and specifications, or such additional time as may be granted him by the chairman of the board, in which to file an answer in writing with the board. Any person against whom charges as herein provided are

filed with the board, may be suspended with or without pay by the president pending a final determination of such charges by the board. The board shall proceed to try and determine such charges either by the board, or by a trial committee consisting of one or more members of the board, or by a trial committee consisting of one or more persons specially appointed for such purpose by the board, and the board shall fix the penalty or punishment, if any, to be imposed for the offense, and such penalty or punishment may consist of a reprimand, a fine, suspension for a fixed time without pay, or dismissal; provided, however, that a vote of a majority of all the members of the board shall be necessary to impose a penalty or punishment. The report of any trial committee holding such trial shall be subject to final action by the board, each member of which shall before voting read the testimony and the evidence in the case. The board may reject, confirm or modify the conclusions of the trial committee, and the decisions of the board shall be final, except that any person aggrieved may review the determination of said board only by an appeal to the commissioner of education, as provided for by article seven of this chapter. In case the charges preferred against any person are dismissed, he shall be restored to his position with full pay for the period of his suspension. In all trials and investigations authorized by this section all testimony taken shall be under oath, which the chairman of the board or the chairman of the trial committee is hereby authorized to administer. For the purpose of any investigation, trial or hearing, the chairman of the board or the chairman of the trial committee shall have power to subpoena witnesses, papers and records. The Supreme Court shall have power, upon the application of the chairman of the board or the chairman of the trial committee, to compel any witness who may be summoned, to appear and testify before said board or trial committee.

§ 2588. Seniority, retention and displacement rights in connection with abolition of positions in city school districts of cities having more than one million inhabitants. 1. For the purposes of this section, the tenure areas applicable to all professional education positions shall be defined as the license areas established by the city board pursuant to subdivision ten of section twenty-five hundred seventy-three

of this chapter, provided that, effective July first, nineteen hundred seventy-six, there shall be a single elementary teaching tenure area encompassing kindergarten through grade six. Such groupings of related license areas shall not affect the rights of persons whose services had been discontinued prior to the effective date of such groupings nor shall such groupings be applicable for purposes other than those of this section; and provided that, on the effective date of this subdivision, there shall be a single tenure area for personnel properly assigned or appointed prior to the effective date of this subdivision as assistant principals of day elementary school and supervisors of early childhood; and a single tenure area for personnel properly assigned or appointed prior to the effective date of this subdivision as assistant principals--junior high school--supervision, assistant principals--junior high school--administration, and supervisors of art, music, home economics, school library service, health and physical education, audio-visual instruction, industrial arts, and bilingual education. The tenure areas applicable to all intermediate supervisors properly assigned or appointed on or after the effective date of this subdivision shall be defined as the license areas established by the city board.

2. If a position within a tenure area is abolished and another position is created in such area for the performance of duties similar to those performed in the abolished position, the person filling such office or position at the time of its abolition shall be appointed to the position thus created without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled.

3. (a) Whenever a teaching position is abolished under this chapter, the services of the person holding a position within the tenure area of the position which is to be abolished who has the least seniority in the city school district, including all full-time equivalent substitute service and all full-time equivalent service as a paraprofessional, shall be discontinued, provided that the services of a person who has acquired tenure within such tenure area shall not be discontinued if another person holding a position within such tenure area has not

acquired tenure.

(b) Whenever a supervisory position is abolished under this chapter, the services of the member of the supervisory staff, except associate, assistant and other superintendents, principals and intermediate supervisors serving in schools or programs under the jurisdiction of a community school board or serving under the jurisdiction of the chancellor, having the least seniority within the tenure area of the position abolished in the city school district, shall be discontinued. Whenever a principalship or intermediate supervisory position in a school or program under the jurisdiction of a community school board is abolished under this chapter, the principal or intermediate supervisor serving in such position shall be entitled to be placed in any vacancy within the tenure area of such position within such community district which may exist, and if no such vacancies exist, he shall be entitled to displace the principal or intermediate supervisor with the least seniority within the tenure area of such position in the community district, if he has greater seniority within the tenure area of such position in the community district, than such person. Whenever a principalship or an intermediate supervisory position under the jurisdiction of the chancellor is abolished under this chapter, the principal or intermediate supervisor serving in such position shall be entitled to be placed in any vacancy within the tenure area of such position which may exist under the chancellor's jurisdiction, and if no such vacancies exist he shall be entitled to displace the principal or intermediate supervisor with the least seniority within the tenure area of such position under the jurisdiction of the chancellor if he has greater seniority within the tenure area of such position under the jurisdiction of the chancellor, than such person. Notwithstanding any other provision of law, an intermediate supervisor appointed or properly assigned prior to the effective date of this paragraph whose position is abolished shall be entitled to be placed in any vacancy within the tenure area of such position in the city school district, and if no such vacancy exists, shall be entitled to displace the intermediate supervisor with the least seniority within that tenure area in the city school district. For purposes of this section, an intermediate supervisor shall be any person serving by appointment or properly assigned in the supervisory license area of: assistant principal--junior

high school--administration, assistant principal--junior high school--supervision, assistant principal--day elementary school, education administrator--instruction specialist, assistant administrative director, supervisor of a subject area.

(c) No later than September first, nineteen hundred seventy-six, the chancellor shall promulgate a list of the seniority rankings of all members of the teaching or supervisory staff computed in accordance with the provisions of this subdivision. Such list shall be revised at least annually thereafter.

4. (a) A member of the teaching staff who has been regularly appointed or a member of the supervisory staff who has been properly assigned or appointed and whose services are terminated pursuant to this section, shall be entitled to be placed, upon his application, in a vacancy within the tenure area of a position where such individual shall have previously served under regular appointment as a teacher or proper assignment or appointment as a supervisor, and if no such vacancies exist he shall be entitled to displace the person with least seniority serving in the tenure area of such other position, if he has greater seniority, based on length of service as a member of the teaching or supervising staff in the city school district, including all full-time equivalent substitute service and all full-time equivalent service as a paraprofessional, than such person. A supervisor who reverts to a prior supervisory license in which he had the right to placement within the city school district shall retain such right and a supervisor who reverts to a prior supervisory license in which he previously had the right to placement only in a community school district shall be entitled to reversion solely in the community school district from which he is currently laid off. His salary thenceforth shall be fixed as though all service rendered by him was in the position to which he is returned. Provided, however, that a member of the supervisory staff applying to displace a classroom teacher pursuant to this subdivision may include no more than three years of service in a supervisory position in calculating his seniority hereunder, and provided further that the seniority of any principal seeking to displace another supervisor in accordance with the provisions of this subdivision, shall be computed in accordance with the provisions of paragraph (b) of subdivision three of

this section.

(b) A person who returns to a position in a tenure area in which he had previously served pursuant to the provisions of this subdivision shall retain any tenure rights he had previously acquired pursuant to the provisions of section twenty-five hundred seventy-three of this chapter in such tenure area.

5. Notwithstanding any other provision of law, no classroom teaching position may be abolished after the fifth school day of the fall school term or after the fifth school day of the spring school term and all transfers or personnel changes resulting from such abolitions which would cause the displacement of a classroom teacher shall be completed prior to the fifteenth school day of such terms, provided that the chancellor, after counsulting with any affected community school board, may waive the aforesaid limitations in a specific instance because of emergency conditions or for reasons of special hardship.

6. Notwithstanding any other provisions of law, except subdivisions four and seven of this section, any member of the teaching staff whose services have been terminated in accordance with the provision of this section shall be eligible to be appointed to a vacant position for which such individual does not hold appropriate licensure, provided that the chancellor, upon the recommendation of the board of examiners, certifies that such member is competent to serve in such vacant position and provided further that such individual at the time of appointment meets the minimum education and experience requirements for recertification established, for such position, shows satisfactory evidence of progression toward licensure as defined by the city board, and meets the full requirements for licensure in such position not later than three years from the date of the appointment therein. Such member shall serve in such position at the salary of such position. Any person appointed to a position for which he does not hold appropriate licensure prior to the effective date of this section, may continue to serve in such position only if he meets the minimum education and experience requirements established for the position by February first, nineteen hundred seventy-eight, shows satisfactory evidence of progression toward licensure as defined by the city board and meets the full requirements

for licensure in such position not later than three years from the date of appointment therein.

7. If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolition or consolidation, or a person displaced by a person with higher seniority as provided in this section, shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in the tenure area of such position, without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in the order of their length of service in the city school district, including all full-time equivalent substitute service and all full-time equivalent service as a paraprofessional, provided that in the case of vacancies in principalship positions under the jurisdiction of a community school board, such persons shall be reinstated or reappointed in order of their length of service in the tenure area of the position in the community district and provided that intermediate supervisors properly assigned or appointed on or after the effective date of this subdivision to positions in a community district and who have been placed on a preferred eligible list shall be entitled to reinstatement or reappointment to vacancies in their tenure area within that community district in order of their length of service in the tenure area of the position in the community district.

8. Notwithstanding any other provision of law or of this section, any person whose services were discontinued because of the abolition of a position during the period July first, nineteen hundred seventy-five and June thirtieth, nineteen hundred eighty-eight shall be deemed to have been on leave of absence without pay and shall be entitled to include such period of discontinuance of services in computing his seniority in the city school district for purposes of this section, provided the record of such person has been one of faithful, competent service in the office or position he has filled and provided further that such person shall not receive pension credit or incremental salary step credit for

such period of discontinuance of service.

* 9. (a) The use of artificial intelligence systems as defined by section one hundred three-e of the state technology law shall not affect (i) the existing rights of employees pursuant to an existing collective bargaining agreement, or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or (ii) transfer of existing duties and functions currently performed by the teaching and supervisory staff of the city school district to an artificial intelligence system.

(c) The use of such artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment and civil service status. The collective bargaining unit membership status of all existing employees of the board of education shall be preserved and protected.

* NB Repealed July 1, 2028

ARTICLE 52-A

NEW YORK CITY COMMUNITY SCHOOL DISTRICT SYSTEM

Section 2590. Application of article.

2590-a. Definitions.

2590-b. Continuation of city board and establishment of community districts; establishment of the city-wide councils on special education, English language learners, high schools, and district seventy-five.

2590-c. Composition of community district education councils.

2590-d. By-laws; regulations and decisions.

2590-e. Powers and duties of community district education council.

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2590-g. Powers and duties of the city board.

2590-h. Powers and duties of chancellor.

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2590-j. Appointment and removal of persons in the teaching and supervisory service.
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2590-l. Enforcement of applicable law, regulations and directives; establishment of appeal board.
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2590-n. Conflicts of interest.
2590-o. Educational facilities master plan.
2590-o*2. Neutrality of school employees in community board elections.
2590-p. Educational facilities capital plan.
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2590-r. School based budgeting and expenditure reporting.
2590-s. Prompt payment of salaries.
2590-t. New York city comptroller audits.
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2590-v. Notice to students regarding certain test scores.

§ 2590. Application of article. This article shall apply to the city school district of the city of New York.

§ 2590-a. Definitions. As used in this article, the following terms shall mean:

1. City district. The term "city district" shall mean the city school district of the city of New York.

2. Community district. The term "community district" shall mean a community school district created or to be created within the city district under the provisions of this article.

3. City board. The term "city board" shall mean the board of education

of the city district.

* 4. Community district education council. The term "community council" shall mean the community district education council of a community district established pursuant to section twenty-five hundred ninety-c of this article.

* NB Effective until June 30, 2028

* 4. Community board. The term "community board" shall mean the board of education of a community district.

* NB Effective June 30, 2028

5. Chancellor. The term "chancellor" shall mean the chancellor of the city district.

6. Community superintendent. The term "community superintendent" shall mean the superintendent of schools of a community district.

7. Parent. The term "parent" shall mean a person in parental relation to a child, as that phrase is defined in subdivision ten of section two of this chapter.

* 8. Registered voter. The term "registered voter" shall mean an elector of the city of New York under the election law.

* NB Effective June 30, 2028

* 9. Educational facilities. The term "educational facilities" shall mean land and the improvements thereon for use in connection with any educational activity to be undertaken or provided by the city board or any community council or any facility attendant thereto or any facility necessary, useful or desirable in connection with such activity.

* NB Effective until June 30, 2028

* 9. Educational facilities. The term "educational facilities" shall mean land and the improvements thereon for use in connection with any educational activity to be undertaken or provided by the city board or any community school board or any facility attendant thereto or any facility necessary, useful or desirable in connection with such activity.

* NB Effective June 30, 2028

10. Project. The term "project" shall mean, with respect to an

educational facilities capital plan, (a) the performance, at a specified educational facility, of one or more program elements, as defined in paragraph a, b, c or d of subdivision two of section twenty-five hundred ninety-p of this article; or (b) the performance of the program elements defined in paragraphs f and g of such subdivision or any system replacement identified in paragraph e of such subdivision.

*** § 2590-b. Continuation of city board and establishment of community districts; establishment of the city-wide councils on special education, Englis**h language learners, high schools, and district seventy-five. 1. (a) The board of education of the city school district of the city of New York is hereby continued.

(1) (A) Such board of education shall consist of thirteen appointed members: one member to be appointed by each borough president of the city of New York; and eight members to be appointed by the mayor of the city of New York.

(B) Commencing on July first, two thousand twenty, the board of education shall consist of fifteen members: one member to be appointed by each borough president of the city of New York, one member to be elected by community district education council presidents, and nine members to be appointed by the mayor of the city of New York. On or before December thirty-first, two thousand nineteen, the chancellor shall promulgate regulations establishing a process for community district education council presidents to elect a member of the board, and processes for removal of such member and for the filling of such position in the event of a vacancy. The first member elected by community district education council presidents pursuant to such regulations shall take office on July first, two thousand twenty and shall serve a term that ends on June thirtieth, two thousand twenty-two. Thereafter, the member elected by community district education council presidents shall serve for a two year term commencing on July first.

(C) Commencing on January fifteenth, two thousand twenty-three, the board of education shall consist of twenty-three voting members: one member to be appointed by each borough president of the city of New York; five members, one from each borough of the city of New York, to be elected by community district education council presidents; and thirteen

members to be appointed by the mayor of the city of New York. The term of the first member elected by community district education council presidents pursuant to clause (B) of this subparagraph shall be extended and end on January fourteenth, two thousand twenty-three. On or before December first, two thousand twenty-two, the chancellor shall promulgate regulations establishing a process for community district education council presidents to elect members of the board, and processes for removal of such members and for the filling of such positions in the event of a vacancy. All appointed members and members elected by the community education council presidents pursuant to such regulations shall take office on January fifteenth, two thousand twenty-three and shall serve a term that ends on June thirtieth, two thousand twenty-three. Thereafter, appointed members and the members elected by community district education council presidents shall serve for a one year term commencing on July first.

(D) Commencing on July first, two thousand twenty-four, the board of education shall consist of twenty-four voting members: one member to be appointed by each borough president of the city of New York; five members, one from each borough of the city of New York, to be elected by community district education council presidents; one independent member who shall serve as chair of the board and who shall be selected as established in subparagraph three of this paragraph; and thirteen members to be appointed by the mayor of the city of New York. The initial term of the chair selected pursuant to subparagraph three of this paragraph shall commence on September fifteenth, two thousand twenty-four and shall end on September fourteenth, two thousand twenty-five; thereafter the chair shall serve for a one-year term commencing on September fifteenth. The chancellor shall continue regulations promulgated under clause (C) of this subparagraph establishing a process for community district education council presidents to elect members of the board, and processes for removal of such members and for the filling of such positions in the event of a vacancy. Appointed members and members elected by community district education council presidents pursuant to clause (C) of this subparagraph and commencing a term on July first, two thousand twenty-four shall serve a term that ends on June thirtieth, two thousand twenty-five. Thereafter, appointed members and the members elected by community

district education council presidents shall serve for a one-year term commencing on July first.

(2) The chancellor and comptroller of the city of New York shall serve as ex-officio non-voting members of the city board.

(3) The independent member who shall serve as chair of the board shall be selected by the mayor of the city of New York from among three qualified candidates, one nominated by the speaker of the assembly, one nominated by the majority leader of the senate, and one nominated by the chancellor of the board of regents. If the mayor of the city of New York shall not accept any of the three candidates, up to two additional groups of three will be submitted to the mayor of the city of New York for consideration. The mayor of the city of New York must select a candidate from among the nominees no later than September fifteenth of each year. An individual selected to serve as chair may be reappointed by the mayor of the city of New York to serve an additional one-year term, provided such reappointment will be made on or before June thirtieth of each year, and provided further that no individual may serve as chair for more than two terms consecutively. If the individual serving as chair is not reappointed by the mayor of the city of New York, is term limited pursuant to this subparagraph, or the role of chair becomes vacant for any reason, the selection of a new member to serve as chair will be completed through the process as established in this subparagraph.

(4) All appointed members shall serve for a one year term, provided that any member may be removed for good cause, provided that voting against the appointing authority's direction shall not be cause for removal, by the appointing authority, who shall provide written notice to the member and public explaining the reasons therefor at least ten days in advance of the removal and provide the member a full and fair opportunity to refute such reasons before removal.

(5) Except for the chancellor, no board members shall be employed in any capacity by the city of New York, or a subdivision thereof, or the city board.

(6) No appointed or elected member of the city board shall also be a member, officer, or employee of any public corporation, authority, or commission where the mayor of the city of New York has a majority of the appointments.

(7) Each borough president's appointee shall be a resident of the borough for which the borough president appointing him or her was elected and shall be the parent of a child attending a public school within the city school district of the city of New York.

(8) Each mayoral appointee shall be a resident of the city and four shall be parents of a child attending a public school within the city district, provided that at least one appointee shall be the parent of a child with an individualized education program, at least one appointee shall be the parent of a child who is in a bilingual or English as a second language program conducted pursuant to section thirty-two hundred four of this chapter, and at least one appointee shall be the parent of a child who is attending a district seventy-five school or program.

(9) All parent members shall be eligible to continue to serve on the city board for two years following the conclusion of their child's attendance at a public school within the city district.

(10) Any vacancy other than by an expiration of term shall be filled by appointment by the appropriate appointing authority within ninety days of such vacancy and shall serve for the remainder of the unexpired term.

(11) Notwithstanding any provision of local law, the members of the board shall not have staff, offices, or vehicles assigned to them or receive compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties.

(12) Every appointed and elected member of the city board shall, within the first three months of his or her term, complete a minimum of six hours of training on the financial oversight, accountability and fiduciary responsibilities of a city board member, as well as a training course on the powers, functions and duties of the city board.

(b) The city board shall hold at least one regular public meeting per month. At least one regular public meeting shall be held in each borough of the city of New York per year; any additional meetings may be called at the request of the chairperson. The city board shall consider appropriate public accommodations when selecting a venue so as to maximize participation by parents and the community.

(c) (i) Notice of the time, place and agenda for all city board regular public meetings shall be publicly provided, including via the

city board's official internet web site, and specifically circulated to all community superintendents, community district education councils, community boards, and school based management teams, at least ten business days in advance of such meeting.

(ii) A city board regular public meeting agenda shall be comprised of a list and brief description of the subject matter being considered, identification of all items subject to a city board vote, and the name, office, address, email address and telephone number of a city district representative, knowledgeable on the agenda, from whom any information may be obtained and to whom written comments may be submitted concerning items on such agenda.

(iii) A city board meeting that includes an item subject to a city board vote related to approval of a school closure or significant change in school utilization including the phase-out, grade reconfiguration, re-siting, or co-location of a school pursuant to paragraph h of subdivision one of section twenty-five hundred ninety-g of this article shall be held in the borough of the city of New York where the school that is subject to such proposed school closing or significant change in school utilization is located.

(d) The chairperson of the city board shall ensure that at every regular public meeting there is a sufficient period of time to allow for public comment on any topic on the agenda prior to any city board vote.

(e) Minutes of all city board regular public meetings shall be made publicly available, including via the city board's official internet website, in a timely manner but no later than the subsequent regular city board meeting.

2. (a) There shall be a community council for each community district created pursuant to this article.

(b) The city board shall define, adjust, alter, maintain and adopt the boundaries of the community districts pursuant to this chapter no later than February first, nineteen hundred ninety-five. There shall be no less than thirty nor more than thirty-seven community districts.

(c) The city board may readjust or alter the districts in such plan only once in every ten years, commencing with the year two thousand four. The city board in conjunction with the chancellor and the community council representatives, shall prepare and make public a plan

to ensure the smooth transition of pupils and school personnel, creation of new boards, and allocation of school facilities and resources among the districts established pursuant to paragraph (b) of this subdivision. Prior to the adoption of the transition plan, the city board shall hold one or more public hearings in each borough. The city board shall make the transition plan available not less than three weeks before the first such public hearing. Upon receipt of comments, the city board, in conjunction with the chancellor and the community council representatives, shall prepare a revised transition plan, if necessary and make such plan available to the public for comment.

3. (a) The redistricting advisory study group established prior to the effective date of this paragraph for the purpose of study and making recommendations on community school district boundaries, is hereby continued and shall perform the duties required herein.

(b) The study group shall prepare a report containing recommendations for dividing the city into no more than thirty-seven community districts.

(c) In preparation of its recommendations for dividing the city into community districts, the study group shall ensure that the recommendations provide for the most effective delivery of educational services and shall be guided by the following criteria:

(1) each community district shall: (i) be a suitable size for efficient policy-making and economic management; (ii) contain a reasonable number of pupils; (iii) be compact and contiguous, contained within county lines, and to the maximum extent possible, keep intact communities and neighborhoods; and (iv) bear a rational relationship to geographic areas for which the city of New York plans and provides services;

(2) to the extent possible, keep existing lines intact;

(3) the common and special education needs of the communities and school children involved;

(4) effective utilization of existing and planned school facilities;

(5) minimum disruption of existing and planned elementary school-junior high/middle school-high school feeder patterns;

(6) transportation facilities;

(7) additional administrative costs involved in the creation of such

new districts; and

(8) ensure fair and effective representation of racial and language groups pursuant to the Voting Rights Act of 1965, as amended;

(9) notwithstanding the provisions of this subparagraph and subparagraphs one through eight of this paragraph: (i) the residents of the county of New York in school district ten as it existed prior to the implementation of this paragraph shall continue to remain in school district ten as such district is comprised; (ii) the boundaries of community district thirty-one shall continue to remain as they are currently comprised; and (iii) no county shall have fewer community school districts than in existence on the effective date of this paragraph.

(d) The study group shall hold one or more public hearings in each borough before final adoption of its recommendations. The study group shall make its recommendations available to the public for inspection and comment not less than one month before the first such public hearing. Following its consideration of the comments received on the recommendations, the study group shall prepare a report containing its final recommendations. The study group shall submit its report to the city board and make such report available to the public for inspection no later than November first, nineteen hundred ninety-four.

(e) The city board of education shall hold public hearings in each borough on the recommendations submitted by the study group and may adopt, revise or reject in whole or in part such recommendations, or, may request the study group to submit adjusted recommendations. The final recommendations shall be adopted by the city board of education no later than February first, nineteen hundred ninety-five to take effect July first, nineteen hundred ninety-six, provided that such revised boundaries adopted by the city board pursuant to this chapter shall be used for purposes of community school board elections to be held on the first Tuesday in May, nineteen hundred ninety-six.

(f) Provided, however, that the city board may make minor adjustments, (i) to correct errors that may occur in the district lines adopted by the city board, or (ii) upon showing a change in circumstances. Any such limited revisions to community school district lines may occur between the effective date of this paragraph and the city board readjustment scheduled in the year two thousand four.

(g) No public hearings required pursuant to this subdivision shall be held during the months of July and August. All public hearings shall be held at a time and place designated to maximize community and parent participation. Notice of all such public hearings shall be provided in a timely manner to all print and electronic media and shall be widely distributed to all interested parties, so as to maximize participation by parents and the community. In addition such notice shall be posted in each school building and district office.

4. a. There shall be a city-wide council on special education created pursuant to this section. The city-wide council on special education shall consist of eleven voting members and one non-voting member, as follows:

(1) nine voting members who shall be parents of students with individualized education programs, to be selected by parents of students with individualized education programs pursuant to a representative process developed by the chancellor. Such members shall serve a two year term;

(2) two voting members appointed by the public advocate of the city of New York, who shall be individuals with extensive experience and knowledge in the areas of educating, training or employing individuals with handicapping conditions and will make a significant contribution to improving special education in the city district. Such members shall serve a two year term; and

(3) one non-voting member who is a high school senior with an individualized education program, appointed by the administrator designated by the chancellor to supervise special education programs. Such member shall serve a one year term.

b. The city-wide council on special education shall have the power to:

(1) advise and comment on any educational or instructional policy involving the provision of services for students with disabilities;

(2) advise and comment on the process of establishing committees and/or subcommittees on special education in community school districts pursuant to section forty-four hundred two of this chapter;

(3) issue an annual report on the effectiveness of the city district in providing services to students with disabilities and making

recommendations, as appropriate, on how to improve the efficiency and delivery of such services; and

(4) hold at least one meeting per month open to the public and during which the public may discuss issues facing students with disabilities.

c. Vacancies shall be filled for an unexpired term by the city-wide council on special education, pursuant to a process developed by the chancellor that shall include consultation with parents of students with individualized educational programs; provided however, that where a vacancy occurs in a position appointed by the public advocate, the public advocate shall appoint a member to serve the remainder of the unexpired term.

5. (a) There shall be a city-wide council on English language learners created pursuant to this section. The city-wide council on English language learners shall consist of eleven voting members and one non-voting member, as follows:

(i) nine voting members who shall be parents of students who are in a bilingual or English as a second language program conducted pursuant to section thirty-two hundred four of this chapter, some of whom may be parents of students who have been in such a program within the preceding two years, to be selected by parents of students who receive such services pursuant to a representative process developed by the chancellor. Such members shall serve a two year term;

(ii) two voting members appointed by the public advocate of the city of New York, who shall be individuals with extensive experience and knowledge in the education of English language learners and will make a significant contribution to improving bilingual and English as a second language programs in the city district. Such members shall serve a two year term; and

(iii) one non-voting member who is a high school senior who is or has been in a bilingual or English as a second language program, appointed by the administrator designated by the chancellor to supervise such programs. Such member shall serve a one year term.

(b) The city-wide council on English language learners shall have the power to:

(i) advise and comment on any educational or instructional policy

involving bilingual or English as a second language programs;

(ii) issue an annual report on the effectiveness of the city district in providing services to English language learners and making recommendations, as appropriate, on how to improve the efficiency and delivery of such services; and

(iii) hold at least one meeting per month open to the public and during which the public may discuss issues facing English language learners.

(c) Vacancies shall be filled for an unexpired term by the city-wide council on English language learners, pursuant to a process developed by the chancellor that shall include consultation with parents of students who receive services for English language learners; provided however, that where a vacancy occurs in a position appointed by the public advocate, the public advocate shall appoint a member to serve the remainder of the unexpired term.

6. (a) There shall be a city-wide council on high schools created pursuant to this section. The city-wide council on high schools shall consist of thirteen voting members and one non-voting member, as follows:

(i) ten voting members who shall be parents of students attending public high schools. For councils whose terms begin prior to two thousand twenty, two members representing each borough shall be selected by presidents and officers of the parents' associations or parent-teachers' associations in the relevant borough, pursuant to a process established by the chancellor. For councils whose terms begin in two thousand twenty-one and thereafter, two members representing each borough shall be parents of public high school students in the relevant borough, pursuant to a process established by the chancellor. Such members shall serve a two year term, and shall be eligible to continue serving their term following the conclusion of their child's attendance at a public high school;

(ii) one voting member who shall be a parent of a high school student with an individualized education program. Such member shall be appointed by the city-wide council on special education, and shall serve a two year term;

(iii) one voting member who shall be a parent of a student in a

bilingual or English as a second language program conducted in a public high school. Such member shall be appointed by the city-wide council on English language learners, and shall serve a two year term;

(iv) one voting member appointed by the public advocate of the city of New York, who shall be a resident of the city and shall have extensive business, trade, or education experience and knowledge who will make a significant contribution to improving education in the city district. Such member shall serve for a term of two years; and

(v) one non-voting member who is a public high school senior, appointed by the chancellor pursuant to a process developed by the chancellor. Such member shall serve a one year term.

Officers of parents' associations or parent-teachers' associations who are candidates in the selection process established by the chancellor pursuant to this subdivision shall not be eligible to cast votes in such selection process. The association shall elect a member to vote in the place of each such officer for purposes of the selection process.

(b) The city-wide council on high schools shall have the power to:

(i) advise and comment on any educational or instructional policy involving high schools;

(ii) issue an annual report on the effectiveness of the city district in providing services to high school students and making recommendations, as appropriate, on how to improve the efficiency and delivery of such services; and

(iii) hold at least one meeting per month open to the public and during which the public may discuss issues facing high schools.

(c) Vacancies shall be filled for an unexpired term by the city-wide council on high schools, pursuant to a process developed by the chancellor that shall include consultation with parents of students attending public high school; provided, however, that where a vacancy occurs in a position appointed by the public advocate, the public advocate shall appoint a member to serve the remainder of the unexpired term.

7. (a) There shall be a city-wide council on district seventy-five created pursuant to this section. The city-wide council for district seventy-five shall consist of eleven voting members and one non-voting

member, as follows:

(i) nine voting members who shall be parents of students receiving city-wide special education services in a district seventy-five school or program to be selected by parents of students who receive such services pursuant to a representative process developed by the chancellor. Such members shall serve a two year term;

(ii) two voting members appointed by the public advocate of the city of New York, who shall be individuals with extensive experience and knowledge in the areas of educating, training or employing individuals with disabilities and who will make a significant contribution to improving special education in the city district. Such members shall serve a two year term; and

(iii) one non-voting member who is a high school senior appointed by the administrator designated by the chancellor to supervise district seventy-five schools and programs. Such member shall serve a one year term.

(b) The city-wide council on district seventy-five shall have the power to:

(i) advise and comment on any educational or instructional policy involving the provision of district seventy-five services;

(ii) issue an annual report on the effectiveness of the city district in providing services to district seventy-five students and make recommendations, as appropriate, on how to improve the efficiency and delivery of such services; and

(iii) hold at least one meeting per month open to the public and during which the public may discuss issues facing district seventy-five students.

(c) Vacancies shall be filled for an unexpired term by the city-wide council for district seventy-five, pursuant to a process developed by the chancellor that shall include consultation with parents of students attending district seventy-five schools or programs; provided, however, that where a vacancy occurs in a position appointed by the public advocate, the public advocate shall appoint a member to serve the remainder of the unexpired term.

8. (a) Members of the city-wide councils established pursuant to this section shall not be paid a salary or stipend, but shall be reimbursed

for all actual and necessary expenses directly related to the duties and responsibilities of the city-wide council on which they serve.

(b) Each such city-wide council may appoint a secretary, pursuant to the policies of the city board, who shall perform the following functions:

(i) prepare meeting notices, agendas and minutes;

(ii) record and maintain accounts of proceedings and meetings; and

(iii) prepare briefing materials and other related informational materials for such meetings.

Each city-wide council shall be responsible for the appointment, supervision, evaluation and discharge of the secretary.

(c) No person may serve at the same time on more than one city-wide council established pursuant to this section, nor may any person serve at the same time on such a city-wide council and any community district education council.

(d) A member of a city-wide council established pursuant to this section shall be ineligible to be employed by any such council, any community district education council, or the city board.

(e) No person shall be eligible for membership on a city-wide council established pursuant to this section if he or she holds any elective public office or any elective or appointed party position except that of delegate or alternate delegate to a national, state, judicial or other party convention, or member of a county committee.

(f) A person may be permanently ineligible for appointment to a city-wide council for any of the following:

(i) an act of malfeasance directly related to his or her service on such city-wide council or community district education council; or

(ii) conviction of a crime, provided that any such conviction shall be considered in accordance with article twenty-three-A of the correction law.

(g) In addition to the conditions enumerated in the public officers law creating a vacancy, a member of a city-wide council established pursuant to this section who refuses or neglects to attend three meetings of such city-wide council of which he or she is duly notified, without rendering in writing a good and valid excuse therefor vacates his or her office by refusal to serve. Each absence and any written

excuse rendered shall be included within the official written minutes of such meeting. After the third unexcused absence such city-wide council shall declare a vacancy to the chancellor.

* NB Effective until June 30, 2028

* § 2590-b. Continuation of city board and establishment of community districts. 1. (a) The board of education of the city school district of the city of New York is hereby continued. Such board of education shall consist of seven members, a member to be appointed by each borough president of the city of New York and two by the mayor. Each borough president appointee shall be a resident of the borough for which the borough president appointing him was elected. Two members at large shall be appointed by the mayor of the city of New York. Each mayoral appointee shall be a resident of such city. The term of office of each member shall be four years, commencing the first day of July, nineteen hundred seventy-four and every four years thereafter. A vacancy occurring other than by expiration of term of a member appointed by a borough president shall be filled for the unexpired term by appointment by the appropriate borough president of a person who is a resident of such borough. The mayor shall fill vacancies for an unexpired term of any of his appointees. The president of the board shall be chosen by the members. Notwithstanding any provision of local law, the members of the board shall receive compensation for their services as follows: $20,000 for the board president and $15,000 for each board member and shall be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties.

(b) The members to be appointed by the borough presidents shall be appointed not earlier than April first, nineteen hundred seventy-four and not later than June first, nineteen hundred seventy-four and their successors thereafter.

The mayor of the city of New York shall appoint two members not earlier than April first, nineteen hundred seventy-four and not later than June first, nineteen hundred seventy-four and their successors thereafter.

2. (a) There shall be a community board for each community district created pursuant to this article.

(b) The city board shall define adjust, alter, maintain and adopt the boundaries of the community districts pursuant to this chapter no later than February first, nineteen hundred ninety-five. There shall be no less than thirty nor more than thirty-seven community districts.

(c) The city board may readjust or alter the districts in such plan only once in every ten years, commencing with the year two thousand four. The city board in conjunction with the chancellor and the community school boards council, shall prepare and make public a plan to ensure the smooth transition of pupils and school personnel, creation of new boards, and allocation of school facilities and resources among the districts established pursuant to paragraph (b) of this subdivision. Prior to the adoption of the transition plan, the city board shall hold one or more public hearings in each borough. The city board shall make the transition plan available not less than three weeks before the first such public hearing. Upon receipt of comments, the city board, in conjunction with the chancellor and the community school boards council, shall prepare a revised transition plan, if necessary and make such plan available to the public for comment. A final transition plan shall be adopted by the city board by November fifteenth, nineteen hundred ninety-five.

3. (a) The redistricting advisory study group established prior to the effective date of this paragraph for the purpose of study and making recommendations on community school district boundaries, is hereby continued and shall perform the duties required herein.

(b) The study group shall prepare a report containing recommendations for dividing the city into no more than thirty-seven community districts.

(c) In preparation of its recommendations for dividing the city into community districts, the study group shall ensure that the recommendations provide for the most effective delivery of educational services and shall be guided by the following criteria:

(1) each community district shall: (i) be a suitable size for efficient policy-making and economic management; (ii) contain a reasonable number of pupils; (iii) be compact and contiguous, contained within county lines, and to the maximum extent possible, keep intact communities and neighborhoods; and (iv) bear a rational relationship to

geographic areas for which the city of New York plans and provides services;

(2) to the extent possible, keep existing lines intact;

(3) the common and special education needs of the communities and school children involved;

(4) effective utilization of existing and planned school facilities;

(5) minimum disruption of existing and planned elementary school-junior high/middle school-high school feeder patterns;

(6) transportation facilities;

(7) additional administrative costs involved in the creation of such new districts; and

(8) ensure fair and effective representation of racial and language groups pursuant to the Voting Rights Act of 1965, as amended;

(9) notwithstanding the provisions of this subparagraph and subparagraphs one through eight of this paragraph: (i) the residents of the county of New York in school district ten as it existed prior to the implementation of this paragraph shall continue to remain in school district ten as such district is comprised; (ii) the boundaries of community district thirty-one shall continue to remain as they are currently comprised; and (iii) no county shall have fewer community school districts than in existence on the effective date of this paragraph.

(d) The study group shall hold one or more public hearings in each borough before final adoption of its recommendations. The study group shall make its recommendations available to the public for inspection and comment not less than one month before the first such public hearing. Following its consideration of the comments received on the recommendations, the study group shall prepare a report containing its final recommendations. The study group shall submit its report to the city board and make such report available to the public for inspection no later than November first, nineteen hundred ninety-four.

(e) The city board of education shall hold public hearings in each borough on the recommendations submitted by the study group and may adopt, revise or reject in whole or in part such recommendations, or, may request the study group to submit adjusted recommendations. The final recommendations shall be adopted by the city board of education no later than February first, nineteen hundred ninety-five to take effect

July first, nineteen hundred ninety-six, provided that such revised boundaries adopted by the city board pursuant to this chapter shall be used for purposes of community school board elections to be held on the first Tuesday in May, nineteen hundred ninety-six.

(f) Provided, however, that the city board may make minor adjustments, (i) to correct errors that may occur in the district lines adopted by the city board, or (ii) upon showing a change in circumstances. Any such limited revisions to community school district lines may occur between the effective date of this paragraph and the city board readjustment scheduled in the year two thousand four.

(g) No public hearings required pursuant to this subdivision shall be held during the months of July and August. All public hearings shall be held at a time and place designated to maximize community and parent participation. Notice of all such public hearings shall be provided in a timely manner to all print and electronic media and shall be widely distributed to all interested parties, so as to maximize participation by parents and the community. In addition such notice shall be posted in each school building and district office.

* NB Effective June 30, 2028

*** § 2590-c. Composition of community district education councils.** 1. Each community district shall be governed by a community district education council. The community councils shall consist of twelve voting members and two non-voting members, as follows:

(a) (1) For councils whose terms begin prior to two thousand twenty, nine voting members shall be parents whose children are attending a school or a pre-kindergarten program offered by a school under the jurisdiction of the community district, or have attended a school or a pre-kindergarten program offered by a school under the jurisdiction of the community district within the preceding two years, and shall be selected by the presidents and officers of the parents' association or parent-teachers' association. Such members shall serve for a term of two years. Presidents and officers of parents' associations or parent-teachers' associations who are candidates in the selection process pursuant to this section shall not be eligible to cast votes in such selection process. The association shall elect a member to vote in

the place of each such president or officer for the purposes of the selection process. Provided, however, that a parent of a pre-kindergarten pupil shall vacate his or her membership on such community district education council where the parent no longer has a child that attends a school or pre-kindergarten program offered by a school under the jurisdiction of the community district.

(2) For councils whose terms begin in two thousand twenty-one and thereafter, nine voting members shall be parents whose children are attending a school or a pre-kindergarten program offered by a school under the jurisdiction of the community district, or have attended a school under the jurisdiction of the community district within the preceding two years, and shall be elected by parents of children attending such schools and pre-kindergarten programs in accordance with a process developed by the chancellor pursuant to subdivision eight of this section. Provided, however, that a parent of a pre-kindergarten pupil shall vacate his or her membership on such community district education council when the parent no longer has a child that attends a school or pre-kindergarten program offered by a school under the jurisdiction of the community district.

(b) Two voting members shall be appointed by the borough presidents corresponding to such district. Such appointees shall be residents of, or own or operate a business in, the district and shall be individuals with extensive business, trade, or education experience and knowledge, who will make a significant contribution to improving education in the district. Such members shall serve for a term of two years.

(c) One voting member shall be a parent whose child is attending a district seventy-five school or program, or has attended a district seventy-five school or program within the preceding two years, and shall be elected by parents of children attending such schools or programs in accordance with a process developed by the chancellor. Such member shall serve for a term of two years.

(d) Two non-voting members who are high school seniors residing in the district, shall be appointed by the superintendent from among the elected student leadership. Such members shall serve for a one year term.

Members shall not be paid a salary or stipend, but shall be reimbursed

for all actual and necessary expenses directly related to the duties and responsibilities of the community council.

2. For the initial community council, such members must be selected on or before October thirty-first, two thousand three, with terms commencing on December first, two thousand three. Thereafter, commencing in May of two thousand five, the selection or election of community council members shall occur on the second Tuesday in May, with terms commencing on the following July first.

3. Each such council shall select one of its voting members to serve as chair.

4. Notwithstanding any provisions of law to the contrary, the community district education council may appoint an administrative assistant, pursuant to the policies of the city board, who shall perform the following functions: (a) prepare meeting notices, agendas and minutes; (b) record and maintain accounts of proceedings and other council meetings; and (c) prepare briefing materials and other related informational materials for such meetings. Each council shall be responsible for the appointment, supervision, evaluation and discharge of the administrative assistant.

5. No person may serve on more than one community council or on the city-wide council on special education, the city-wide council on English language learners, the city-wide council on high schools, or the city-wide council on district seventy-five and a community council. A member of a community council shall be ineligible to be employed by the community council of which he or she is a member, any other community council, the city-wide council on special education, the city-wide council on English language learners, the city-wide council on high schools, the city-wide council on district seventy-five, or the city board. No person shall be eligible for membership on a community council if he or she holds any elective public office or any elective or appointed party position except that of delegate or alternate delegate to a national, state, judicial or other party convention, or member of a county committee.

A person may be permanently ineligible for appointment to any community district education council for any of the following: (a) an act of malfeasance directly related to his or her service on the city-wide council on special education, the city-wide council on English language learners, the city-wide council on high schools, the city-wide council on district seventy-five, community school board or community district education council; or (b) conviction of a crime, provided that any such conviction shall be considered in accordance with article twenty-three-A of the correction law.

Any decision rendered by the chancellor or the city board with respect to the eligibility or qualifications of the nominees for community district education councils must be written and made available for public inspection within seven days of its issuance at the office of the chancellor and the city board. Such written decision shall include the factual and legal basis for its issuance and a record of the vote of each board member who participated in the decision, if applicable.

6. (a) In addition to the conditions enumerated in the public officers law creating a vacancy, a member of a community district education council who refuses or neglects to attend three meetings of such council of which he or she is duly notified, without rendering in writing a good and valid excuse therefore vacates his or her office by refusal to serve. Each absence and any written excuse rendered shall be included within the official written minutes of such meeting. After the third unexcused absence the community council shall declare a vacancy to the chancellor.

(b) (1) Vacancies in positions that were not appointed by a borough president or elected by parents of children attending district seventy-five schools or programs shall be filled for an unexpired term by the community district education council after consultation with the presidents' council or other consultative body representing parents' associations and other educational groups within the district. Recommendations made by such parents and other educational groups shall be submitted in writing and included within the record of the meeting at which the vacancy is filled.

(2) If such vacancy results in the council not having at least one member who is a parent of a student who is an English language learner or who has been an English language learner within the preceding two years, or results in the council not having at least one member who is a parent of a student with an individualized education program, the community council shall select a parent having such qualifications to fill the vacancy.

(c) If the vacancy is not filled by the community council within sixty days after it is declared due to a tie vote for such appointment, the chancellor shall vote with the community council, to break such tie vote. If the community council has failed to fill the vacancy within sixty days after it is declared because of any other reason, the chancellor shall order the community council to do so pursuant to section twenty-five hundred ninety-1 of this article.

(d) Where a vacancy occurs in a position appointed by a borough president, the borough president shall appoint a member to serve the remainder of the unexpired term.

(e) Where a vacancy occurs in a position elected by parents of children attending district seventy-five schools or programs, the chancellor shall develop a process for parents of children attending district seventy-five schools or programs to select a member to serve the remainder of the unexpired term.

7. (a) Each community council shall prepare and submit to the city board a performance report every month. The information provided shall include community council members' attendance records; participation in community council committees and other community council activities; visits to schools; and voting records on major issues before the community council.

(b) The city board shall review and consolidate the performance reports into one comprehensive city district-wide report, which shall be disseminated to the community and the media semiannually.

8. The chancellor shall: (a) develop a process to ensure a uniform election process for parent associations and parent-teacher associations. Such process shall ensure uniformity with respect to timing of elections and the structure and size of the body.

(b) develop a process for nomination of candidates for community council membership. Such process will outline in detail the procedure which must be followed to present a name for consideration, may include qualifications and prohibitions in addition to those outlined in this section and may allow for an interview process for nominees.

(c) (1) develop selection procedures for community council members which shall attempt to ensure membership that reflects a representative cross-section of the communities within the school district and diversity of the student population including those with particular educational needs, shall include consideration of the enrollment figures within each community district and the potential disparity of such enrollment from school to school within the district, and shall ensure that, to the extent possible, a school may have no more than one parent representative on the community council. Such procedures shall ensure that at least one position on the community council is filled by a parent of a student who is an English language learner or who has been an English language learner within the preceding two years, and at least one position is filled by a parent of a student with an individualized education program, and shall allow for the seven remaining positions to be filled by parents who are otherwise eligible;

(2) after reviewing the recommendations of the task force described in subdivision nine of this section, develop election procedures for community council members which shall attempt to ensure membership that reflects a representative cross-section of the communities within the school district and diversity of the student population including those with particular educational needs, shall include consideration of the enrollment figures within each community district and the potential disparity of such enrollment from school to school within the district, and shall ensure that, to the extent possible, a school may have no more than one parent representative on the community council. Such measures shall ensure that at least one position on the community council is filled by a parent of a current student who is or has been at any time an English language learner, and at least one position is filled by a parent of a student who has or has at any time had an individualized education program, and shall allow for the seven remaining positions to be filled by parents who are otherwise eligible. Such election procedures shall ensure that no candidate is elected by a margin of less

than one vote.

(d) promulgate rules and regulations requiring financial disclosure by the nominees and policies prohibiting political endorsements of and campaign contributions to nominees.

(e) beginning in January of each school year and continuing until the date of selection, ensure the distribution of guides to parents in addition to information regarding community council roles, functions, and activities, including upcoming parents' association and parent-teacher association elections, candidate information, and the nature of the selection or election process.

Prior to the adoption of the processes, procedures, rules or regulations set forth in this subdivision, the chancellor shall ensure that there is an inclusive public process which allows for sufficient public input from parents and the community including public hearings. All such processes, procedures, rules or regulations must be final in sufficient time to assure for an orderly implementation and notification of such processes, procedures, rules or regulations to allow for full community participation in the nomination and selection processes and procedures.

9. The mayor shall appoint a task force on community district education councils consisting of parents whose child or children are attending a public school within the community districts and other members with relevant expertise. The task force shall review the eligibility criteria to serve on a community district education council, the process for selecting community council members, and their terms of office. The task force shall submit a report concerning its findings and recommendations to the mayor and the chancellor by November first, two thousand nineteen.

* NB Repealed June 30, 2028

* § 2590-c. Composition of community boards. 1. Each community district shall be governed by a community board to consist of nine members to be elected for a term of three years and to serve without compensation. Each such board shall select one of its members to serve as chairman.

Notwithstanding any provisions of law to the contrary, the community board may appoint a board secretary, pursuant to the policies of the city board, who shall perform the following functions: (a) prepare meeting notices, agendas and minutes; and (b) record and maintain accounts of proceedings and other board meetings. Each board shall be responsible for the appointment, supervision, evaluation and discharge of the board secretary.

2. Such members shall be elected at an election conducted by the board of elections in the city of New York to be held on the first Tuesday in May commencing with the year two thousand three and every third year thereafter for a term commencing on the first day of July next following.

3. Every registered voter residing in a community district and every registered parent of a child attending any school under the jurisdiction of the community board of such district who is a citizen of the state, a resident of the city of New York for at least thirty days and at least eighteen years of age shall be eligible to vote at such election for the members of such community board, except that no person may vote more than once or in more than one community district, and no person shall have the right to register or vote at any community board election who would not be qualified to register or vote at any election in accordance with the provisions of section 5-106 of the election law.

(a) The board of elections of the city of New York shall provide for the personal and mail registration, and cancellation of registration, of persons qualified by this subdivision to vote as "parents," in a manner determined jointly by the board of elections and the city board. Each parent shall be offered the opportunity to register as a parent voter at the time such parent registers his child with the school and at such other times as the board of elections deems necessary to achieve the registration of the maximum number of parents possible. The registration process shall provide a procedure for determining when such parents shall cease to be eligible to vote as parent voters because their child no longer attends a school under the jurisdiction of the community board.

(b) In January next preceding each community board election, the city

board shall provide written notice to every parent of a child attending school under the jurisdiction of every community board of such parent's right to vote in the community board election, the method and time by which a parent may register to vote, and a form by which such parent may register by mail.

(c) The board of elections shall certify qualified registrations pursuant to the certification procedures agreed to by the board of elections and the city board. The board of elections shall certify all qualified registrations and transmit notice of such certification to the city board promptly.

4. (a) Every registered voter residing in a community district and every parent of a child attending any school under the jurisdiction of the community board of such district who is a citizen of the state, a resident of the city of New York for at least ninety days prior to the date of the election, and at least eighteen years of age shall be eligible for membership on such community board, provided that such person not be disqualified from registering for or voting at an election under the provisions of section 5-106 of the election law or ineligible to serve, under the provisions of paragraph (b) of this subdivision. No person may serve on more than one community board. A member of a community board shall be ineligible to be employed by the community board of which he is a board member, any other community board or the city board. No person shall be eligible for membership on a community board if he or she holds any elective public office or any elective or appointed party position except that of delegate or alternate delegate to a national, state, judicial or other party convention, or member of a county committee.

(b) A person who has been convicted of a felony, or has been removed from a community school board for any of the following shall be permanently ineligible for appointment or election to any community school board:

(1) an act of malfeasance directly related to his or her service on such community school board; or

(2) conviction of a crime, if such crime is directly related to his or her service upon such community school board.

5. Each registered voter shall vote at such polling place within his or her community district as shall be designated by the board of elections in the city of New York or may vote as a registered parent voter, but not both. Each person voting as a registered parent shall vote at such polling place within the community district in which his or her child is attending school as shall be designated by the board of elections in the city of New York. In the event a parent has children attending school in different community districts, the parent may vote at either polling place designated for each of the community districts by the board of elections, but not both. The polls of such elections shall be open between the hours of six o'clock in the forenoon and nine o'clock in the evening on the days of elections.

6. Applicability of the election law. (a) The provisions of the election law with respect to registration of voters, nomination of candidates, declination of nominations, filling of vacancies in nominations, notices to candidates, objections to petitions, rulings thereon, judicial proceedings, campaign receipts and expenditures, conduct of the election, including the use of voting machines, counting and canvassing of votes, and all other matters so far as applicable shall govern the election of community board members; provided, however, that:

(1) candidates for community board member shall be nominated by petitions in accordance with regulations, not inconsistent with the provisions of this article, promulgated by the board of elections in the city of New York. Such petitions shall be filed with the board of elections at least four weeks before the election;

(2) nominating petitions shall be signed by not fewer than two hundred registered voters residing in such community district, or persons eligible to vote as registered parents in such community district;

(3) each candidate shall be nominated by a separate petition and no elector shall sign more than one such petition. Should an elector sign more than one such petition, his or her signature shall be void except upon the petition first signed;

(4) no candidate shall be identified by political party or other organizational affiliation on the nominating petitions or the ballot;

(5) certification of acceptance or declination are not required to be

acknowledged; and

(6) the order of the names of candidates on the ballot shall be determined in the same manner as the order of names of candidates in a primary election.

(b) Notwithstanding the provisions of section 14-102 of the election law to the contrary, all receipts and contributions received by a candidate for community board or a political committee on behalf of a candidate for community board from any one contributor must be specifically accounted for by separate items in such candidate's or committee's financial disclosure statement.

(c) At each election, any candidate for community board member shall be entitled to exercise all the rights granted by section 8-500 of the election law to a political party or independent body in regard to the appointment of watchers and challengers for the polls.

(d) Any public hearing held by the board of elections or the city board with respect to the community school board elections or to candidates for community boards must be stenographically transcribed or recorded in another manner and such transcripts or written records of such recordings must be made available for public inspection at the offices of the city board and the board of elections.

(e) Any decision rendered by the board of elections or the city board with respect to candidates for community boards must be written and made available for public inspection within seven days of its issuance at the offices of the city board and the board of elections. Such written decision shall include the factual and legal basis for its issuance and a record of the vote of each board member or commissioner of elections who participated in the decision.

7. The members of each community board shall be elected by proportional representation in accordance with the following rules:

(1) Paper ballots. Community board members shall be voted for, in accordance with the instructions provided in paragraph three, on paper ballots on which the candidates are listed by name only. The ballots shall conform to the provisions of the election law for paper ballots, so far as applicable, except as to size and as hereinafter provided. The ballots shall contain a square for voting before each candidate's name.

(2) Order of names on ballot. The names of the candidates shall be

printed in the alphabetical order of their surnames, except that they shall be rotated by polling places by transposing the first named candidate to the bottom of the order at each succeeding polling place; so that each name shall appear first and in each other position in an equal number, as nearly as possible, of the polling places.

(3) Instructions to voters. There shall be no indication on the ballot of a definite number of candidates to be voted for. The instructions to voters shall read as follows:

INSTRUCTIONS

Mark Your Choices with NUMBERS Only.

(Do NOT use X Marks.)

Put the number 1 in the square opposite the name of your first choice.

Put the number 2 opposite your second choice, the number 3 opposite your third choice, and so on. You may mark as many choices as you please.

Do not put the same number opposite more than one name.

To vote for a person whose name is not printed on this ballot, write his name on a blank line under the names of the candidates and put a number in the square opposite to show which choice you wish to give him.

If you tear or deface or wrongly mark this ballot, draw lines across its face to prevent its being used, return it and obtain another.

(4) Central count. Prior to every election at which community board members are to be elected, the board of elections shall designate a central counting place for each community district where the ballots shall be brought together and counted publicly; shall appoint for each central counting place a board of two competent persons, to act as directors of the count for such counting place; shall employ a sufficient staff of assistants for each counting place, and shall make suitable arrangements for the counting and recording of the ballots, subject to the provisions of this article. If the board of elections and the city board determine it to be feasible and desirable, the board of elections may provide for the counting of the ballots by any combination

of electronic, mechanical or other devices to carry out the provisions of this section. The board of elections shall prepare and provide all necessary forms and equipment.

(5) Assembling ballots. As soon as the polls have closed, the election officials assigned by the board of elections at each polling place shall seal the ballot boxes without opening them and shall send them at once, as the board of elections may direct, to the central counting place for the district with a record of the number of ballots for community board member which have been voted in their polling place.

(6) Checking number of ballots. At the central counting place the number of ballots for community board member found in each ballot box shall be recorded and compared with the record sent from the corresponding polling place. The records thus compared shall be made available to the public with notations explaining any corrections or changes made therein. Discrepancies which cannot be reconciled shall be shown on the record. All ballots found in the ballot boxes which bear no evidence of having been improperly cast shall be accepted.

(7) Sorting of ballots. Ballots shall be sorted by polling places in an order determined by lot.

(8) Rules for validity. If a ballot does not clearly show which candidate the voter prefers to all others or if it contains the signature of the voter, it shall be held as invalid. Every ballot not thus invalid shall be counted according to the intent of the voter so far as that can be clearly ascertained, whether marked according to the instructions printed on it or not. No ballot shall be held invalid because it is marked in ink or pencil different from the one supplied at the polling place, or because the names of candidates thereon have been stricken out by the voter. Any cross mark or check mark shall be disregarded, except that a single cross mark or check mark on a ballot on which no number one appears shall be considered equivalent to the number one. If the consecutive numerical order of the numbers on a ballot is broken by the omission of one or more numbers, the smallest number marked shall be taken to indicate the voter's first choice, the next smallest his second, and so on, without regard to the number or numbers omitted.

(9) Count of first choices. At the beginning of the count for each district the ballots shall be sorted and counted according to the first

choices marked on them. The ballots shall be so credited to the candidates of their choice in the order of polling places chosen by lot as specified in paragraph seven of this subdivision. The number of valid ballots cast for each candidate as first choice in each polling place and the total number of valid ballots for each candidate and for all candidates shall be determined and recorded.

(10) Single transferable vote. Each candidate shall be credited with one vote for every ballot that is sorted to him as first choice or transferred to him as hereinafter provided, and no ballot shall ever be credited to more than one candidate at the same time.

(11) Quota sufficient to elect. The quota of votes sufficient to elect a community board member shall be determined by dividing the total number of valid ballots cast in the community district by one more than the number of members to be elected for the district and adding one to the result, disregarding fractions. This is the smallest number of ballots which could be received separately by each of as many candidates as are to be elected but not by one more.

(12) Election of candidates with quotas. All candidates whose first-choice ballots equal or exceed the quota shall be declared elected.

(13) Transfer of surplus ballots. All of the surplus ballots in excess of the quota of each candidate so elected shall be transferred from him, each to the unelected candidate indicated on it as next choice among such candidates. The ballots to be so transferred as surplus ballots shall be those last received by the candidate in the count of first choices which show a clear next choice for an unelected candidate. All ballots which show no such clear next choice shall be left to the credit of the candidate of their first choice. If more than one candidate has first-choice ballots in excess of the quota, the surplus ballots of the candidate with most ballots shall be transferred first, then those of the candidate with next most ballots, and so on.

(14) Election of candidates during transfers. Whenever during any transfer of ballots, at any stage of the counting, the number of ballots credited to a candidate becomes equal to the quota, he shall be declared elected and no ballots in excess of the quota shall be transferred to him. Any transferred ballots in excess of the quota which show a next choice for such candidate shall be transferred further at once, each to

the next subsequent choice on it for a continuing candidate. A "continuing candidate" is a candidate not yet elected or defeated. If such a ballot shows no such further choice, it shall be set aside as "exhausted".

(15) Defeat of lowest candidates. After the count of first choices and the transfer of all surplus ballots, if any, the candidates having fewest votes to their credit shall be successively defeated and their ballots transferred as hereinafter provided. The one candidate with the fewest votes shall be declared defeated first. If at this point, two or more of the candidates with the next fewest votes, including any such candidates whose names have been written in, have together fewer votes than the candidate next higher in number of votes, they may all be declared defeated together unless this would reduce the number of undefeated candidates below the number to be elected.

(16) Transfer of ballots from defeated candidates. All the ballots of the candidates thus defeated shall be transferred, each to the candidate indicated on it as next choice among the continuing candidates. If a ballot shows no such further choice, it shall be set aside as exhausted. If the same choice is marked for more than one candidate, it shall be disregarded except as to continuing candidates, but if the next choice for a continuing candidate is marked for more than one continuing candidate, the ballots shall be set aside as exhausted.

(17) Defeat of candidate then lowest. When all the ballots of the candidate or candidates first defeated have been transferred, the one candidate who is then lowest on the poll shall be declared defeated and all his ballots transferred in the same way.

(18) Successive defeats and transfers of ballots. Thereupon the candidate who is then lowest on the poll shall be declared defeated and all his ballots similarly transferred. The lowest candidates shall be declared defeated one at a time and all their ballots transferred until the election is at an end as hereinafter provided.

(19) Order of transfer. When ballots are being transferred from defeated candidates, they shall be transferred in the reverse order to that in which they were credited to the candidate whose ballots are being transferred, except that if no quota can possibly be completed for another candidate during the transfer they may be transferred in any order.

(20) Ties. In deciding any tie a candidate shall be treated as having more votes than another if he was credited with more votes at the end of the last preceding transfer or sorting of ballots at which the numbers of their votes were different. Any tie not thus decided shall be decided by lot.

(21) Election ended when all quotas are completed. If at any time as many candidates as are to be elected have received the quota, the other candidates shall all be declared defeated and the election shall be at an end. Any transfer that is in progress when the last candidate is elected may be completed for the record.

(22) Last candidates elected even if quotas are not completed. If at any time all ballots of any defeated candidates have been transferred and it is impossible to defeat another candidate without reducing the continuing candidates below the number still to be elected, all the continuing candidates shall be declared elected and the election shall be at an end.

(23) Correction of errors. If at any time after the first sorting of the ballots a ballot is found to have been misplaced, it shall be credited to the candidate who should have been credited with it at that stage of the counting or set aside as exhausted if that would have been the proper disposition of it at that stage, and any changes in the disposition of the ballots composing completed quotas made necessary by the correction shall also be made forthwith. If the number of misplaced ballots found indicates that the list of continuing candidates may be incorrect, so much of the sorting and counting as may be required to correct the error shall be done over again before the count proceeds.

(24) Record of count. A record of the count shall be kept in such form as to show, after each sorting or transfer of ballots, the number thereby credited to each candidate, the number thereby found exhausted, the total for each candidate, the total found exhausted, and the total number of valid ballots found by adding the totals of all candidates and the total found exhausted.

(25) Record and disposition of ballots. Every ballot that is transferred from one candidate to another shall be stamped or marked so as to show all the candidates to whom it is successively credited during the entire course of the count. If in correcting an error, or in recounting ballots, any ballots are re-sorted or re-transferred, every

such ballot shall be made to take the same course that it took in the original count unless the correction of an error requires its taking a different course.

(26) Ineligible candidates. If a candidate dies or is officially determined to be ineligible before the counting of the ballots is completed, all choices for such candidate shall be disregarded and every ballot which would otherwise have been counted for him shall be counted for the next choice thereon, if any, instead.

(27) Public attendance at count. The candidates, representatives of the press and other media and, so far as may be consistent with good order and convenience, the public shall be afforded every facility for being present and witnessing the count.

(28) Supplementary regulations. Administrative regulations for the conduct of elections by proportional representation, not inconsistent with the provisions of this article may be made by the city board and, subject to any such regulation, by the board of elections in the city of New York.

** 7. Method of election. The members of each community board shall be elected in accordance with the following rules of limited voting:

(a) Community board members shall be voted for on voting machines, in accordance with the provisions of title two of article seven of the election law.

(b) Order of names on ballot. The names of the candidates shall be printed in the alphabetical order of their surnames, except that they shall be rotated by polling places by transposing the first named candidate to the bottom of the order at each succeeding polling place so that each name shall appear first and in each other position in an equal number, as nearly as possible, of the polling places.

(c) Vote casting. Each voter is entitled to cast one vote for each candidate to a maximum of four votes. No voter may cast more than one vote for any one candidate.

(d) Election of candidates. The nine candidates receiving the greatest number or votes when ballots are counted in accordance with the provisions of article nine of the election law shall be elected.

(e) Ties. In the event that more eligible persons than the number remaining to be elected receive an equal number of votes, on notice to the persons receiving the same number of votes, the board of elections

in the city of New York shall determine by lot which of those persons is elected.

(f) Supplementary regulations. Administrative regulations for the conduct of elections by limited voting, not inconsistent with the provisions of this article, may be made by the board of elections in the city of New York, in consultation with the city board.

** NB The amendments to subdivision 7 made by chapter 149 of the laws of 1998, although signed into law by the Governor on July 2, 1998, are not operative until precleared by the Department of Justice, which has not yet occurred.

8. (a) In addition to the conditions enumerated in the public officers law creating a vacancy, a member of a community board who refuses or neglects to attend three meetings of his board of which he is duly notified, without rendering in writing a good and valid excuse therefor vacates his office by refusal to serve. Each absence and any written excuse rendered shall be included within the official written minutes of such meeting. After the third unexcused absence the board shall declare a vacancy and certify the existence of the vacancy to the chancellor.

(b) Vacancies shall be filled for the unexpired term by the community board after consultation with the presidents' council or other consultative body representing parents' associations and other educational groups within the district. Recommendations made by such parents and other educational groups shall be submitted in writing and included within the record of the meeting at which the vacancy is filled.

(c) If the vacancy is not filled by the board within sixty days after it is declared due to a tie vote for such appointment, the chancellor shall vote with the community board, to break such tie vote. If the board has failed to fill the vacancy within sixty days after it is declared because of any other reason, the chancellor shall order the board to do so pursuant to section twenty-five hundred ninety-l of this chapter.

9. Public information and education. (a) Each community board shall prepare and submit to the city board monthly a performance report. The information provided shall include community board members' attendance

records; participation in community board committees and other community board activities; visits to schools; and voting records on major issues before the community board.

(b) The city board shall review and consolidate the performance reports into one comprehensive city district-wide report, which shall be disseminated to the community and the media semiannually.

10. Polling place procedures. The board of elections shall provide at the locations designated as polling places on the days of the community board elections, sufficient employees who have received formal training regarding the conduct of community board elections, including the procedures applicable to parent voters. The board of elections of the city of New York shall provide polling place employees who speak other languages as required by law.

11. Distribution of information/media. Beginning in October of the school year in which the community school election will take place, and continuing until the date of election, the city board shall ensure the distribution of voter guides to parents in addition to information regarding community board roles, functions, and activities, including upcoming elections, voter registration, candidate information, and the nature of the election process to parents and to the general public through city-wide and local media. The city board and the board of elections of the city of New York should use foreign language and ethnic newspapers and television stations to maximize minority participation in the electoral process.

12. Definition. For the purposes of this section, the term "parent of a child" shall include a parent of a child with a disability, as defined in article eighty-nine of this chapter.

* NB Revived June 30, 2028

*** § 2590-d. By-laws; regulations and decisions.** 1. The city board and the chancellor shall prescribe such by-laws and regulations as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board consistent with the

requirements of this article. The city board by-laws shall include a process by which any member of the city board may request that items be placed on the city board's agenda. Such request may be made at a city board regular public meeting or prior to such meeting. If a member of the city board requests that an item be placed on the agenda at a regular public meeting of the city board, then the chairperson shall respond to the request at such meeting. If a member of the city board requests that an item be placed on the agenda at any time prior to a regular public meeting of the city board, then the chairperson shall respond to the request at any time prior to the subsequent regular public meeting. Said by-laws and regulations shall be published and indexed and revised at least annually. Copies of such by-laws and regulations shall be made available for public inspection via the city board's official internet web site, at the offices of the city board, each community council, the office of the commissioner of education, and the legislative library in Albany, and at such other places as the city board may deem proper.

2. Each community council shall prescribe such by-laws and regulations as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board. Such by-laws and regulations shall be filed with the city board and the commissioner of education and shall be made available for inspection by the public at the offices of the community council. Such by-laws shall include, but not be limited to the following requirements:

a. that there shall be a parents' association or a parent-teachers' association in each school under its jurisdiction;

b. that the council, the community superintendent and the principal of each school shall have regular communication with all parents' associations and parent-teachers' associations within the community district, and meet with their elected officers at least quarterly during the school year, to the end that such associations are provided with full factual information pertaining to matters of pupil achievement, including but not limited to: annual reading scores, comparison of the achievement of pupils in comparable grades and schools, as well as the

record of achievement of the same children as they progress through the school; provided, however, that such record and scores shall not be disclosed in a manner which will identify individual pupils.

c. that community councils develop and implement a process consistent with procedures which shall be developed by the chancellor for community input in connection with the annual evaluation of the district superintendent and other instructional supervisors assigned or appointed to the district by the chancellor.

d. that all meetings of the community council be subject to article seven of the public officers law.

3. Copies of all written decisions rendered by the city board acting as an appeal board pursuant to subdivision ten of section twenty-five hundred ninety-g and copies of all written decisions rendered by the chancellor pursuant to section twenty-five hundred ninety-l shall be published, indexed and revised at least semi-annually. Copies of said decisions shall be made available for public inspection at the offices of the city board, each community council, the office of the commissioner of education, and at such other places as the city board shall deem proper.

* NB Effective until June 30, 2028

* § 2590-d. By-laws; regulations and decisions. 1. The city board and the chancellor shall prescribe such by-laws and regulations as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board. Said by-laws and regulations shall be published and indexed and revised at least annually. Copies of such by-laws and regulations shall be made available for public inspection at the offices of the city board, each community board, the office of the commissioner of education, and the legislative library in Albany, and at such other places as the city board may deem proper.

2. Each community board shall prescribe such by-laws and regulations as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board. Such by-laws and regulations shall be filed with the city board and the commissioner of

education and shall be made available for inspection by the public at the offices of the community board. Such by-laws shall include, but not be limited to the following requirements:

a. that there shall be a parents' association or a parent-teachers' association in each school under its jurisdiction;

b. that the board, the community superintendent and the principal of each school shall have regular communication with all parents' associations and parent-teachers' associations within the community district, and meet with their elected officers at least quarterly during the school year, to the end that such associations are provided with full factual information pertaining to matters of pupil achievement, including but not limited to: annual reading scores, comparison of the achievement of pupils in comparable grades and schools, as well as the record of achievement of the same children as they progress through the school; provided, however, that such record and scores shall not be disclosed in a manner which will identify individual pupils.

c. that districts implement a process for community involvement in connection with the periodic recommendation of superintendent candidates to the chancellor pursuant to regulations of the chancellor, subject to the review and approval of the chancellor, and such involvement in connection with the periodic review of the superintendent's performance.

d. that all meetings of the community board be subject to article seven of the public officers law.

3. Copies of all written decisions rendered by the city board acting as an appeal board pursuant to subdivision ten of section twenty-five hundred ninety-g and copies of all written decisions rendered by the chancellor pursuant to section twenty-five hundred ninety-l shall be published, indexed and revised at least semi-annually. Copies of said decisions shall be made available for public inspection at the offices of the city board, each community board, the office of the commissioner of education, and at such other places as the city board shall deem proper.

* NB Effective June 30, 2028

*** § 2590-e. Powers and duties of community district education council.** Each community council shall have the following powers and duties to establish educational policies and objectives, not inconsistent with the provisions of this article and the policies established by the city board, with respect to all pre-kindergarten, nursery, kindergarten, elementary, intermediate and junior high schools and programs in connection therewith in the community district. The community councils shall have no executive or administrative powers or functions, but shall have the following powers and duties:

3. promote achievement of educational standards and objectives relating to the instruction of students.

4. cooperate as required by the chancellor in the removal from office pursuant to section twenty-five hundred ninety-l of this article of any community council member for willful, intentional or knowing involvement in the hiring, appointment or assignment of employees other than as specifically authorized in this article.

5. a. require community council members, the community superintendent, and any other officer or employee in schools and programs under the jurisdiction of the community councils, to make annual written disclosure, in accordance with regulations and bylaws of the city board developed in consultation with the community councils, to the community council and the city board, of the following information:

(1) the employment by the city school board or any community council of any person related within the third degree of consanguinity or affinity to the person making disclosure, including the employment of any such person for which a two-thirds vote was required under paragraph e of subdivision four of section twenty-five hundred ninety-j of this chapter with a notation of the date such vote was taken.

(2) the source of any income, reimbursement, gift or other form of compensation for services rendered together with a description of such services.

(3) the source of any financial contribution made within the year preceding the election or the term of office of a community district education council member to assist in the election or reelection of such member of the community council, and the amount of such contribution, consistent with any applicable regulations of the city board and the board of elections.

b. willful or repeated failure to make full and timely disclosure shall constitute cause for removal from office of any member of a community council or for any other officer or employee disciplinary action and such other penalty as provided by law.

c. all written disclosures required hereunder shall be filed with the community council and the city board and shall be available for public inspection during regular business hours on regular business days.

6. require community council members, candidates for community district education councils, the community superintendent and, for good cause shown, any other officer or employee in schools and programs under the jurisdiction of the community councils to submit to the city board and the community councils, in accordance with regulations and bylaws of the city board developed in consultation with the community councils, financial reports for themselves and their spouses.

a. the frequency and period of coverage, the designation of persons to submit such reports by name, title or income level or by a combination thereof, and the content of such reports, including minimum dollar amounts, shall be determined by the city board.

b. willful or repeated failure to file required financial reports or make other required disclosures shall constitute cause for removal from office of any member of a community council or for any other officer or employee disciplinary action and such other penalty as provided by law. No person may assume office as a community council member without previously complying with this subdivision, subdivision five of this section, and with all applicable financial disclosure requirements promulgated by the board of elections.

7. participate in training and continuing education programs pursuant to the provisions of this subdivision.

(1) Community district education council members shall participate in training to acquaint them with the powers, functions and duties of community council members, as well as the powers of other governing and administering authorities that affect education including the powers of the commissioner, city board, chancellor and community superintendents. Such participation shall be completed no later than three months from the date in which a community council member takes office for the first time.

(2) Each community district education council member shall be required to participate in continuing education programs on an annual basis as defined by the chancellor. Participation in training pursuant to paragraph one of this subdivision by a community district education council member who takes office for the first time shall be deemed to satisfy the requirements of this subdivision for the first year of such member's term.

(3) such training and continuing education programs shall be approved by the chancellor, following consultation with the commissioner, and may be provided by the state education department, the city board, the chancellor or a nonprofit provider authorized by the chancellor to provide such training and continuing education programs.

(4) the chancellor is authorized to promulgate regulations regarding providers and their certification, the content and implementation of the training and continuing education programs. Any such regulations shall be developed after consultation with the commissioner.

(5) such training and continuing education programs shall be offered by the chancellor on an annual basis or more frequently, as needed, to enable community council members to comply with this subdivision.

(6) failure of community council members to comply with the training and continuing education requirements mandated by this subdivision shall constitute cause for removal from office pursuant to section twenty-five hundred ninety-1 of this article.

8. Each year prepare a school district report card pursuant to regulations of the commissioner, and shall make it publicly available by

transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the requests to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

9. Subject to paragraph (o) of subdivision one of section twenty-five hundred ninety-f of this article, to employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be the district's attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York city charter in actions or proceedings in which the council or any member thereof is a defendant or a respondent.

10. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide

transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and (b) such student had been delivered to his or her parent or legal guardian.

11. Approve zoning lines, as submitted by the superintendent, consistent with the regulations of the chancellor, applicable to schools under the jurisdiction of the community district.

12. Hold meetings at least every month with the superintendent to discuss the current state of the schools in the district and progress made toward the implementation of the district's comprehensive education plan required by the chancellor.

13. Review of the district's educational programs and assess their effect on student achievement.

14. Hold public meetings at least every month with the superintendent during which the public may speak so that parents and the community have a voice and a public forum to air their concerns.

15. Submit an annual evaluation of the superintendent to the chancellor.

16. Submit an annual evaluation consistent with procedures which shall be developed by the chancellor of all other instructional supervisory personnel who have responsibility for more than one school within the

district.

17. Hold a public hearing on the district's annual capacity plans, recommended by the superintendent and based on data from the chancellor on enrollment/utilization for each school within the district and submit such plan, upon approval by the community council, to the chancellor for his or her approval and implementation.

18. Provide input, as it deems necessary, to the chancellor and the city board on matters of concern to the district.

19. Liaison with school leadership teams as may be necessary, provide assistance to the school leadership teams where possible, and serve on the district leadership team by designating a representative.

20. Consult on the selection of a community superintendent pursuant to subdivision thirty of section twenty-five hundred ninety-h of this article. Such consultation shall include an opportunity for the community council to interview a minimum of three final candidates the chancellor is considering appointing and to provide feedback to the chancellor, which may include a ranked list of such candidates, prior to the appointment being made.

21. Hold a joint public hearing with the chancellor or deputy chancellor, or in the case of a proposed significant change in school utilization the chancellor or his or her designee, and the impacted school based management team regarding any proposed school closing or significant change in school utilization, including the phase-out, grade reconfiguration, re-siting, or co-location of schools, of any public school located within the community district pursuant to subdivision two-a of section twenty-five hundred ninety-h of this article. Following such hearing, the community council may pass a resolution on whether to recommend or not recommend to the city board the proposed school closing or significant change in school utilization, and shall transmit it to the city board for its consideration at least seven days in advance of any city board vote on such item pursuant to section twenty-five hundred ninety-g of this article, provided that the receipt of such resolution

from the community council shall not be a precondition for the city board to act on the matter.

* NB Effective until June 30, 2028

* § 2590-e. Powers and duties of community boards. Each community board shall have the following powers and duties to establish educational policies and objectives, not inconsistent with the provisions of this article and the policies established by the city board, with respect to all pre-kindergarten, nursery, kindergarten, elementary, intermediate and junior high schools and programs in connection therewith in the community district. The community boards shall have no executive or administrative powers or functions, but shall have the following powers and duties:

1. employ a community superintendent, selected by the chancellor, by contract for a term not to exceed by more than one year the term of office of the community school board authorizing such contract, subject to removal for cause, at a salary to be fixed within the budgetary allocation therefor, subject to the provisions of subdivision two of section twenty-five hundred ninety-j of this article. Consistent with procedures of the chancellor establishing a publicly inclusive process for the recruitment, screening and selection of superintendent candidates, and regulations establishing educational, managerial, and administrative qualifications and performance record criteria for such position, the community board shall select no more than four final candidates for superintendent from candidates for appointment, who shall have been interviewed and screened by and with the assistance of parents, teachers, representatives of school support personnel, and administrators, and forward such names, to the chancellor for selection together with the reasons for the recommendation of such candidates. If the chancellor should reject all the candidates for written reasons within thirty days after the receipt of the proposed names, the community board shall make another selection of no more than four new names consistent with such procedures and regulations, until the chancellor selects a candidate. The contract of employment shall be consistent with a model contract promulgated by the chancellor which shall include provisions for reappointment.

3. promote achievement of educational standards and objectives relating to the instruction of students.

4. cooperate as required by the chancellor in the removal from office pursuant to section twenty-five hundred ninety-l of this article of any community board member for willful, intentional or knowing involvement in the hiring, appointment or assignment of employees other than as specifically authorized in this article.

5. a. require community board members, the community superintendent, and any other officer or employee in schools and programs under the jurisdiction of the community boards, to make annual written disclosure, in accordance with regulations and bylaws of the city board developed in consultation with the community boards, to the community board and the city board, of the following information:

(1) the employment by the city school board or any community board of any person related within the third degree of consanguinity or affinity to the person making disclosure, including the employment of any such person for which a two-thirds vote was required under paragraph e of subdivision four of section twenty-five hundred ninety-j of this chapter with a notation of the date such vote was taken.

(2) the source of any income, reimbursement, gift or other form of compensation for services rendered together with a description of such services.

(3) the source of any financial contribution made within the year preceding the election or the term of office of a community board member to assist in the election or reelection of such member of the community board, and the amount of such contribution, consistent with any applicable regulations of the city board and the board of elections.

b. willful or repeated failure to make full and timely disclosure shall constitute cause for removal from office of any member of a community board or for any other officer or employee disciplinary action and such other penalty as provided by law.

c. all written disclosures required hereunder shall be filed with the community board and the city board and shall be available for public

inspection during regular business hours on regular business days.

6. require community board members, candidates for community boards, the community superintendent and, for good cause shown, any other officer or employee in schools and programs under the jurisdiction of the community boards to submit to the city board and the community boards, in accordance with regulations and bylaws of the city board developed in consultation with the community boards, financial reports for themselves and their spouses, provided that in the case of community board members and candidates for community boards the statement of financial disclosure and the frequency with which it must be filed must satisfy at least the requirements and standards for disclosure of section seventy-three-a of the public officers law.

a. the frequency and period of coverage, the designation of persons to submit such reports by name, title or income level or by a combination thereof, and the content of such reports, including minimum dollar amounts, shall be determined by the city board.

b. willful or repeated failure to file required financial reports or make other required disclosures shall constitute cause for removal from office of any member of a community board or for any other officer or employee disciplinary action and such other penalty as provided by law. No person may assume office as a community board member without previously complying with this subdivision, subdivision five of this section, and with all applicable financial disclosure requirements promulgated by the board of elections.

7. participate in training and continuing education programs pursuant to the provisions of this subdivision.

(1) Community board members shall participate in training to acquaint them with the powers, functions and duties of community board members, as well as the powers of other governing and administering authorities that affect education including the powers of the commissioner, city board, chancellor and community superintendents. Such participation shall be completed no later than six months from the date in which a community board member takes office for the first time.

(2) Each community board member shall be required to participate in continuing education programs on an annual basis as defined by the chancellor. Participation in training pursuant to paragraph one of this subdivision by a community board member who takes office for the first time shall be deemed to satisfy the requirements of this subdivision for the first year of such member's term.

(3) such training and continuing education programs shall be approved by the chancellor, following consultation with the commissioner, and may be provided by the state education department, the city board, the chancellor or a nonprofit provider authorized by the chancellor to provide such training and continuing education programs.

(4) the chancellor is authorized to promulgate regulations regarding providers and their certification, the content and implementation of the training and continuing education programs. Any such regulations shall be developed after consultation with the commissioner.

(5) such training and continuing education programs shall be offered on an annual basis or more frequently, as needed, to enable community board members to comply with this subdivision.

(6) failure of community board members to comply with the training and continuing education requirements mandated by this subdivision shall constitute cause for removal from office pursuant to section twenty-five hundred ninety-1 of this article.

8. Each year prepare a school district report card pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil

performance and expenditure per pupil required to be included in the annual report by the requests to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

9. Subject to paragraph (o) of subdivision one of section twenty-five hundred ninety-f of this article, to employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be the district's attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York city charter in actions or proceedings in which the board or any member thereof is a defendant or a respondent.

10. Where the district has provided transportation to students enrolled in such district to a school sponsored field trip, extracurricular activity or any other similar event, it shall provide transportation back to either the point of departure or to the appropriate school in the district, unless the parent or legal guardian of a student participating in such event has provided the school district with written notice, consistent with district policy, authorizing an alternative form of return transportation for such student or unless intervening circumstances make such transportation impractical. In cases where intervening circumstances make transportation of a student back to the point of departure or to the appropriate school in the district impractical, a representative of the school district shall remain with the student until such student's parent or legal guardian has been (a) contacted and informed of the intervening circumstances which make such transportation impractical and

(b) such student had been delivered to his or her parent or legal guardian.

* NB Effective June 30, 2028

*** § 2590-f. Community superintendents.** 1. Subject in every case to powers devolved to principals and schools consistent with this article, the community superintendent shall have the following powers and duties as superintendent of schools for the community district, which shall be exercised in a manner to ensure the implementation of all provisions of law, rules and regulations relating to the management of the schools and the delivery of instructional services:

(a) to assist district schools in obtaining waivers from state, federal and city board regulations where appropriate to promote student achievement and school performance.

(b) to delegate any of her or his powers and duties to such subordinate officers or employees of her or his community district as she or he deems appropriate, at his or her sole discretion, and to modify or rescind any power and duty so delegated.

(c) except for the appointment of supervisors pursuant to paragraph (d) of this subdivision, to appoint, define the duties of, assign, promote and discharge all employees, including teacher-aides, of the community district, and fix their compensation and terms of employment within amounts appropriated therefor and not inconsistent with the provisions of this article and any collective bargaining agreement.

(d) to appoint supervisory personnel from candidates screened by a screening committee consistent with regulations of the chancellor establishing a process that promotes parental and staff involvement in the recruitment, screening, interviewing and recommendation of candidates and consistent with qualifications established through chancellor's regulations.

(e) to appoint or reject the principal and assistant principal candidates screened by screening committees, consistent with regulations of the chancellor establishing a process that promotes parental and staff involvement in the recruitment, screening, interviewing and recommendation of candidates, and after consulting with members of the school based management team. Candidates must meet the requirements of

regulations of the chancellor establishing educational, managerial, and administrative qualifications, including evaluation of each candidate's record of performance in comparable positions and shall be subject to the chancellor's power to reject such appointments pursuant to section twenty-five hundred ninety-h of this article.

(f) to supervise and evaluate, at least annually, the performance of principals for every school in the district with respect to educational effectiveness and school performance, including effectiveness of promoting student achievement and parental involvement, developing an effective shared decision-making relationship with the school based management team, and maintaining school discipline; the community superintendent shall have access to all school records that he or she deems necessary and shall consider comments contained within an assessment made by the school based management team, pursuant to subparagraph (vii) of paragraph (b-1) of subdivision fifteen of section twenty-five hundred ninety-h of this article, when carrying out such evaluations.

(g) the authority to transfer or remove principals for persistent educational failure, conflicts of interest, and ethics violations, and to require principals to participate in training and other remedial programs to address identified factors affecting student achievement and school performance, consistent with sections twenty-five hundred ninety-h, twenty-five hundred ninety-i and twenty-five hundred ninety-l of this article.

(h) to review, modify and approve school-based budgets proposed by the school, pursuant to section twenty-five hundred ninety-r of this article, provided however, that the community superintendent shall only approve a school-based budget proposal after certifying that it is sufficiently aligned with its corresponding school's comprehensive educational plan. The community superintendent shall prescribe the form and manner in which principals must submit written justification to demonstrate that the proposed school-based budget is aligned with the school's comprehensive educational plan, and shall also include a provision allowing for the school based management team to respond to such justification. The community superintendent shall consider the principal's written justification, along with any response provided by the school based management team, prior to making such certification.

(h-1) to establish a process that allows for school based management team members, other than the principal, to dispute any decision made by the principal where such team members reach a consensus that the decision is inconsistent with the goals and policies set forth in their school's existing comprehensive educational plan. The community superintendent shall provide a written response to the school based management team and the principal that includes the information reviewed and the basis for the community superintendent's decision regarding such dispute.

(i) to retain one or more district fiscal officers to monitor and report on schools' expenditures pursuant to the school-based budgets.

(j) within the amounts appropriated therefor to administer district minor repair and purchasing funds, and make them available to schools consistent with sections twenty-five hundred ninety-i, twenty-five hundred ninety-r, and subdivisions thirty-six and thirty-seven of section twenty-five hundred ninety-h of this article, for services and supplies provided by the chancellor, the community superintendent, or purchased by the schools, and to provide for minor repairs to all school buildings and other buildings and sites under the district's jurisdiction.

(k) subject to subdivision three of section twenty-five hundred ninety-e of this article and this section, to approve or disapprove matters relating to the instruction of students, including the power to disapprove school choices with respect to selection of textbooks and other instructional materials.

(l) (1) to provide assistance and direct support to parents in accessing information, addressing concerns and responding to complaints relating to their child's education that cannot be resolved at the school level.

(2) to operate administrative offices and similar facilities, including social centers, and recreational and extracurricular programs, under the district's jurisdiction, and the duty to support the operation of school facilities. The community superintendent shall establish a central office within the district and hire and supervise sufficient staff to directly interact with parents, respond to information requests, receive input and comments, assist the community superintendent in resolving complaints in a timely manner, and work to

develop a cooperative relationship with parents and the school community.

(m) subject to regulations or resolutions of the city board, to operate cafeteria or restaurant services for pupils and teachers and for the use by the community for school related functions and activities and to furnish meals to the elderly, sixty years of age or older, of the district. Charges shall be sufficient to meet the direct cost of preparing and serving such meals, reducible by available reimbursements.

(n) to maintain discipline in the educational and other facilities under the jurisdiction of the district, including the duty to assist the schools in maintaining discipline.

(o) to employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be the district's attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York city charter; provided, however, that in actions or proceedings between community districts or between a community district and the city board, each community district may be represented by its own counsel.

(p) in compliance with rules and regulations of the commissioner, promulgated pursuant to section one hundred one-a of this chapter, to give written notice to the family court pursuant to subdivision three of section seven hundred fifty-eight-a and subdivision three of section 353.6 of the family court act of the desire of any school under the jurisdiction of the community district to act in the supervision of certain juveniles while performing services for the public good.

(q) to take all necessary steps to ensure the integrity of community district operations, consistent with standards, policies, objectives, and regulations of the city district.

(r) where so authorized by the chancellor, to exercise the chancellor's powers under subdivision thirty-one of section twenty-five hundred ninety-h of this article.

(s) to provide written notice and other related information described in subdivision forty-eight of section twenty-five hundred ninety-h of this article to every parent of a child, including a child with a disability, attending a school under the jurisdiction of his or her community district education council as directed by the chancellor.

(t) notwithstanding any provisions of law to the contrary, to exercise

all of the duties and responsibilities of the employing board as set forth in section three thousand twenty-a of this chapter pursuant to a delegation of the chancellor under section twenty-five hundred ninety-h of this article.

(u) to provide relevant data to the community district education council to encourage informed and adequate public discussion on student achievement and the state of each school within the district.

(v) to hold at least two public forums within the district, during each school year, for the purpose of reporting on the district's performance, including progress made toward achieving the district comprehensive educational plan goals, discussing plans for improvement, and receiving parental and community comments and concerns; the community superintendent shall ensure that notice for the public forums is posted in a manner to maximize the participation of parents, students and school personnel and is specifically circulated to members of the school based management teams, community district education council and the relevant community boards.

(w) to provide notice of any proposed school closing or significant change in school utilization, including the phase-out, grade reconfiguration, re-siting, or co-location of schools, for any public school within the community district to all impacted parents, including information as to where a copy of the educational impact statement, or revised educational impact statement if applicable, may be obtained and the date of any hearing on such school closure or significant change in school utilization pursuant to subdivision two-a of section twenty-five hundred ninety-h of this article.

2. In exercising such powers and duties each community superintendent shall comply with all applicable provisions of law, by-laws, rules or regulations, directives or agreements of the chancellor and his or her community district education council and with the city-wide educational policies established by the city board and his or her community district education council, including performance standards addressed to administration and educational effectiveness, and any requirements for continuing training and education, embodied in standards, circulars or regulations promulgated by the chancellor provided however, that the chancellor shall ensure that community superintendents are assigned to

tasks predominantly within their own community districts and that in no event shall community superintendents be assigned any task which would impair their ability to exercise the powers and duties enumerated within this section, such as responding to parental comments and concerns, appointing and evaluating principals, approving school-based budgets, overseeing educational instruction, providing access to information and assisting with resolving complaints.

3. No person who has served as a member of a community district education council may be employed by that board or the community superintendent of that district within a period of three years after the termination of such service unless such person qualifies for the position pursuant to a competitive examination and applicable provisions of the civil service law.

* NB Effective until June 30, 2028

* § 2590-f. Community superintendents. 1. Subject in every case to powers devolved to principals and schools consistent with this article, the superintendent shall have the following powers and duties:

(a) to assist district schools in obtaining waivers from state, federal and city board regulations where appropriate to promote student achievement and school performance.

(b) to delegate any of her or his powers and duties to such subordinate officers or employees of her or his community district as she or he deems appropriate and to modify or rescind any power and duty so delegated.

(c) except for the appointment of supervisors pursuant to paragraph (d) of this subdivision, to appoint, define the duties of, assign, promote and discharge all employees, including teacher-aides, of the community district, and fix their compensation and terms of employment within amounts appropriated therefor and not inconsistent with the provisions of this article and any collective bargaining agreement.

(d) to appoint supervisory personnel from candidates screened by a committee including parents, teachers, and school support personnel, who shall be selected and shall operate in a manner prescribed by chancellor's regulations.

(e) to appoint or reject the principal candidates screened by screening committees, in accordance with procedures and criteria

prescribed by chancellor's regulations, and subject to the chancellor's power to reject such appointments pursuant to section twenty-five hundred ninety-h of this article.

(f) to evaluate, at least annually, the performance of principals for every school in the district with respect to educational effectiveness and school performance, including effectiveness of promoting student achievement and parental involvement, and maintaining school discipline.

(g) the authority to transfer or remove principals for persistent educational failure, conflicts of interest, and ethics violations, and to require principals to participate in training and other remedial programs to address identified factors affecting student achievement and school performance, consistent with sections twenty-five hundred ninety-h, twenty-five hundred ninety-i and twenty-five hundred ninety-l of this article.

(h) to review, modify and approve school-based budgets proposed by the school, pursuant to section twenty-five hundred ninety-r of this article.

(i) to retain one or more district fiscal officers to monitor and report on schools' expenditures pursuant to the school-based budgets.

(j) within the amounts appropriated therefor to administer district minor repair and purchasing funds, and make them available to schools consistent with sections twenty-five hundred ninety-i, twenty-five hundred ninety-r, and subdivisions thirty-six and thirty-seven of section twenty-five hundred ninety-h of this article, for services and supplies provided by the chancellor, the superintendent, or purchased by the schools, and to provide for minor repairs to all school buildings and other buildings and sites under the district's jurisdiction.

(k) subject to subdivision three of section twenty-five hundred ninety-e of this article and this section, to approve or disapprove matters relating to the instruction of students, including the power to disapprove school choices with respect to selection of textbooks and other instructional materials.

(l) to operate administrative offices and similar facilities, including social centers, and recreational and extracurricular programs, under the district's jurisdiction, and the duty to support the operation of school facilities.

(m) subject to regulations or resolutions of the city board, to

operate cafeteria or restaurant services for pupils and teachers and for the use by the community for school related functions and activities and to furnish meals to the elderly, sixty years of age or older, of the district. Charges shall be sufficient to meet the direct cost of preparing and serving such meals, reducible by available reimbursements.

(n) to maintain discipline in the educational and other facilities under the jurisdiction of the district, including the duty to assist the schools in maintaining discipline.

(o) to employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be the district's attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York city charter; provided, however, that in actions or proceedings between community districts or between a community district and the city board, each community district may be represented by its own counsel.

(p) in compliance with rules and regulations of the commissioner, promulgated pursuant to section one hundred one-a of this chapter, to give written notice to the family court pursuant to subdivision three of section seven hundred fifty-eight-a and subdivision three of section 353.6 of the family court act of the desire of any school under the jurisdiction of the community district to act in the supervision of certain juveniles while performing services for the public good.

(q) to take all necessary steps to ensure the integrity of community district operations, consistent with regulations promulgated by the chancellor and the city board.

(r) where so authorized by the chancellor, to exercise the chancellor's powers under subdivision thirty-one of section twenty-five hundred ninety-h of this article.

** (s) to provide written notice and other related information described in paragraph (b) of subdivision three of section twenty-five hundred ninety-c of this article to every parent of a child, including a child with a disability, attending a school under the jurisdiction of his or her community board as directed by the chancellor.

** NB There are 2 par (s)'s

** (s) notwithstanding any provisions of law to the contrary, to exercise all of the duties and responsibilities of the employing board as set forth in section three thousand twenty-a of this chapter pursuant

to a delegation of the chancellor under section twenty-five hundred ninety-h of this article.

** NB There are 2 par (s)'s

2. In exercising such powers and duties each community superintendent shall comply with all applicable provisions of law, by-laws, rules or regulations, directives or agreements of the city board, the chancellor and his or her community board and with the educational policies established by the city board and his or her community board, including performance standards addressed to administration and educational effectiveness, and any requirements for continuing training and education, embodied in standards, circulars or regulations promulgated by the chancellor.

3. No person who has served as a member of a community board may be employed by that board or the superintendent of that district within a period of three years after the termination of such service unless such person qualifies for the position pursuant to a competitive examination and applicable provisions of the civil service law.

* NB Effective June 30, 2028

*** § 2590-g. Powers and duties of the city board.** The city board shall advise the chancellor on matters of policy affecting the welfare of the city school district and its pupils. The board shall exercise no executive power and perform no executive or administrative functions. Nothing herein contained shall be construed to require or authorize the day-to-day supervision or the administration of the operations of any school within the city school district of the city of New York. The board shall have the power and duty to:

1. (a) approve standards, policies, and objectives proposed by the chancellor directly related to educational achievement and student performance;

(b) consider and approve any other standards, policies, and objectives as specifically authorized or required by state or federal law or regulation;

(c) approve all regulations proposed by the chancellor or the city board and any amendments made thereto;

(d) approve the educational facilities capital plan, and any amendments requiring city board approval pursuant to section twenty-five hundred ninety-p of this article, following any applicable hearings conducted by the community district education councils;

(e) approve annual estimates of the total sum of money which it deems necessary for the operation of the city district and the capital budget pursuant to section twenty-five hundred ninety-q of this article;

(f) approve the allocation of projected revenues among community districts and their schools pursuant to subdivision a of section twenty-five hundred ninety-r of this article and to approve the aggregation of the community district budgets, with a proposed budget for administrative and operational expenditures of the city board and the chancellor, following a public hearing pursuant to subdivision f of section twenty-five hundred ninety-r of this article;

(g) approve a procurement policy for the city district, and any amendments made thereto, developed pursuant to subdivision thirty-six of section twenty-five hundred ninety-h of this article; and

(h) approve proposals for all school closures or significant changes in school utilization including the phase-out, grade reconfiguration, re-siting, or co-location of schools, following any hearing pursuant to subdivision two-a of section twenty-five hundred ninety-h of this article. If the city board approves such a proposal that the relevant community council affirmatively voted against pursuant to subdivision twenty-one of section twenty-five hundred ninety-e of this article, the board shall provide such council an explanation for its determination within thirty days of such determination.

2. for all purposes, be the government or public employer of all persons appointed or assigned by the city board or the community districts; provided, however, that the chancellor shall have the authority to appoint staff pursuant to subdivision forty-one of section twenty-five hundred ninety-h of this article;

2-a. adopt a policy proposed by the chancellor that promotes the recruitment and retention of a workforce at the city district, community

district and school level that considers the diversity of the students attending the public schools within the city district. The city board shall review at a regular public meeting an annual report issued by the chancellor outlining the initiatives taken to enhance diversity and equity in recruitment and retention and the impacts of such initiatives to the workforce at the city district, community district and school level;

3. serve as the appeal board as provided in section twenty-five hundred ninety-l of this article, and subject to such powers, duties, and restrictions as were in effect before the effective date of this section;

4. subject to the provisions of section twenty-five hundred ninety-i of this article, maintain such jurisdiction over city-wide educational policies governing the special, academic, vocational, and other high schools authorized by this article before the effective date of this section as the respective community district education councils maintain over the schools within their jurisdiction, which shall not be construed to require or authorize the day-to-day supervision or the administration of the operations of such schools.

5. (a) Approve any contract awarded by the city district or the community districts where:

(i) such contract was let by a procurement method other than competitive sealed bidding pursuant to subdivision thirty-six of section twenty-five hundred ninety-h of this article, including but not limited to competitive sealed proposals, or sole source contracts;

(ii) such contract provides for technical, consultant or personal services;

(iii) the value of such contract exceeds, or projects an annual expenditure exceeding one million dollars; or

(iv) the value of any contracts awarded to a single entity exceeds one million dollars annually;

(b) Approve all franchises, revocable consents, and concessions awarded by the city district or the community districts.

(c) Notwithstanding paragraphs (a) and (b) of this subdivision, city

board approval shall not be required for any contract with the United States General Services Administration or any other federal agency, if the price is lower than the prevailing market price, or the New York state office of general services or any other state agency, if the price is lower than the prevailing market price, or for any contract made directly by an individual school.

6. Approve litigation settlements only when such settlement would significantly impact the provision of educational services or programming within the district.

6-a. Approve by-laws for the city board pursuant to section twenty-five hundred ninety-d of this article.

7. All items requiring city board approval shall be by a public vote at a regular public meeting, consistent with the requirements contained within subdivision one of section twenty-five hundred ninety-b of this article, and such items shall not become effective until after such vote occurs except as expressly authorized in subdivision nine of this section.

8. (a) Prior to the approval of any proposed item listed in subdivision one of this section, undertake a public review process to afford the public an opportunity to submit comments on the proposed item. Such public review process shall include notice of the item under city board consideration which shall be made available to the public, including via the city board's official internet website, and specifically circulated to all community superintendents, community district education councils, community boards, and school based management teams, at least forty-five days in advance of any city board vote on such item. Notice of the proposed item under city board consideration shall include:

(i) a description of the subject, purpose and substance of the proposed item under consideration;

(ii) information regarding where the full text of the proposed item may be obtained;

(iii) the name, office, address, email and telephone number of a city

district representative, knowledgeable on the item under consideration, from whom any information may be obtained concerning such item;

(iv) date, time and place of any hearing regarding the proposed item, if applicable;

(v) date, time and place of the city board meeting at which the city board will vote on the proposed item; and

(vi) information on how to submit written or oral comments regarding the item under consideration.

(b) In the event that a proposed item listed in subdivision one of this section is substantially revised at any time following the public notice provided pursuant to paragraph (a) of this subdivision, the city board shall issue a revised public notice. Such revised notice shall be available at least fifteen days in advance of any city board vote on the proposed item, but in no event shall the city board vote on any such item within forty-five days from the initial public notice provided pursuant to paragraph (a) of this subdivision. Revised public notice of the item under city board consideration shall include:

(i) a description of the subject, purpose and substance of the revised item under consideration;

(ii) identification of all substantial revisions to the item;

(iii) a summary of all public comments received on such item following the initial public notice pursuant to paragraph (a) of this subdivision;

(iv) information regarding where the full text of the revised item may be obtained;

(v) the name, office, address, email and telephone number of a city district representative, knowledgeable on the item under consideration, from whom any information may be obtained concerning such item;

(vi) date, time and place of any hearing regarding the item, if applicable;

(vii) date, time and place of the city board meeting at which the city board will vote on the item; and

(viii) information on how to submit written or oral comments regarding the item under consideration.

(c) Following the public review process pursuant to paragraph (a) or (b) of this subdivision but prior to voting on any proposed item listed in subdivision one of this section, the city board shall make available to the public, including via the city board's official internet web

site, an assessment of all public comments concerning the item under consideration received prior to twenty-four hours before the city board meeting at which such item is subject to a vote. Such assessment shall include:

(i) a summary and an analysis of the issues raised and significant alternatives suggested;

(ii) a statement of the reasons why any significant alternatives were not incorporated into the proposed item;

(iii) a description of any changes made to the proposed item as a result of public comments received; and

(iv) information as to where the full text of any approved item may be obtained.

9. In the event the city board or the chancellor determines that immediate adoption of any item requiring city board approval is necessary for the preservation of student health, safety or general welfare and that compliance with the requirements of subdivision seven or eight of this section would be contrary to the public interest, then such proposed item may be adopted on an emergency basis. The city board or chancellor shall provide written justification for such determination and make such justification publicly available including via the city board's official internet web site. Except as expressly authorized for school closures or significant changes in school utilizations pursuant to paragraph (f) of subdivision two-a of section twenty-five hundred ninety-h of this article, all emergency adoptions shall only remain in effect for sixty days, during such time the city board shall comply with the requirements of this subdivision in order for the adoption of the item to become permanent.

10. Respond, at a regular public meeting, to the recommendations raised in the annual reports issued by the city-wide council on special education, the city-wide council on English language learners, the city-wide council on high schools and the city-wide council on district seventy-five.

11. Conduct an annual survey to allow parents, teachers and school personnel to evaluate the performance of the city board and the

chancellor with regards to city district resources, oversight and curriculum. The results of such survey shall be made publicly available including via the city board's official internet website.

12. Provide information, data, estimates and statistics regarding all matters relating to the city district as requested by the director of the independent budget office of the city of New York or the comptroller of the city of New York, in a timely fashion.

* NB Effective until June 30, 2028

* § 2590-g. Powers and duties of the city board. The city board shall advise the chancellor on matters of policy affecting the welfare of the city school district and its pupils. Except as otherwise provided by law, the board shall exercise no executive power and perform no executive or administrative functions. The board shall have the power and duty to:

1. (a) approve standards, policies, objectives and regulations proposed by the chancellor directly related to educational achievement and student performance; (b) approve standards, policies, objectives and regulations directly related to maintaining the internal fiscal integrity of administrative operations by the chancellor, the community districts and the schools; and (c) consider and approve any other standards, policies, objectives and regulations at the request of the chancellor, or otherwise only as specifically authorized or required by state or federal law or regulation;

2. for all purposes, be the government or public employer of all persons appointed or assigned by the city board or the community districts;

3. serve as the appeal board as provided in section twenty-five hundred ninety-l of this article, and subject to such powers, duties and restrictions as were in effect before the effective date of this section;

4. subject to the provisions of section twenty-five hundred ninety-i of this article, maintain such jurisdiction over policies governing the

special, academic, vocational and other high schools authorized by this article before the effective date of this section as the respective community boards maintain over the schools within their jurisdiction, which shall not be construed to require or authorize the day-to-day supervision or the administration of the operations of such schools.

5. (a) Prescribe regulations and bylaws requiring members of the city board, the chancellor, and any other officer or employee in schools and programs under the jurisdiction of the city board and the chancellor, to make annual written disclosure to the city board, of the following information:

(i) the employment by the city school board or any community board of any person related within the third degree of consanguinity or affinity to the person making disclosure, including the employment of any such person for which a two-thirds vote was required under paragraph e of subdivision four of section twenty-five hundred ninety-j of this article with a notation of the date such vote was taken.

(ii) the source of any income, reimbursement, gift or other form of compensation for services rendered together with a description of such services.

(b) Regulations and bylaws authorized herein shall apply with equal force and effect to community board members, community superintendents and all other officers and employees in schools and programs under the jurisdiction of the community boards.

(c) The city board shall review, at least once annually, compliance with the requirements of subdivisions five and six of section twenty-five hundred ninety-e of this article and regulations or bylaws prescribed hereunder. Any community board member, community superintendent or other officer or employee required to make disclosure who fails to make such disclosure shall be notified in writing of their failure to do so and given thirty days within which to comply.

(d) Willful failure to make full and timely disclosure shall constitute cause for removal from office of any member of the city board or for any other officer or employee disciplinary action and such other penalty as provided by law.

(e) Disclosures made pursuant to the requirements herein and any notification of failure to make disclosures shall be made available for

public inspection during regular business hours on regular business days; and

6. (a) Prescribe regulations and bylaws requiring members of the city board, the chancellor and, for good cause shown, any other officer or employee in schools and programs under the jurisdiction of the city board and the chancellor, to submit to the city board, in the discretion of the city board, financial reports for themselves and their spouses.

(b) The frequency and period of coverage, the designation of persons to submit such reports by name, title or income level or by a combination thereof, and the content of such reports, including minimum dollar amounts, shall be determined by the city board and such reports may include but not necessarily be limited to the following:

(i) amount and source of income for services rendered, together with a description of such services;

(ii) amount and source of gifts, capital gains, reimbursements for expenditures, and honoraria;

(iii) investments in securities and real property;

(iv) amount of debts and names of creditors;

(v) outstanding loans and other forms of indebtedness due to person reporting or spouse, by name and amounts;

(vi) trusts and other fiduciary relationships and their assets in which a beneficial interest is held.

(c) Regulations and bylaws authorized herein shall apply with equal force and effect to community board members, community superintendents and all other officers and employees in schools and programs under the jurisdiction of the community boards.

(d) Willful failure to file required financial reports shall constitute cause for removal from office of any member of the city board or for any other officer or employee disciplinary action and such other penalty as provided by law.

* NB Effective June 30, 2028

*** § 2590-h. Powers and duties of chancellor.** The office of chancellor of the city district is hereby continued. Such chancellor shall serve at the pleasure of and be employed by the mayor of the city of New York by

contract. The chancellor shall meet the requirements of subdivision one of section three thousand three of this chapter, provided that a person who has been issued a certificate as superintendent of schools pursuant to subdivision three of such section may serve as chancellor on the basis of such certificate for no longer than six months. The length of such contract shall not exceed by more than two years the term of office of the mayor authorizing such contract. The chancellor shall receive a salary to be fixed by the mayor within the budgetary allocation therefor. He or she shall exercise all his or her powers and duties in a manner not inconsistent with the city-wide educational policies of the city board. The chancellor shall have the following powers and duties as the superintendent of schools and chief executive officer for the city district, which the chancellor shall exercise to promote an equal educational opportunity for all students in the schools of the city district, promote fiscal and educational equity, increase student achievement and school performance and encourage local school-based innovation, including the power and duty to:

1. Control and operate:

(a) academic and vocational senior high schools until such time as the same may be transferred to the jurisdiction of appropriate community district education councils pursuant to this article;

(b) all specialized senior high schools. The special high schools shall include the present schools known as:

The Bronx High School of Science, Stuyvesant High School, Brooklyn Technical High School, Fiorello H. LaGuardia High School of Music and the Arts in the borough of Manhattan, and such further schools which the city board may designate from time to time. The special schools shall be permitted to maintain a discovery program in accordance with the law in effect on the date preceding the effective date of this section; admissions to the special schools shall be conducted in accordance with the law in effect on the date preceding the effective date of this section;

(c) all special education programs and services conducted pursuant to this chapter;

(d) subject to the provisions of section twenty-five hundred ninety-i

of this article, devolving powers to the schools, city-wide programs for city-wide services to a substantial number of persons from more than one community district, including transportation; food services; payroll and personnel functions, including pension and retirement services; and enforcement of laws and regulations promoting equal opportunity in employment, access to public accommodations and facilities, equal opportunity in education, and preventing and addressing unlawful discrimination; provided, however, that a community district may also operate within its district programs which provide similar services otherwise authorized by this article.

2. Establish, control and operate new schools or programs of the types specified in subdivision one of this section, or to discontinue any such schools and programs as he or she may determine; provided, however, that the chancellor shall consult with the affected community district education council before:

(a) substantially expanding or reducing such an existing school or program within a community district;

(b) initially utilizing a community district school or facility for such a school or program;

(c) instituting any new program within a community district.

2-a. (a) Notwithstanding any other provision to the contrary, prepare an educational impact statement regarding any proposed school closing or significant change in school utilization, including the phase-out, grade reconfiguration, re-siting, or co-location of schools, for any public school located within the city district.

(b) Such educational impact statement shall include the following information regarding the proposed school closing or significant change in school utilization:

(i) the current and projected pupil enrollment of the affected school, the prospective need for such school building, the ramifications of such school closing or significant change in school utilization upon the community, initial costs and savings resulting from such school closing or significant change in school utilization, the potential disposability of any closed school;

(ii) the impacts of the proposed school closing or significant change

in school utilization to any affected students;

(iii) an outline of any proposed or potential use of the school building for other educational programs or administrative services;

(iv) the effect of such school closing or significant change in school utilization on personnel needs, the costs of instruction, administration, transportation, and other support services;

(v) the type, age, and physical condition of such school building, maintenance, and energy costs, recent or planned improvements to such school building, and such building's special features;

(vi) the ability of other schools in the affected community district to accommodate pupils following the school closure or significant change in school utilization; and

(vii) information regarding such school's academic performance including whether such school has been identified as a school under registration review or has been identified as a school requiring academic progress, a school in need of improvement, or a school in corrective action or restructuring status.

(c) Such educational impact statement shall be made publicly available, including via the city board's official internet website, and a copy shall also be filed with the city board, the impacted community council, community boards, community superintendent, and school based management team at least six months in advance of the first day of school in the succeeding school year.

(d) No sooner than thirty days, but no later than forty-five days following the filing of the educational impact statement, the chancellor or deputy chancellor, or in the case of a proposed significant change in school utilization the chancellor or his or her designee, shall hold a joint public hearing with the impacted community council and school based management team, at the school that is subject to the proposed school closing or significant change in school utilization, and shall allow all interested parties an opportunity to present comments or concerns regarding the proposed school closing or significant change in school utilization. The chancellor shall ensure that notice of such hearing is widely and conspicuously posted in such a manner to maximize the number of affected individuals that receive notice, including providing notice to affected parents and students, and shall also notify members of the community boards and the elected state and local

officials who represent the affected community district.

(d-1) So long as the revised proposal does not impact any school other than a school that was identified in the initial educational impact statement, the chancellor, after receiving public input, may substantially revise the proposed school closing or significant change in school utilization provided that the chancellor shall prepare a revised educational impact statement, in the form prescribed in paragraph (b) of this subdivision, and publish and file such educational impact statement in the same manner as prescribed in paragraph (c) of this subdivision. No sooner than fifteen days following the filing of such revised educational impact statement, the chancellor or deputy chancellor, or in the case of a significant change in school utilization the chancellor or his or her designee, shall hold a joint public hearing with the impacted community council and school based management team, at the school that is subject to the proposed school closing or significant change in school utilization and shall allow all interested parties an opportunity to present comments and concerns regarding such proposal. The chancellor shall ensure that notice of such hearing is widely and conspicuously posted in such a manner to maximize the number of affected individuals that receive notice, including providing notice to affected parents and students, and shall also notify members of the community boards and the elected state and local officials who represent the affected community district.

(e) Except as otherwise provided in paragraph (f) of this subdivision, all proposed school closings or significant changes in school utilization shall be approved by the city board pursuant to section twenty-five hundred ninety-g of this article and shall not take effect until all the provisions of this subdivision have been satisfied and the school year in which such city board approval was granted, has ended.

(f) In the event that the chancellor determines that a school closing or significant change in school utilization is immediately necessary for the preservation of student health, safety or general welfare, the chancellor may temporarily close a public school or adopt a significant change in the school's utilization on an emergency basis. Such emergency school closing or significant change in school utilization shall only remain in effect for six months, during such time the chancellor shall comply with the requirements of this subdivision in order for such

school closure or significant change in school utilization to extend beyond the six month period.

3. Subject to the approval of the city board, develop a plan to provide for the establishment of comprehensive high schools within the city district so that every community district shall have available to its graduates further education and a comprehensive high school. Such plan may provide for the conversion of academic and vocational high schools and may be amended or modified from time to time.

4. Appoint teacher-aides for the schools and programs under his or her jurisdiction within the budgetary allocation therefor.

5. Retain jurisdiction over all employees who are required in connection with the performance of duties with respect to the design, construction, operation and maintenance of all school buildings in the city school district. Such employees shall have all rights accorded them under the provisions of the civil service law, including manner of appointment, classification, promotion, transfer and removal including an opportunity to be heard provided, however, that each custodian shall be responsible for the performance of his or her duties to the principal of the school who shall be responsible to the district superintendent.

6. Employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be his or her attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York city charter; provided, however, that in actions or proceedings between the city board or the chancellor and one or more community boards, the city board or the chancellor shall be represented by the corporation counsel of the city of New York.

7. To continue existing voluntary programs or to establish new programs under which students may choose to attend a public school in another community district.

8. Promulgate minimum clear educational standards, curriculum requirements and frameworks, and mandatory educational objectives

applicable to all schools and programs throughout the city district, and examine and evaluate periodically all such schools and programs with respect to

(i) compliance with such educational standards and other requirements, and

(ii) the educational effectiveness of such schools and programs, in a manner not inconsistent with the policies of the city board.

9. Furnish community district education councils and the city board periodically with the results of such examinations and evaluations and to make the same public.

10. Require each community superintendent to make an annual report covering all matters relating to schools under the district's jurisdiction including, but not limited to, the evaluation of the educational effectiveness of such schools and programs connected therewith.

11. Require such community district education council or superintendent to make such number of periodic reports as may be necessary to accomplish the purposes of this chapter.

13. Perform the following functions throughout the city district; provided, however, that the chancellor and any community district education council may agree that any such function may be appropriately performed by the community district education council with respect to the schools and programs under its jurisdiction:

(a) Technical assistance to community districts and schools;

(b) Such warehouse space on a regional basis as he or she determines to be necessary or appropriate after consultation with the community superintendents;

(c) Purchasing services on a city-wide, regional or community district basis subject to subdivision thirty-six of this section;

(d) Reinforce and foster connections to institutions of higher education to promote student achievement.

14. Develop and furnish pre-service and in-service training programs

for principals and other employees throughout the city district. In addition, the chancellor shall prepare and annually update a training plan for participating parents, and school personnel, which shall include, at minimum, such training as may be required for exercise of their responsibilities, full participation and compliance with the provisions of this section. The chancellor shall, in addition, within amounts appropriated, allocate sufficient funds directly and to the superintendents for teacher and principal training to meet identified needs for school improvement.

15. Promote the involvement and appropriate input of all members of the school community pursuant to the provisions of this article, including parents, teachers, and other school personnel, including:

(a) establishing a parents' association or a parent-teachers' association in each public school under the chancellor's jurisdiction; and ensuring that the districts and charter schools located within the city district do the same; the chancellor shall ensure that meetings of such parents' associations or parent-teachers' associations shall comply with section four hundred fourteen of this chapter;

(b) pursuant to a plan prepared in consultation with associations of parents, and representatives of teachers, supervisors, paraprofessionals and other school personnel within the city district, and promulgated no later than January thirty-first, nineteen hundred ninety-eight, (i) taking all necessary steps to ensure that no later than October first, nineteen hundred ninety-nine, the city district and the community districts are in full compliance, and remain in compliance thereafter, with state and federal law and regulations concerning school-based management and shared decision-making, including section 100.11 of the commissioner's regulations, in a manner which balances participation by parents with participation by school personnel in advising in the decisions devolved to schools pursuant to sections twenty-five hundred ninety-i and twenty-five hundred ninety-r of this article, and (ii) pursuant to such plan providing for appropriate training to any parent and school personnel who participate in the school based management and shared decision-making process;

(b-1) school based management teams developed pursuant to paragraph (b) of this subdivision shall possess the following powers and duties:

(i) develop an annual school comprehensive educational plan and consult on the school-based budget pursuant to section twenty-five hundred ninety-r of this article. Such school comprehensive educational plan shall be developed concurrently with the development of the school-based budget so that it may inform the decision-making process and result in the alignment of the comprehensive educational plan and the school-based budget for the ensuing school year. Such plan shall be submitted to the community superintendent along with the principal's written justification demonstrating that the school-based budget proposal is aligned with the school's comprehensive educational plan and the school based management team's response to such justification pursuant to paragraph (h) of subdivision one of section twenty-five hundred ninety-f of this article. In the case of specialized, academic, vocational, and other high schools that are not under the jurisdiction of a community superintendent, such plan shall be submitted to the chancellor pursuant to subdivision e of section twenty-five hundred ninety-r of this article. The chancellor shall ensure that the comprehensive educational plan of every school within the city district is easily accessible and be made available for public inspection including via the city board's official internet website;

(ii) hold at least one meeting per month during the school year. Each monthly meeting shall be held at a time that is convenient for the parent representatives;

(iii) provide notice of monthly meetings that is consistent with the open meetings law;

(iv) have parent members of such teams make recommendations, consistent with the chancellor's regulations, on the selection of the school principal and have all members be consulted prior to the appointment of any principal candidate to its school;

(v) undergo initial and ongoing training that will allow its members to carry out their duties effectively;

(vi) dispute any decision made by the principal to the community superintendent pursuant to section twenty-five hundred ninety-f of this article where members of the school based management team, other than the principal, reach a consensus that the decision is inconsistent with the goals and policies set forth in the school's existing comprehensive educational plan; and

(vii) provide to the community superintendent an annual assessment of the school principal's record of developing an effective shared decision-making relationship with school based management team members; and

(c) developing, in consultation with associations of parents in the city district, and implementing no later than October first, nineteen hundred ninety-eight, a parental bill of rights which provides for, at minimum:

(i) reasonable access by parents, persons in parental relation and guardians to schools, classrooms, and academic and attendance records of their own children, consistent with federal and state laws, provided that such access does not disrupt or interfere with the regular school process;

(ii) the rights of parents, persons in parental relation and guardians to take legal action and appeal the decisions of the school administration, as authorized by law;

(iii) the right of parents, persons in parental relation and guardians to have information on their own child's educational materials;

(iv) access to and information about all public meetings, hearings of the chancellor, the city board, the community superintendents, the community district education councils, and the schools; and

(v) access to information regarding programs that allow students to apply for admission where appropriate to schools outside a student's own attendance zone; and

(d) require each public school under the chancellor's jurisdiction to have a parent coordinator who shall be responsible for engaging with and involving parents in the school community by working with the school principal, school personnel, school based management team, parent associations, and community groups to identify parent and related school and community issues. The community district education council of each school shall be consulted prior to the selection of the parent coordinator. Such consultation shall include an opportunity for the community district education council to meet with the final candidate or candidates the school principal is considering selecting and to provide feedback to the principal prior to the selection being made.

The chancellor shall by rule or regulation provide for the involvement

including membership, in any parents' association or parent-teacher association established pursuant to this subdivision, of a grandparent who is in parental relation to a child who attends a school within the jurisdiction of the community school district. For purposes of this subdivision, a grandparent shall be considered to be in parental relation to a child when such grandparent has assumed care of such child because such child's parents are not available due to death, imprisonment, mental illness, living outside the state, abandonment of the child, or other circumstances. A determination of whether a grandparent is in parental relation to a child shall be based upon the individual circumstances surrounding guardianship and custodial care of such child.

16. Promulgate such rules and regulations as he or she may determine to be necessary or convenient to accomplish the purposes of this act, not inconsistent with the provisions of this article and the city-wide educational policies of the city board.

16-a. Create standards, policies, and objectives and promulgate regulations directly related to maintaining the internal fiscal integrity of administrative operations by the chancellor, the community districts, and the schools.

17. Possess those powers and duties described in section twenty-five hundred fifty-four of this title, the exercise of which shall be in a manner not inconsistent with the provisions of this article and the city-wide educational policies of the city board.

18. Possess those powers and duties contained in section nine hundred twelve of this chapter and those provisions of article fifteen of this chapter which relate to non-public schools, those powers and duties contained in section five hundred twenty-two of the New York city charter, and those powers and duties contained in article seventy-three of this chapter, the exercise of which shall be in a manner not inconsistent with the provisions of this article and the city-wide educational policies of the city board.

19. Delegate any of his or her powers and duties to such subordinate officers or employees as he or she deems appropriate and to modify or rescind any power and duty so delegated.

20. Ensure compliance with qualifications established for all personnel employed in the city district, including the taking of fingerprints as a prerequisite for licensure and/or employment of such personnel. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed. Furthermore, the division of criminal justice services is authorized to submit the fingerprints to the federal bureau of investigation for a national criminal history record check.

21. Perform the functions of the bureau of audit throughout the city district, including ensuring compliance with subdivisions thirty-six and thirty-seven of this section.

22. Establish uniform procedures for record keeping, accounting and reporting throughout the city district, including pupil record keeping, accounting and reporting.

23. Develop an educational facilities master plan, and revisions thereto, as defined in section twenty-five hundred ninety-o of this article.

24. Develop and implement a five-year educational facilities capital plan, and amendments thereto, as defined in section twenty-five hundred ninety-p of this article. The chancellor shall also appoint a person, who reports directly to the chancellor or his or her designee, to assist in the development and implementation of such plan and amendments thereto and to oversee the school buildings program.

25. On the chancellor's own initiative, or at the request of a community superintendent, transfer a principal employed by a community school district pursuant to an agreement with the employee organization representing such principals. The chancellor shall establish a procedure

for consulting with affected parents to explain any such transfer. Consistent with section twenty-five hundred ninety-i of this article, including without limitation subdivision three thereof, and subdivision one thereof with respect to the rights and obligations of a school to which a principal is transferred, in addition to any other law providing for the transfer of principals, the chancellor also may cause the transfer or removal of principals for persistent educational failure, conflicts of interest, and ethics violations, and may require principals to participate in training and other remedial programs to address identified factors affecting student achievement and school performance.

26. Establish educational and experience qualifications and requirements for all custodial positions including, but not limited to, custodians and custodial engineers and develop standards for evaluating the performance of all such individuals, subject to approval of the city board. Such performance standards shall include, but not be limited to: the cleanliness of facilities; adequacy and timeliness of minor repairs; maintenance of good working order of facilities and grounds; general facilities improvement; and emergency services. The chancellor shall promulgate regulations setting forth the respective responsibilities of the district plant manager, which shall include regular consultation and ongoing reports to the community superintendent, and the principal of each school for evaluating the performance of the custodial employees assigned to his or her school, in accordance with such performance standards, and such performance evaluations shall be given dominant weight in any decision for the purposes of: advancement; continued employment; building transfers; and other performance incentives. The responsibility of the principal of each school in the evaluation of custodial employees may be a matter for collective bargaining with collective bargaining representatives for principals.

27. Promulgate regulations, in conjunction with each community superintendent, establishing a plan for providing access to school facilities in each community school district, when not in use for school purposes, in accordance with the provisions of section four hundred fourteen of this chapter. Such plan shall set forth a reasonable system of fees not to exceed the actual costs and specify that no part of any

fee shall directly or indirectly benefit or be deposited into an account which inures to the benefit of the custodians or custodial engineers.

29. Promulgate regulations establishing educational, managerial, and administrative qualifications, performance record criteria, and performance standards for the positions of superintendent and principal.

30. Select and appoint a community superintendent, in compliance with the qualifications required by subdivision twenty-nine of this section and subject to the provisions of subdivision two of section twenty-five hundred ninety-j of this article, and in consultation with the corresponding community district education council, at a salary to be fixed within the budgetary allocation therefor.

31. Intervene in any district or school which is persistently failing to achieve educational results and standards approved by the city board or established by the state board of regents, or has failed to improve its educational results and student achievement in accordance with such standards or state or city board requirements, or in any school or district in which there exists, in the chancellor's judgment, a state of uncontrolled or unaddressed violence. The chancellor may, in addition to exercising any other powers authorized by this article, require such school principal, or district as the case may be, to prepare a corrective action plan, with a timetable for implementation of steps acceptable to the chancellor to reach improvement goals consistent with city board standards and educational results. The chancellor may require the school or district to alter or improve the corrective action plan, or may directly modify the plan. The chancellor shall monitor implementation of the plan, and, if the school or district fails to implement it, may supersede any inconsistent decision of the school principal, community district education council or community superintendent; assume joint or direct control of the operation of the school or district to implement the corrective action plan; or take any other action authorized by this article. Any action of the chancellor to supercede an inconsistent decision of the school principal, community district education council or community superintendent, or to assume joint or direct control of the operation of the school or district

pursuant to this subdivision may be appealed to the city board in accordance with section twenty-five hundred ninety-g of this article.

32. Appoint a deputy, for each borough of the city of New York, responsible for coordinating and periodically meeting and consulting with the borough president, the chancellor and the community superintendents in the borough on borough-specific issues and issues of borough-wide significance, including the provision of services in support of schools and community districts such as transportation, purchasing, capital planning, and coordination with municipal services, and chancellor and city board policy with respect to the high schools.

33. Require community school board members to participate in training and retraining in order to promote district and school performance and student achievement, as a continuing condition for membership.

35. Take all necessary steps to promote the effectiveness and integrity of school-based budgeting pursuant to section twenty-five hundred ninety-r of this article, including the obligations imposed by subdivision thirty-seven of this section.

36. Develop a procurement policy for the city school district of the city of New York and the community districts and public schools therein to ensure the wise and prudent use of public money in the best interest of the taxpayers of the state; guard against favoritism, improvidence, extravagance, fraud, and corruption; and ensure that contracts are awarded consistent with law and on the basis of best value, including, but not limited to, the following criteria: quality, cost and efficiency.

(a) Such policy shall specifically include:

(i) a competitive sealed bidding process for the awarding of contracts in which sealed bids are publicly solicited and opened and that a contract is awarded to the lowest responsive, responsible bidder;

(ii) processes for awarding contracts using alternatives to competitive sealed bidding where competitive sealed bidding is not practicable or not advantageous, in which case the most competitive alternative method of procurement, which is appropriate under the

circumstances, shall be used consistent with the requirements of subparagraph (vii) of this paragraph;

* (iii) measures to enhance the ability of minority and women owned business enterprises pursuant to section thirteen hundred four of the New York city charter and a certified business as defined in section three hundred ten of the executive law, including firms certified pursuant to article fifteen-A of the executive law and firms certified as minority and women owned business enterprises pursuant to section thirteen hundred four of the New York city charter, to compete for contracts and to ensure their meaningful participation in the procurement process. The school district shall have the authority to use the same measures, to enhance minority and women owned business enterprise participation as are available to the city of New York pursuant to article five-A of the general municipal law, section thirteen hundred four of the New York city charter, paragraphs one and two of subdivision i of section three hundred eleven of the New York city charter, and section 6-129 of the administrative code of the city of New York;

* NB Effective until February 22, 2024

* (iii) measures to enhance the ability of minority and women owned business enterprises pursuant to section thirteen hundred four of the New York city charter and a certified business as defined in section three hundred ten of the executive law, including firms certified pursuant to article fifteen-A of the executive law and firms certified as minority and women owned business enterprises pursuant to section thirteen hundred four of the New York city charter, to compete for contracts and to ensure their meaningful participation in the procurement process. The city district shall have the authority to use the same measures to enhance minority and women owned business enterprise and small business participation as are available to the city of New York pursuant to article five-A of the general municipal law, sections thirteen hundred four and thirteen hundred nine of the New York city charter, paragraphs one and two of subdivision i of section three hundred eleven of the New York city charter, and section 6-129 of the administrative code of the city of New York, provided that these policies may establish that the city district is subject to the rules and goal authorized under subdivision g of section thirteen hundred nine

of such charter with respect to a mentoring program established pursuant to this subparagraph, and provided further that, if such policies subjecting the city district to such rules and goal are adopted, the chancellor and the city, acting by the mayor, may enter into a memorandum of understanding relating to mentoring opportunities authorized under this subparagraph;

* NB Effective February 22, 2024

* NB Repealed February 22, 2034 or upon the expiration of this section or subdivision (see chapter 604 of 2023 § 7 sb b)

(iv) the manner for administering contracts and overseeing the performance of contracts and contractors;

(v) standards and procedures to be used in determining whether bidders are responsible;

(vi) circumstances under which procurement may be used for the provision of technical, consultant or personal services;

(vii) requiring written justification for the basis, including the efficiency, benefit, and necessity, for awarding a contract using procurement methods other than competitive sealed bidding including competitive sealed proposals and sole source contracts, and for awarding technical, consultant, or personal services contracts, franchises, revocable consents, or concessions. Such written justification shall be filed with the comptroller of the city of New York along with the corresponding contract, franchise, revocable consent, or concession;

(viii) maintaining a file for every contract franchise, revocable consent, and concession containing information pertaining to the solicitation, award and management of every such contract or agreement. Such file shall contain copies of each determination, writing or filing required by this subdivision and shall be open to public inspection with adequate protection for information which is confidential;

(ix) a process for the filing of all contracts, franchises, revocable consents, and concessions with the comptroller of the city of New York;

* (x) a process for emergency procurement in the case of an unforeseen danger to life, safety, property or a necessary service provided that such procurement shall be made with such competition as is practicable under the circumstances and that a written determination of the basis for the emergency procurement shall be required and filed with the comptroller of the city of New York when such emergency contract is

filed with such comptroller; and

* NB Effective until May 15, 2024

* (x) a process for emergency procurement in the case of an unforeseen danger to life, safety, property or a necessary service provided that such procurement shall be made with such competition as is practicable under the circumstances and that a written determination of the basis for the emergency procurement shall be required and filed with the comptroller of the city of New York when such emergency contract is filed with such comptroller;

* NB Effective May 15, 2024 and until May 15, 2029 or until sb 36 expires, whichever is sooner

* (x) a process for emergency procurement in the case of an unforeseen danger to life, safety, property or a necessary service provided that such procurement shall be made with such competition as is practicable under the circumstances and that a written determination of the basis for the emergency procurement shall be required and filed with the comptroller of the city of New York when such emergency contract is filed with such comptroller; and

* NB Effective May 15, 2029 if sb 36 is still in effect

* (xi) procedures for the fair and equitable resolution of contract disputes.

* NB Effective until May 15, 2024

* (xi) procedures for the fair and equitable resolution of contract disputes; and

* NB Effective May 15, 2024 and until May 15, 2029 or until sb 36 expires, whichever is sooner

* (xi) procedures for the fair and equitable resolution of contract disputes.

* NB Effective May 15, 2029 if sb 36 is still in effect

* (xii) employment goals established in accordance with the program established pursuant to section thirty-five hundred two of the New York city charter, including but not limited to employment goals established pursuant to paragraph seven of subdivision a and the corresponding best efforts provisions set forth in subdivision d of such section; provided, however, that where a provision of such section requires action by the director of the office of community hiring and workforce development, such action shall not be taken by the director of the office of

community hiring and workforce development but shall be taken by the chancellor or his or her designee.

* NB Effective May 15, 2024

* NB Repealed May 15, 2029 or upon the repeal of sb 36, whichever is earlier

(b) Consistent with the provisions of paragraph (a) of this subdivision such policy shall also include: (i) standards for quality, function, and utility of all material goods, supplies, and services purchased by the chancellor, superintendents, or schools; (ii) regulations which enable superintendents and schools to purchase material goods, supplies, and services directly from vendors or suppliers when such products are available at prices or other terms more economically beneficial for the purposes of the acquiring superintendent or school; and (iii) regulations shall include repair services and building supplies, as defined in such regulations, for expenditures from each district's minor repair and purchasing funds pursuant to section twenty-five hundred ninety-r of this article.

(c) The chancellor shall be responsible for certifying that the procedural requisites pursuant to this subdivision and section twenty-five hundred ninety-g of this article have been met, prior to the filing any contract awarded by a procurement method other than competitive sealed bidding, or prior to filing any technical, consultant, or personal services contract, franchise, revocable consent, or concession with the comptroller of the city of New York. The corporation counsel for the city of New York shall certify prior to the filing of such contract or agreement with the comptroller of the city of New York, that the city district has legal authority to award each such contract or agreement.

(d) (i) No contract, franchise, revocable consent or concession shall be implemented until a copy has been filed with the comptroller of the city of New York and either such comptroller has registered it or thirty days have elapsed from the date of filing, whichever is sooner, unless an objection has been filed pursuant to subparagraph (iii) of this paragraph, or the comptroller of the city of New York has grounds for not registering such contract or agreement under subparagraph (ii) of this paragraph.

(ii) Subject to the provisions of subparagraph (iii) of this

paragraph, the comptroller of the city of New York shall register such contract or agreement within thirty days unless such comptroller has information indicating that:

(1) there remains no unexpended and unapplied balance of the appropriation or fund applicable thereto, sufficient to pay the estimated expense of executing such contract or agreement;

(2) a certification required pursuant to this paragraph has not been made; or

(3) the proposed vendor has been debarred by the city of New York.

(iii) The comptroller of the city of New York may, within thirty days of the date of filing of the contract, franchise, revocable consent or concession with his or her office, object in writing to the registration of such contract or agreement, if in such comptroller's judgment there is sufficient reason to believe that there is possible corruption in the letting of such contract or agreement or that the proposed contractor is involved in corrupt activity. Such objection shall be delivered within such thirty day period to the mayor of the city of New York setting forth in detail the grounds for the New York city comptroller's determination. The mayor of the city of New York may require registration of the contract or agreement despite the New York city comptroller's objections if the mayor of the city of New York has responded to such comptroller's objections in writing, indicating:

(1) the corrective actions if any, that have been taken or will be taken in response to such comptroller's objections, or

(2) the reasons why the mayor of the city of New York disagrees with such comptroller's objections.

Such response by the mayor of the city of New York shall not serve as the basis for further objection by the New York city comptroller, and such comptroller shall register the contract, franchise, revocable consent or concession within ten days of receipt of the mayor of the city of New York's response.

(e) The requirements of paragraphs (c) and (d) of this subdivision shall not apply to an emergency contract awarded pursuant to subparagraph (x) of paragraph (a) of this subdivision, provided that the chancellor shall comply with the requirements of paragraphs (c) and (d) of this subdivision as soon as practicable.

37. Establish guidelines and a system of internal controls, including internal administrative controls and internal accounting controls, with provisions for internal audits, as such terms are defined in section nine hundred fifty of the executive law. Such system shall also include a system of internal control review designed to identify weaknesses and identify actions to rectify them; a clear and concise statement of the generally applicable management policies and standards made available to each officer and employee relevant to fiscal and expenditure control, in addition to education and training efforts to ensure adequate understanding of internal control standards and evaluation techniques; and the designation of an internal control officer for each community district, each of whom shall report to the chancellor and the auditor general, to execute a regular internal audit function, which shall operate in accordance with generally accepted governmental auditing standards. The internal auditors for the community districts shall operate in cooperation with the auditor general, appointed by the chancellor, who shall, in addition to the functions of the internal auditors, monitor and conduct random audits of school districts at least once every two years for fraud, waste, and mismanagement. Notwithstanding any provision of state law or state or city regulation, the internal auditors, and the auditor general, shall be entitled, upon their request, to all and any documents and materials bearing in their judgment on the finances and cost-effectiveness of the schools and the school districts that is in the possession of the community districts, the schools, or any officer thereof.

38. To exercise all of the duties and responsibilities of the employing board as set forth in section three thousand twenty-a of this chapter with respect to any member of the teaching or supervisory staff of schools under the jurisdiction of the community district education councils. The chancellor shall exercise all such duties and responsibilities for all community districts or may delegate the exercise of all such duties and responsibilities to all of the community superintendents of the city district.

38-a. To exercise all of the duties and responsibilities of the

employing board as set forth in section three thousand twenty-a of this chapter with respect to any member of the teaching or supervisory staff of schools which are not covered under subdivision thirty-eight of this section. Provided, however that the city board shall maintain jurisdiction over any consequence resulting from an employee waiver of a hearing, as provided for in paragraph (d) of subdivision two of section three thousand twenty-a of this chapter.

** 39. (a) Prescribe regulations and by-laws requiring members of the city board, the chancellor, and any other officer or employee in schools and programs under the jurisdiction of the city board and the chancellor to make annual written disclosure to the chancellor, of the following information:

(i) the employment by the city school board or any community district education council of any person related within the third degree of consanguinity or affinity to the person making disclosure, including the employment of any such person for which a two-thirds vote was required under paragraph (e) of subdivision four of section twenty-five hundred ninety-j of this article, with a notation of the date such vote was taken.

(ii) the source of any income, reimbursement, gift, or other form of compensation for services rendered, together with a description of such services.

(b) The chancellor shall review, at least once annually, compliance with the requirements of subdivisions five and six of section twenty-five hundred ninety-e of this article and regulations or by-laws prescribed in this subdivision. Any community district education council member, community superintendent, or other officer or employee required to make disclosure, who fails to make such disclosure, shall be notified in writing of his or her failure to do so and given thirty days within which to comply.

(d) Willful failure to make full and timely disclosure shall constitute cause for removal from office of any member of the city board or for any other officer or employee disciplinary action and such other penalty as may be provided by law.

(e) Disclosures made pursuant to the requirements of this subdivision and any notification of failure to make disclosures shall be made available for public inspection during regular business hours on regular

business days.

** NB There are 2 sb (39)'s

** 39. To enter an agreement, in his or her discretion, with the city of New York for the installation and use of school bus photo violation monitoring systems pursuant to section eleven hundred seventy-four-a of the vehicle and traffic law, provided that the purchase, lease, installation, operation and maintenance, or any other costs associated with such cameras shall not be considered an aidable expense pursuant to section thirty-six hundred twenty-three-a of this chapter.

** NB There are 2 sb (39)'s

** NB Repealed December 1, 2029

40. (a) Prescribe regulations and by-laws requiring members of the city board, the chancellor, and, for good cause shown, any other officer or employee in schools and programs under the jurisdiction of the city board and the chancellor, to submit to the chancellor, in the discretion of the chancellor, financial reports for themselves and their spouses.

(b) The frequency and period of coverage, the designation of persons to submit such reports by name, title, or income level, or by a combination thereof, and the content of such reports, including minimum dollar amounts, shall be determined by the chancellor, and such reports may include but not necessarily be limited to the following:

(i) amount and source of income for services rendered, together with a description of such services;

(ii) amount and source of gifts, capital gains, reimbursements for expenditures, and honoraria;

(iii) investments in securities and real property;

(iv) amount of debts and names of creditors;

(v) outstanding loans and other forms of indebtedness due to person reporting or spouse, by name and amounts; and

(vi) trusts and other fiduciary relationships and their assets in which a beneficial interest is held.

(c) Willful failure to file required financial reports shall constitute cause for removal from office of any member of the city board or for any other officer or employee disciplinary action and such other penalty as may be provided by law.

41. Appoint and set salaries for staff in non-represented managerial titles.

42. (a) To dispose of such personal property used in the schools and other buildings of the city of New York under the charge of the city board as shall no longer be required for use therein. Such disposition shall be made in the name of the city of New York and for such city.

(b) The chancellor may sell, at prices as may be agreed upon, such manufactured articles or other products of any school of the district, day and evening, as may not be utilized by the city board, and all moneys realized by the sale thereof shall be paid into the city treasury and shall at once be appropriated by the city to a special fund to be administered by the city board for such purposes as such board, in its discretion, may determine. All other moneys realized by the sale of personal property shall be paid into the city treasury and shall at once be appropriated by the city to the special school fund of the city board for use in the borough in which the property sold was situated.

(c) Such method of disposal shall be deemed not to apply to the disposition of school books pursuant to subdivision forty-three of this section.

43. To dispose of, to the best advantage of the city of New York, either by sale or on the basis of money allowance for waste paper, all books delivered to the several public schools of such city that have been discarded either by reason of being obsolete, no longer required by the course of study, worn by long usage, or mutilated by accident. If disposal is made by sale, it shall be to the highest bidder, and the money realized shall be paid into the city treasury and shall at once be appropriated by the city to the special school fund of the city board entitled "supplies". If disposal is made on the basis of money allowance for waste paper, it shall be to the highest bidder. Such discarded books may be disposed of without public advertisement or entry into a formal contract. Should the discarded books be in such condition that no sale or exchange can be made, or should there be reason to believe that such discarded books have become infected through disease among the pupils, or should the superintendent of schools certify that such discarded books contain erroneous, inaccurate, obsolete, or antiquated subject

matter, illustrations, maps, charts, or other material, the committee on supplies of the board of education, if such books cannot be sold, given away, or otherwise salvaged as waste paper without danger to the public health, may authorize their destruction by fire, in which event the superintendent of school supplies shall obtain and file in his or her office a certificate that such books have been so destroyed, signed by the principal of the school in which the books are located.

44. To provide the proper book or books in which he or she shall cause the class teachers under the direction and supervision of the principal to enter the names, ages, and residences of the pupils attending the school, the name of the parent or guardian of each pupil, and the days on which the pupils shall have attended respectively, and the aggregate attendance of each pupil during the year, and also the day upon which the school shall have been visited by the superintendent of schools or by an associate superintendent of schools or by an assistant superintendent, or by members of the city board, or by members of the community district education council, or by any of them, which entry shall be verified by such oath or affirmation of the principal as may be prescribed by the chancellor. Such books shall be preserved as the property of the chancellor and shall at all times be open to inspection by members of the city board, by members of the community councils and by the superintendent of schools, or by any associate superintendent of schools, or by the assistant superintendents.

45. Make rules and regulations for the conduct, operation, and maintenance of extra classroom activities and for the safeguarding, accounting, and audit of all moneys received and derived therefrom. In the case of any extra classroom activity as it shall deem proper, and notwithstanding the provisions of section twenty-five hundred thirty of this title, it may direct that the moneys received or derived from the conduct, operation, or maintenance of such an extra classroom activity be deposited with the auditor, who in such event shall be the treasurer of such an extra classroom activity, the moneys of which are required to be so deposited. In the procurement of articles and services for the conduct, operation, and maintenance of a cafeteria or restaurant service, the chancellor shall be subject to applicable provisions of

law, except that said chancellor need not have duly advertised for estimates in order to contract for such articles or services in an amount exceeding one thousand dollars. The chancellor shall also have power to assign any officers or employees to perform such duties as he or she may prescribe in connection with an extra classroom activity and to designate such officers and employees when so assigned from whom a bond shall be required for faithful performance of their duties and to fix the sum in which each such bond shall be given.

46. To maintain, through such representatives as he or she may designate, an effective visitation and inspection of all schools and classes maintained in institutions controlled by the department of correction of the city of New York.

47. To assign, in his or her discretion, one or more employees of the city board to serve as trial examiner with power to conduct investigations and hearings on behalf of the chancellor. Each trial examiner shall report the result of any such investigation or hearing to the chancellor.

48. To hold a public meeting in each community district, in conjunction with the community district education council, during a two year period, beginning with the two thousand nine--two thousand ten school year, in order to report on public school finances, student performance, and educational goals and priorities of the city district and to receive and respond to public comments and concerns. The chancellor shall direct the community superintendent to provide public notice of such meeting in order to maximize the participation of parents, students, and all other interested parties.

49. To provide information, data, estimates and statistics regarding all matters relating to the city district as requested by the director of the independent budget office of the city of New York or the comptroller of the city of New York, in a timely fashion.

50. To issue an annual report on the participation of minority and women owned business enterprises in the city district's procurement

process including the number of contracts awarded to minority and women owned business enterprises, the percent of contracts awarded to minority and women owned business enterprises of the total number of all city district contracts, the aggregate value of all contracts awarded to minority and women owned business enterprises, and the percent of the aggregate value of contracts awarded to minority and women owned business enterprises of the total aggregate value of all city district contracts.

51. Propose a policy for city board approval that promotes the recruitment and retention of a workforce at the city district, community district, and school level that considers the diversity of the students attending the public schools within the city district. The chancellor shall issue an annual report outlining the initiatives taken to enhance diversity and equity in recruitment and retention and the impacts of such initiatives to the workforce at the city district, community district and school level.

52. To compile an inventory of and issue a written report about the outdoor schoolyards in the city school district, as required by subdivision fourteen of section twenty-five hundred fifty-six of this title.

53. To compile an inventory of, issue a written report, and provide recommendations as required by subdivision fifteen of section twenty-five hundred fifty-six of this title regarding transportable classroom units in the city school district.

54. To establish a charitable fund to receive unrestricted charitable monetary donations made to such fund for use by the city school district for public educational purposes. The monies of such charitable fund shall be deposited and secured in the manner provided by section ten of the general municipal law. The monies of such charitable fund may be invested in the manner provided by section eleven of the general municipal law. Any interest earned or capital gain realized on the money so invested shall accrue to and become part of such fund. At such time and in such amounts as determined by the chancellor, the monies of such

charitable fund shall be transferred to the city school district's general fund for expenditure consistent with the charitable purposes of the fund, provided that the amount of taxes to be levied by the city for any school year shall be determined without regard to any such transfer. The city school district shall maintain an accounting of all such deposits, interest or capital gain, transfers, and expenditures.

55. Ensure that all public, nonpublic, and charter school students enrolled in elementary and secondary schools located in the city of New York be provided with additional opportunities to supplement classroom instruction including, but not limited to, visiting educational and cultural sites and institutions such as a Holocaust museum, African American cultural centers and historical landmarks, a Native American museum, Asian American museums and cultural centers, a LatinX American museum, center for women, LGBTQ historical landmarks, and American historical landmarks and monuments.

56. Render written responses to resolutions passed by the city-wide education councils and community district education councils within thirty days of receipt.

* NB Effective until June 30, 2028

* § 2590-h. Powers and duties of chancellor. The office of chancellor of the city district is hereby continued. It shall be filled by a person employed by the city board by contract for a term not to exceed by more than one year the term of office of the city board authorizing such contract, subject to removal for cause. The chancellor shall receive a salary to be fixed by the city board within the budgetary allocation therefor. He or she shall exercise all his or her powers and duties in a manner not inconsistent with the policies of the city board. The chancellor shall have the following powers and duties as the superintendent of schools and chief executive officer for the city district, which the chancellor shall exercise to promote an equal educational opportunity for all students in the schools of the city district, promote fiscal and educational equity, increase student achievement and school performance and encourage local school-based innovation, including the power and duty to:

1. Control and operate:

(a) academic and vocational senior high schools until such time as the same may be transferred to the jurisdiction of appropriate community boards pursuant to this article;

(b) all specialized senior high schools. The special high schools shall include the present schools known as:

The Bronx High School of Science, Stuyvesant High School, Brooklyn Technical High School, Fiorello H. LaGuardia High School of Music and the Arts in the borough of Manhattan, and such further schools which the city board may designate from time to time. The special schools shall be permitted to maintain a discovery program in accordance with the law in effect on the date preceding the effective date of this section; admissions to the special schools shall be conducted in accordance with the law in effect on the date preceding the effective date of this section;

(c) all special education programs and services conducted pursuant to this chapter;

(d) subject to the provisions of section twenty-five hundred ninety-i of this article, devolving powers to the schools, city-wide programs for city-wide services to a substantial number of persons from more than one community district, including transportation; food services; payroll and personnel functions, including pension and retirement services; and enforcement of laws and regulations promoting equal opportunity in employment, access to public accommodations and facilities, equal opportunity in education, and preventing and addressing unlawful discrimination; provided, however, that a community district may also operate within its district programs which provide similar services otherwise authorized by this article.

2. Establish, control and operate new schools or programs of the types specified in subdivision one of this section, or to discontinue any such schools and programs as he or she may determine; provided, however, that he shall consult with the affected community board before:

(a) substantially expanding or reducing such an existing school or program within a community district;

(b) initially utilizing a community district school or facility for

such a school or program;

(c) instituting any new program within a community district.

3. Subject to the approval of the city board, develop a plan to provide for the establishment of comprehensive high schools within the city district so that every community district shall have available to its graduates further education and a comprehensive high school. Such plan may provide for the conversion of academic and vocational high schools and may be amended or modified from time to time.

4. Appoint teacher-aides for the schools and programs under his or her jurisdiction within the budgetary allocation therefor.

5. Retain jurisdiction over all employees who are required in connection with the performance of duties with respect to the design, construction, operation and maintenance of all school buildings in the city school district. Such employees shall have all rights accorded them under the provisions of the civil service law, including manner of appointment, classification, promotion, transfer and removal including an opportunity to be heard provided, however, that each custodian shall be responsible for the performance of his duties to the principal of the school who shall be responsible to the district superintendent.

6. Employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be his or her attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York city charter; provided, however, that in actions or proceedings between the city board or the chancellor and one or more community boards, the city board or the chancellor shall be represented by the corporation counsel of the city of New York.

7. To continue existing voluntary programs or to establish new programs under which students may choose to attend a public school in another community district.

8. Promulgate minimum clear educational standards, curriculum requirements and frameworks, and mandatory educational objectives

applicable to all schools and programs throughout the city district, and examine and evaluate periodically all such schools and programs with respect to

(i) compliance with such educational standards and other requirements, and

(ii) the educational effectiveness of such schools and programs, in a manner not inconsistent with the policies of the city board.

9. Furnish community boards and the city board periodically with the results of such examinations and evaluations and to make the same public.

10. Require each community superintendent to make an annual report covering all matters relating to schools under the district's jurisdiction including, but not limited to, the evaluation of the educational effectiveness of such schools and programs connected therewith.

11. Require such community board or superintendent to make such number of periodic reports as may be necessary to accomplish the purposes of this chapter.

13. Perform the following functions throughout the city district; provided, however, that the chancellor and any community board may agree that any such function may be appropriately performed by the community board with respect to the schools and programs under its jurisdiction:

(a) Technical assistance to community districts and schools;

(b) Such warehouse space on a regional basis as he or she determines to be necessary or appropriate after consultation with the community superintendents;

(c) Purchasing services on a city-wide, regional or community district basis subject to subdivision thirty-six of this section;

(d) Reinforce and foster connections to institutions of higher education to promote student achievement.

14. Develop and furnish pre-service and in-service training programs for principals and other employees throughout the city district. In

addition, the chancellor shall prepare and annually update a training plan for participating parents, and school personnel, which shall include, at minimum, such training as may be required for exercise of their responsibilities, full participation and compliance with the provisions of this section. The chancellor shall, in addition, within amounts appropriated, allocate sufficient funds directly and to the superintendents for teacher and principal training to meet identified needs for school improvement.

15. Promote the involvement and appropriate input of all members of the school community pursuant to the provisions of this article, including parents, teachers, and other school personnel, including:

(a) establishing a parents' association or a parent-teachers' association in each school under the chancellor's jurisdiction; and ensuring that the districts do the same;

(b) pursuant to a plan prepared in consultation with associations of parents, and representatives of teachers, supervisors, paraprofessionals and other school personnel within the city district, and promulgated no later than January thirty-first, nineteen hundred ninety-eight, (i) taking all necessary steps to ensure that no later than October first, nineteen hundred ninety-nine, the city district and the community districts are in full compliance, and remain in compliance thereafter, with state and federal law and regulations concerning school-based management and shared decision-making, including section 100.11 of the commissioner's regulations, in a manner which balances participation by parents with participation by school personnel in advising in the decisions devolved to schools pursuant to sections twenty five hundred ninety-i and twenty-five hundred ninety-r of this article, and (ii) pursuant to such plan providing for appropriate training to any parent and school personnel who participate in the school-based management and shared decision-making process; and

(c) developing, in consultation with associations of parents in the city district, and implementing no later than October first, nineteen hundred ninety-eight, a parental bill of rights which provides for, at minimum:

(i) reasonable access by parents, persons in parental relation and guardians to schools, classrooms, and academic and attendance records of

their own children, consistent with federal and state laws, provided that such access does not disrupt or interfere with the regular school process;

(ii) the rights of parents, persons in parental relation and guardians to take legal action and appeal the decisions of the school administration, as authorized by law;

(iii) the right of parents, persons in parental relation and guardians to have information on their own child's educational materials;

(iv) access to and information about all public meetings, hearings of the chancellor, the city board, the community superintendents, the community boards, and the schools; and

(v) access to information regarding programs that allow students to apply for admission where appropriate to schools outside a student's own attendance zone.

The chancellor shall by rule or regulation provide for the involvement including membership, in any parents' association or parent-teacher association established pursuant to this subdivision, of a grandparent who is in parental relation to a child who attends a school within the jurisdiction of the community school district. For purposes of this subdivision, a grandparent shall be considered to be in parental relation to a child when such grandparent has assumed care of such child because such child's parents are not available due to death, imprisonment, mental illness, living outside the state, abandonment of the child, or other circumstances. A determination of whether a grandparent is in parental relation to a child shall be based upon the individual circumstances surrounding guardianship and custodial care of such child.

16. Promulgate such rules and regulations as he or she may determine to be necessary or convenient to accomplish the purposes of this act, not inconsistent with the provisions of this article and the policies of the city board.

17. Possess those powers and duties described in section twenty-five hundred fifty-four of this chapter, the exercise of which shall be in a manner not inconsistent with the provisions of this article and the

policies of the city board.

18. Possess those powers and duties contained in section nine hundred twelve of this chapter and those provisions of article fifteen thereof which relate to non-public schools, those powers and duties contained in section five hundred twenty-two of the New York city charter and those powers and duties contained in article seventy-three of this chapter, the exercise of which shall be in a manner not inconsistent with the provisions of this article and the policies of the city board.

19. Delegate any of his or her powers and duties to such subordinate officers or employees as he or she deems appropriate and to modify or rescind any power and duty so delegated.

20. Ensure compliance with qualifications established for all personnel employed in the city district, including the taking of fingerprints as a prerequisite for licensure and/or employment of such personnel. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed. Furthermore, the division of criminal justice services is authorized to submit the fingerprints to the federal bureau of investigation for a national criminal history record check.

21. Perform the functions of the bureau of audit throughout the city district, including ensuring compliance with subdivisions thirty-six and thirty-seven of this section.

22. Establish uniform procedures for record keeping, accounting and reporting throughout the city district, including pupil record keeping, accounting and reporting.

23. Develop an educational facilities master plan, and revisions thereto, as defined in section twenty-five hundred ninety-o of this article.

24. Develop and implement a five-year educational facilities capital

plan, and amendments thereto, as defined in section twenty-five hundred ninety-p of this article. The chancellor shall also appoint a person, who reports directly to the chancellor or his or her designee, to assist in the development and implementation of such plan and amendments thereto and to oversee the school buildings program.

25. On the chancellor's own initiative, or at the request of a community superintendent, transfer a principal employed by a community school district pursuant to an agreement with the employee organization representing such principals. The chancellor shall establish a procedure for consulting with affected parents to explain any such transfer. Consistent with section twenty-five hundred ninety-i of this article, including without limitation subdivision three thereof, and subdivision one thereof with respect to the rights and obligations of a school to which a principal is transferred, in addition to any other law providing for the transfer of principals, the chancellor also may cause the transfer or removal of principals for persistent educational failure, conflicts of interest, and ethics violations, and may require principals to participate in training and other remedial programs to address identified factors affecting student achievement and school performance.

26. Establish educational and experience qualifications and requirements for all custodial positions including, but not limited to, custodians and custodial engineers and develop standards for evaluating the performance of all such individuals, subject to approval of the city board. Such performance standards shall include, but not be limited to: the cleanliness of facilities; adequacy and timeliness of minor repairs; maintenance of good working order of facilities and grounds; general facilities improvement; and emergency services. The chancellor shall promulgate regulations setting forth the respective responsibilities of the district plant manager, which shall include regular consultation and ongoing reports to the community superintendent, and the principal of each school for evaluating the performance of the custodial employees assigned to his or her school, in accordance with such performance standards, and such performance evaluations shall be given dominant weight in any decision for the purposes of: advancement; continued employment; building transfers; and other performance incentives. The

responsibility of the principal of each school in the evaluation of custodial employees may be a matter for collective bargaining with collective bargaining representatives for principals.

27. Develop, in conjunction with each community superintendent, a plan for providing access to school facilities in each community school district, when not in use for school purposes, in accordance with the provisions of section four hundred fourteen of this chapter. Such plan shall set forth a reasonable system of fees not to exceed the actual costs and specify that no part of any fee shall directly or indirectly benefit or be deposited into an account which inures to the benefit of the custodians or custodial engineers.

28. Establish, subject to the approval of the city board, a publicly-inclusive process for the recruitment, screening and selection of district superintendent candidates.

29. Promulgate regulations, subject to the approval of the city board, establishing educational, managerial, and administrative qualifications, performance record criteria, and performance standards for the positions of superintendent and principal.

30. Select a community superintendent from candidates recommended by community boards, based upon compliance with the procedures for selection required by subdivision twenty-eight of this section, the qualifications required by subdivision twenty-nine of this section, and consistent with a model contract developed by the chancellor.

30-a. Remove a community superintendent who fails to comply with the provisions of subdivision two of section twenty-five hundred ninety-f of this article.

31. Intervene in any district or school which is persistently failing to achieve educational results and standards approved by the city board or established by the state board of regents, or has failed to improve its educational results and student achievement in accordance with such standards or state or city board requirements, or in any school or

district in which there exists, in the chancellor's judgment, a state of uncontrolled or unaddressed violence. The chancellor may, in addition to exercising any other powers authorized by this article, require such school principal, or district as the case may be, to prepare a corrective action plan, with a timetable for implementation of steps acceptable to the chancellor to reach improvement goals consistent with city board standards and educational results. The chancellor may require the school or district to alter or improve the corrective action plan, or may directly modify the plan. The chancellor shall monitor implementation of the plan, and, if the school or district fails to implement it, may supersede any inconsistent decision of the school principal, community board or community superintendent; assume joint or direct control of the operation of the school or district to implement the corrective action plan; or take any other action authorized by this article. Any action of the chancellor to supercede an inconsistent decision of the school principal, community board or community superintendent, or to assume joint or direct control of the operation of the school or district pursuant to this subdivision may be appealed to the city board in accordance with section twenty-five hundred ninety-g of this article.

32. Appoint a deputy, for each borough of the city of New York, responsible for coordinating and periodically meeting and consulting with the borough president, the chancellor and the community superintendents in the borough on borough-specific issues and issues of borough-wide significance, including the provision of services in support of schools and community districts such as transportation, purchasing, capital planning, and coordination with municipal services, and chancellor and city board policy with respect to the high schools.

33. Require community school board members to participate in training and retraining in order to promote district and school performance and student achievement, as a continuing condition for membership.

35. Take all necessary steps to promote the effectiveness and integrity of school-based budgeting pursuant to section twenty-five hundred ninety-r of this article, including the obligations imposed by

subdivision thirty-seven of this section.

36. Develop in consultation with the city board, a procurement policy for the city school district of the city of New York, and the districts and public schools therein. Such policy shall ensure the wise and prudent use of public money in the best interest of the taxpayers of the state; guard against favoritism, improvidence, extravagance, fraud and corruption; and ensure that contracts are awarded consistent with law and on the basis of best value, including, but not limited to, the following criteria: quality, cost and efficiency. Such policy shall also include: (a) standards for quality, function and utility of all material goods, supplies and services purchased by the chancellor, superintendents or schools; (b) regulations for the purchase of material goods, supplies and services by the chancellor, the superintendents and the schools, including clearly articulated procedures which require a clear statement of product specifications, requirements or work to be performed, a documentable process of soliciting bids, proposals or other offers, and a balanced and fair method, established in advance of receipt of offers, for evaluating offers and awarding contracts; (c) regulations which enable superintendents and schools to purchase material goods, supplies and services directly from vendors or suppliers when such products are available at prices or other terms more economically beneficial for the purposes of the acquiring superintendent or school; and (d) regulations shall include repair services and building supplies, as defined in such regulations, for expenditures from each district's minor repair and purchasing funds pursuant to section twenty-five hundred ninety-r of this article.

37. Establish, subject to the approval of the city board, guidelines and a system of internal controls, including internal administrative controls and internal accounting controls, with provisions for internal audits, as such terms are defined in section nine hundred fifty of the executive law. Such system shall also include a system of internal control review designed to identify weaknesses and identify actions to rectify them; a clear and concise statement of the generally applicable management policies and standards made available to each officer and employee relevant to fiscal and expenditure control, in addition to

education and training efforts to ensure adequate understanding of internal control standards and evaluation techniques; and the designation of an internal control officer for each community district, each of whom shall report to the chancellor and the auditor general, to execute a regular internal audit function which shall operate in accordance with generally accepted governmental auditing standards. The internal auditors for the community districts shall operate in cooperation with the auditor general, appointed by the chancellor subject to the approval of the city board, who shall, in addition to the functions of the internal auditors, monitor and conduct random audits of school districts at least once every two years for fraud, waste and mismanagement. Notwithstanding any provision of state law or state, city or city board regulation, the internal auditors, and the auditor general, shall be entitled, upon their request, to all and any documents and materials bearing in their judgment on the finances and cost-effectiveness of the schools and the school districts that is in the possession of the community districts, the schools, or any officer thereof.

38. to exercise all of the duties and responsibilities of the employing board as set forth in section three thousand twenty-a of this chapter with respect to any member of the teaching or supervisory staff of schools under the jurisdiction of the community boards. The chancellor shall exercise all such duties and responsibilities for all community districts or may delegate the exercise of all such duties and responsibilities to all of the community superintendents of the city district.

* NB Effective June 30, 2028

*** § 2590-i. Powers and duties of schools; principals; provisions for the transfer of jurisdiction of high schools.** 1. The principal shall be the administrative and instructional leader of the school. Subject to the regulations of the chancellor and applicable collective bargaining agreements and obligations, the principal shall be responsible for the day to day operation of the school and shall carry out these duties in consultation with parents, teachers and other staff, and the school

based management team pursuant to section twenty-five hundred ninety-h of this article including:

(a) promote an equal educational opportunity for students in the school,

(b) subject to school-based budgeting pursuant to section twenty-five hundred ninety-r of this article,

(c) subject to collective bargaining obligations and agreements, the budget applicable to the school, and the other provisions of this article including section twenty-five hundred ninety-j of this article, to make recommendation on staff selection, including through the establishment of appropriate objective criteria consistent with chancellor's regulations for filling vacancies based upon the school's instructional and facility needs,

(d) subject to the standards and assessments promulgated by the chancellor, to develop school-based curricula and syllabi for instruction, and to address other matters relating to the instruction of students, including the selection of texts from lists approved by the chancellor and instructional materials, consistent with regulations of the commissioner, and subject to the approval of the superintendent, or chancellor in the case of schools under the jurisdiction of the city board,

(e) subject to the approval of the superintendent, or, where appropriate, the chancellor and within the limits of funds made available therefor, to enhance teacher and staff development relevant to increasing student achievement, support extended day programs, school reform programs, and pupil-support services,

(f) enhance pupil support services by coordinating related programs,

(g) to make or arrange for minor repairs as delegated by the chancellor or superintendent pursuant to regulations of the chancellor, or as otherwise authorized by law subject to subdivisions thirty-six and thirty-seven of section twenty-five hundred ninety-h of this article,

(h) subject to subdivisions thirty-six and thirty-seven of section twenty-five hundred ninety-h of this article, identifying and purchasing equipment and supplies that can be purchased for less than if purchased through purchasing arrangements entered into through the city board, the chancellor or the superintendent,

(i) to manage and operate the school building and other facilities

under its jurisdiction.

2. (a) The principal may be removed or transferred by the superintendent or the chancellor for persistent educational failure of the school or other cause. Removals may be caused pursuant to section three thousand twenty-a of this chapter if applicable. Transfers may be caused pursuant to subdivision twenty-five of section twenty-five hundred ninety-h of this article. Any such removal or transfer may be appealed to the city board, during which time the superintendent may appoint an acting principal subject to the approval of the chancellor. Provided however that such appointee must meet qualifications pursuant to paragraph (c) of this subdivision. Persistent educational failure of the school shall be defined in regulations of the chancellor to include a pattern of poor or declining achievement; a pattern of poor or declining attendance; disruption or violence; and continuing failure to meet chancellor's performance standards or other standards.

(b) The principal may be required by the chancellor or the superintendent to participate in training or other forms of staff development or to address identified areas of educational need and promote student achievement and school performance.

(c) Principals shall be selected consistent with regulations of the chancellor establishing a process that promotes parental and staff involvement in the recruitment, screening, interviewing and recommendation of candidates. Candidates must meet the requirements of regulations of the chancellor establishing educational, managerial, and administrative qualifications, including evaluation of each candidate's record of performance in comparable positions. In the case of schools under the jurisdiction of the community districts, a candidate approved by a community superintendent pursuant to paragraph (e) of subdivision one of section twenty-five hundred ninety-f of this article may nonetheless, before assuming the position, be rejected by the chancellor for cause. In the case of schools not under the jurisdiction of the community districts, the chancellor shall additionally consult with members of the school based management team prior to appointing a principal candidate to any such school.

3. Provisions for transfer of jurisdiction of high schools. Pursuant

to regulations of the chancellor approved by the city board, any high school, other than a special senior academic or vocational high school of city-wide competitive admission, may be transferred from the jurisdiction of the city board to the jurisdiction of the community district in which it is located, or from such community district to the city board, upon the consent of the chancellor and the community superintendent. In such event, the chancellor and the superintendent shall promptly take all necessary steps to effectuate the transfer.

* NB Effective until June 30, 2028

* § 2590-i. Powers and duties of schools; principals; provisions for the transfer of jurisdiction of high schools. 1. The principal shall be the administrative and instructional leader of the school. Subject to the regulations of the chancellor and applicable collective bargaining agreements and obligations, the principal shall be responsible for the day to day operation of the school and shall carry out these duties in consultation with parents, teachers and other staff pursuant to section twenty-five hundred ninety-h of this article including:

(a) promote an equal educational opportunity for students in the school,

(b) subject to school-based budgeting pursuant to section twenty-five hundred ninety-r of this article,

(c) subject to collective bargaining obligations and agreements, the budget applicable to the school, and the other provisions of this article including section twenty-five hundred ninety-j of this article, to make recommendation on staff selection, including through the establishment of appropriate objective criteria consistent with chancellor's regulations for filling vacancies based upon the school's instructional and facility needs,

(d) subject to the standards and assessments promulgated by the chancellor, to develop school-based curricula and syllabi for instruction, and to address other matters relating to the instruction of students, including the selection of texts from lists approved by the chancellor and instructional materials, consistent with regulations of the commissioner, and subject to the approval of the superintendent, or chancellor in the case of schools under the jurisdiction of the city board,

(e) subject to the approval of the superintendent, or, where

appropriate, the chancellor and within the limits of funds made available therefor, to enhance teacher and staff development relevant to increasing student achievement, support extended day programs, school reform programs, and pupil-support services,

(f) enhance pupil support services by coordinating related programs,

(g) to make or arrange for minor repairs as delegated by the chancellor or superintendent pursuant to regulations of the chancellor, or as otherwise authorized by law subject to subdivisions thirty-six and thirty-seven of section twenty-five hundred ninety-h of this article,

(h) subject to subdivisions thirty-six and thirty-seven of section twenty-five hundred nine-h of this article, identifying and purchasing equipment and supplies that can be purchased for less than if purchased through purchasing arrangements entered into through the city board, the chancellor or the superintendent,

(i) to manage and operate the school building and other facilities under its jurisdiction.

2. (a) The principal may be removed or transferred by the superintendent or the chancellor for persistent educational failure of the school or other cause. Removals may be caused pursuant to section three thousand twenty-a of this chapter if applicable. Transfers may be caused pursuant to subdivision twenty-five of section twenty-five hundred ninety-h of this article. Any such removal or transfer may be appealed to the city board, during which time the superintendent may appoint an acting principal subject to the approval of the chancellor. Provided however that such appointee must meet qualifications pursuant to paragraph (d) of this subdivision. Persistent educational failure of the school shall be defined in regulations of the chancellor to include a pattern of poor or declining achievement; a pattern of poor or declining attendance; disruption or violence; and continuing failure to meet chancellor's performance standards or other standards.

(b) The principal may be required by the chancellor or the superintendent to participate in training or other forms of staff development or to address identified areas of educational need and promote student achievement and school performance.

(c) Principals shall be selected consistent with regulations of the chancellor establishing a process that promotes parental and staff

involvement in the recruitment, screening, interviewing and recommendation of candidates. Candidates must meet the requirements of regulations of the chancellor and the city board establishing educational, managerial, and administrative qualifications, including evaluation of each candidate's record of performance in comparable positions. In the case of schools under the jurisdiction of the community districts, a candidate approved by a community superintendent may nonetheless, before assuming the position, be rejected by the chancellor for cause.

3. Provisions for transfer of jurisdiction of high schools. Pursuant to regulations of the chancellor approved by the city board, any high school, other than a special senior academic or vocational high school of city-wide competitive admission, may be transferred from the jurisdiction of the city board to the jurisdiction of the community district in which it is located, or from such community district to the city board, upon the consent of the chancellor and the community superintendent. In such event, the chancellor and the superintendent shall promptly take all necessary steps to effectuate the transfer.

* NB Effective June 30, 2028

§ 2590-j. Appointment and removal of persons in the teaching and supervisory service. 1. Persons in the teaching and supervisory service in all schools in the city system shall be appointed as prescribed by this section.

2. The chancellor shall promulgate minimum education and experience requirements for all teaching and supervisory service positions which shall not be less than minimum state requirements for certification, and with the approval of the city board shall create and abolish the titles of all positions in the teaching and supervisory service.

4. (a) The chancellor shall appoint and assign teachers for all schools and programs under the jurisdiction of the city board from eligible lists of prospective appointees selected by random selection from qualifying eligible lists.

(b) The chancellor shall appoint and assign all supervisory personnel for all schools and programs under the jurisdiction of the city board from persons on qualifying eligible lists.

(c) Consistent with the provisions of sections twenty-five hundred ninety-f, twenty-five hundred ninety-h and twenty-five hundred ninety-i of this article, the district superintendent shall appoint teachers for all schools and programs under the community district's jurisdiction who are assigned to the district by the chancellor from eligible lists of prospective appointees selected by random selection from qualifying eligible lists. Insofar as practicable the chancellor, when making such assignments shall give effect to the requests for assignment of specific persons by the community superintendent. The community superintendent shall appoint such teachers to schools within such district within thirty days if such appointment is to be effective on a date subsequent thereto and within three days if such appointment is to be effective immediately.

(d) Each community superintendent shall appoint and assign all supervisory personnel for all schools and programs under his or her jurisdiction from persons on qualifying eligible lists except for those personnel appointed pursuant to paragraph (d) of subdivision one of section twenty-five hundred ninety-f of this article.

(e) No person who is related within the third degree of consanguinity or affinity to the chancellor or to any member of the city board or to any community superintendent or to any member of a community board shall commence employment with the city or community district of which such relative is a member, chancellor or superintendent, except upon the consent of two-thirds of the members of the city board or such community board, as the case may be, to be determined at a public meeting of the city board or such community board.

5. (a) The chancellor shall cause a comprehensive reading examination to be administered to all pupils in all schools under the jurisdiction of the community districts annually. Prior to October first of every year each school shall be ranked in order of the percentage of pupils reading at or above grade level as determined by such examination, in accordance with rules to be promulgated by the chancellor.

(b) If the ranking of a school under the jurisdiction of a community

district falls in the lower forty-five percent of the ranking of all such schools, as provided in paragraph (a) of this subdivision, the community superintendent of such school (hereinafter called an eligible school) may appoint teachers to such school in conformity with this subdivision, any other provision of this section or chapter notwithstanding, provided, that in the first year during which this paragraph is operative, only a school in the lower forty percent shall be an eligible school.

(c) The community superintendent of each eligible school may between October first in the year in which the foregoing examination was administered and the following May first, appoint any person a teacher in such school for the school year commencing in September of the year following such examination without regard to any competitive eligibility lists or open qualifying lists established pursuant to this section, provided that such person, will on the effective date of such appointment, have the education and experience qualifications for certification as a teacher pursuant to article sixty-one of this chapter and shall:

(i) be on a qualifying eligible list or be on an existing competitive eligible list for such position; or

(ii) have passed a test or tests acceptable to the commissioner at a pass mark established by the commissioner. This paragraph shall not restrict the right of the chancellor to establish appropriate medical requirements for all teachers. The chancellor shall cause such test or tests to be offered at reasonable intervals at one or more cities in the commonwealth of Puerto Rico.

(d) Such community superintendent may waive his or her rights under paragraph (c) of this subdivision and elect to appoint teachers under paragraph (c) of subdivision four of this section.

(e) All teachers appointed under paragraph (c) of this subdivision shall for all purposes, have the same status, rights and duties as teachers appointed under paragraph (c) of subdivision four of this section.

6. If a vacancy exists for a teaching position in any community district for which there are no names on any appropriate eligible list in force, the community superintendent of such district may appoint and

assign any person to fill such position who complies with paragraph (c) of subdivision five of this section.

6-a. (a) Notwithstanding any other provision of law, any person who has served continuously as a substitute teacher in the schools of the city system since the fourteenth day of September, nineteen hundred seventy shall be appointed to probationary service in the school he is serving in as of June first, nineteen hundred seventy-two effective September sixth, nineteen hundred seventy-two provided a vacancy exists in the school for the school year commencing September nineteen hundred seventy-two and provided his name appears on an appropriate eligible list in existence on June first, nineteen hundred seventy-two without regard to his relative standing on such list, and thereafter he shall be subject to all the existing provisions of law and negotiated agreements in the same manner as any other appointee.

(b) Notwithstanding any other provision of law, persons awaiting appointment from eligible lists shall be assigned and appointed in ranked order by the city board on September sixth, nineteen hundred seventy-two to those vacancies which were in existence on June first, nineteen hundred seventy-two and continued to be in existence on September sixth, nineteen hundred seventy-two.

7. (a) No member of the teaching or supervisory staff of schools who has served the full and appropriate probationary period prescribed by, or in accordance with law, shall be found guilty of any charges except after a hearing as provided by section three thousand twenty-a of this chapter.

(b) Charges may be initiated by the community superintendent against any such employee for any of the following offenses:

(1) Unauthorized absence from duty or excessive lateness;

(2) Neglect of duty;

(3) Conduct unbecoming his position, or conduct prejudicial to the good order, efficiency or discipline of the service;

(4) Incompetent or inefficient service;

(5) A violation of the by-laws, rules or regulations of the city board, chancellor, or the community board; or

(6) Any substantial cause that renders the employee unfit to perform

his obligations properly to the service.

(c) The community superintendent, in advance of the filing of charges and specifications, shall inform the employee accused and the community board of the nature of the complaint. No charge shall be brought outside the statute of limitation period provided for in section three thousand twenty-a of this chapter.

(d) Upon the service of a copy of the charges upon such employee, the community superintendent may recommend to the chancellor the suspension of any such employee. If the chancellor shall determine that the nature of the charge requires the immediate removal of the employee from his assigned duties, he may suspend such employee for a period not exceeding ninety days pending hearing and determination of charges, provided however, that such employee shall be entitled to receive full compensation during the period of suspension. In case the employee is acquitted, he shall be restored to his position.

8. The community superintendent may transfer members of the teaching and supervisory service without their consent within the district for the following reasons only:

(a) Disciplinary action pursuant to subdivision seven of this section,

(b) Excess staff in a specific school,

(c) To staff a new school, or

(d) To fill a vacancy in another school within the district; provided, however, (i) that such transfers shall be made in inverse order of seniority in the school from which made, (ii) that the school to which the person is transferred has a higher number of vacant positions subsequent to such transfer than the school from which transferred, (iii) that there is no appropriate eligible list for such position, (iv) that no other qualified person within the district makes application to fill such position, and (v) such vacancy has existed for at least two weeks.

In exercising the power granted in paragraphs (b) and (c), hereof the community superintendent shall comply with all collective negotiation agreements.

8-a. Notwithstanding the provisions of subdivision eight of this

section, a community superintendent shall request the chancellor to transfer a principal pursuant to subdivision twenty-five of section twenty-five hundred ninety-h of this article, or to remove or otherwise discipline the principal pursuant to section three thousand twenty-a of this chapter, or to require the principal to participate in training and staff development, or to take other actions to promote student achievement and school performance, where appropriate, consistent with the obligations of the superintendent pursuant to section twenty-five hundred ninety-f and the provisions of section twenty-five hundred ninety-i of this article.

9. (a) Notwithstanding any other provision of law, appointments of persons to vacancies in teaching positions in the city system shall be made in the following order:

(1) Persons who have been displaced from other positions and persons on preferred lists, in accordance with the provisions of section twenty-five hundred eighty-eight of this chapter.

(2) Persons on eligible lists who were employed in the city school district who have served satisfactorily for two terms as a regular appointee or as a regular substitute or as a per diem certificate holder in any license area or four terms as a paraprofessional or school aide provided that such service was not rendered more than five years prior to the date of promulgation of the qualifying eligible list on which their names appear.

(3) All other persons, as otherwise provided in this chapter.

(4) Nothing contained in subparagraphs two or three of this subdivision shall be construed to prevent a community superintendent of an eligible school as defined in subdivision five of this section from electing to appoint persons in the manner authorized in said subdivision.

(b) Subject to the provisions of subdivision two of section twenty-five hundred ninety-i of this article with respect to principals, appointments pursuant to subparagraph two of paragraph (a) of this subdivision shall be made in the manner prescribed in subdivision ten of section twenty-five hundred seventy-three of this chapter and in subdivision four of this section as if the persons covered by such subparagraphs constituted the entire list.

§ 2590-k. Contracts with city university of New York for administration of high schools. 1. The city board and the city university of New York are hereby authorized and empowered to enter into a contract or contracts whereby such university will administer not more than five high schools under the jurisdiction of the city board selected from among those schools which exhibit the greatest degree of disadvantage as measured by such factors as the proportion of students earning general diplomas, the percentage of students reading below grade level, the attrition rate, the proportion of students residing in officially designated poverty areas, and similar measures.

2. Such contract may provide for the delegation by the city board of any of its functions, powers, and duties or of a community board, or those of the chancellor or a community superintendent, in connection with the operation of such high schools, to the city university of New York, except the power to appoint or terminate the employment of any employee. The terms and conditions of employment shall continue to remain under the jurisdiction of the city board.

3. The provisions of section sixty-two hundred nine of this chapter with respect to the apportionment of public school moneys shall be applicable to the high schools included in any such contract or contracts.

§ 2590-l. Enforcement of applicable law, regulations and directives; establishment of appeal board. * 1. (a) If, in the judgment of the chancellor any community district education council and/or superintendent fails to comply with any applicable provisions of law, by-laws, rules or regulations, standards, directives and agreements, he or she may, in addition to or as an alternative to any other remedies authorized by this article, including subdivision thirty-one of section twenty-five hundred ninety-h of this article, issue an order requiring the community district education council and/or superintendent to cease its improper conduct or to take required action and consistent with the

provisions of this article and the educational and operational policies of the city board, may enforce that order by the use of appropriate means, including:

(i) supersession of the community district education council and/or superintendent by the chancellor or one or more trustees appointed by him who may be, notwithstanding any other provision of law, employees of the city board with respect to those powers and duties or decisions of such community district education council and/or superintendent deemed necessary to ensure compliance with the order; and

(ii) suspension or removal of the community district education council and/or superintendent or any member or members thereof.

(b) Prior to the enforcement of any order authorized under this section, the chancellor shall provide an opportunity for conciliation, except that the chancellor without conciliation may suspend or remove one or more members of a community district education council or a community superintendent where the conduct (i) is criminal in nature; (ii) poses an immediate danger to the safety or welfare of students or any school staff or employee, or (iii) in the judgment of the chancellor, is contrary to the best interest of the city school district.

* NB Effective until June 30, 2028

* 1. (a) If, in the judgment of the chancellor any community board and/or superintendent fails to comply with any applicable provisions of law, by-laws, rules or regulations, standards, directives and agreements, he or she may, in addition to or as an alternative to any other remedies authorized by this article, including subdivision thirty-one of section twenty-five hundred ninety-h of this article, issue an order requiring the community board and/or superintendent to cease its improper conduct or to take required action and consistent with the provisions of this article and the educational and operational policies of the city board, may enforce that order by the use of appropriate means, including:

(i) supersession of the community board and/or superintendent by the chancellor or one or more trustees appointed by him who may be, notwithstanding any other provision of law, employees of the city board with respect to those powers and duties or decisions of such community board and/or superintendent deemed necessary to ensure compliance with

the order; and

(ii) suspension or removal of the community board and/or superintendent or any member or members thereof.

(b) Prior to the enforcement of any order authorized under this section, the chancellor shall provide an opportunity for conciliation, except that the chancellor without conciliation may suspend or remove one or more members of a community board or a community superintendent where the conduct (i) is criminal in nature; (ii) poses an immediate danger to the safety or welfare of students or any school staff or employee, or (iii) in the judgment of the chancellor, is contrary to the best interest of the city school district.

* NB Effective June 30, 2028

2. The community board or any suspended or removed member and/or superintendent thereof may, within fifteen days after issuance of such order, file an appeal with the city board acting as an appeal board pursuant to subdivision ten of section twenty-five hundred ninety-g of this article.

* 2-a. A member of a community district education council may be removed upon a finding that the member willfully, intentionally or knowingly interfered with or was involved in the hiring, appointment or assignment of employees other than as specifically authorized in this article. Such a finding, unless judicially overturned pursuant to article seventy-eight of the civil practice law and rules, shall permanently disqualify that member from employment, contracting or membership with or on any community district education council or the city board or any employment or contractual relationship, direct or indirect, with the city district, any community district, or any public school in such districts.

* NB Effective until June 30, 2028

* 2-a. A member of a community school district board may be removed upon a finding that the member willfully, intentionally or knowingly interfered with or was involved in the hiring, appointment or assignment of employees other than as specifically authorized in this article. Such a finding, unless judicially overturned pursuant to article seventy-eight of the civil practice law and rules, shall permanently disqualify that member from employment, contracting or membership with

or on any community board or the city board or any employment or contractual relationship, direct or indirect, with the city district, any community district, or any public school in such districts.

* NB Effective June 30, 2028

§ 2590-m. Custody and disbursement of funds. * 1. Public moneys apportioned to the city district by the state and all funds raised or collected by the authorities of such city for school purposes or to be used by the city board or by any community board for any purpose authorized by this chapter, or any other funds belonging to the city district or a community district and received from any source whatsoever for school purposes, shall be paid into the city treasury and shall be credited to the city board or to the respective community councils.

* NB Effective until June 30, 2028

* 1. Public moneys apportioned to the city district by the state and all funds raised or collected by the authorities of such city for school purposes or to be used by the city board or by any community board for any purpose authorized by this chapter, or any other funds belonging to the city district or a community district and received from any source whatsoever for school purposes, shall be paid into the city treasury and shall be credited to the city board or to the respective community boards.

* NB Effective June 30, 2028

2. The fund so received into such treasury shall be kept separate and distinct from any other funds received therein. The officer having charge thereof shall give such additional security for the safe custody thereof as the corporate authorities of the city of New York shall require.

* 3. a. Funds credited to the city board shall be disbursed upon written orders of the director of finance of the city signed by the chancellor or such other officer or officers as the city board authorize. Funds credited to a community council shall be disbursed upon written orders of the director of finance of the city signed by the community superintendent and such other officer or officers as such board may authorize.

b. If an auditor shall have been appointed by the chancellor or any community district education council, such orders shall be signed by such auditor; provided, however, that the chancellor and any such district education council may in addition require the signature of such other officer or officers as the chancellor may direct or as such district education council may by resolution direct.

c. Orders issued under this subdivision shall specify the purpose for which they are drawn and the person to whom they are payable.

* NB Effective until June 30, 2028

* 3. a. Funds credited to the city board shall be disbursed upon written orders of the director of finance of the city signed by the chancellor or such other officer or officers as the city board authorize. Funds credited to a community board shall be disbursed upon written orders of the director of finance of the city signed by the community superintendent and such other officer or officers as such board may authorize.

b. If an auditor shall have been appointed by the city board or any community board, such orders shall be signed by such auditor; provided, however, that the city board and any such board may in addition require the signature of such other officer or officers as it may by resolution direct.

c. Orders issued under this subdivision shall specify the purpose for which they are drawn and the person to whom they are payable.

* NB Effective June 30, 2028

* 4. a. It shall be unlawful for the director of finance of the city to permit any funds placed in his custody under the provisions of this section to be used for any purpose other than that for which they are lawfully authorized.

b. Such funds shall be paid out only on audit of the city board through the chancellor or the community council to which such funds are credited, except as otherwise provided in subdivision five of this section.

c. Payments from such funds shall be made only by checks signed by the director of finance of the city and payable to the person entitled thereto and countersigned by the comptroller of the city of New York.

* NB Effective until June 30, 2028

* 4. a. It shall be unlawful for the director of finance of the city to permit any funds placed in his custody under the provisions of this section to be used for any purpose other than that for which they are lawfully authorized.

b. Such funds shall be paid out only on audit of the city board through the chancellor or the community board to which such funds are credited, except as otherwise provided in subdivision five of this section.

c. Payments from such funds shall be made only by checks signed by the director of finance of the city and payable to the person entitled thereto and countersigned by the comptroller of the city of New York.

* NB Effective June 30, 2028

* 5. Fixed salaries, principal of and interest on indebtedness and amounts becoming due upon lawful contracts for periods exceeding one year may be disbursed without prior audit by the city board or the council to which such funds are credited.

* NB Effective until June 30, 2028

* 5. Fixed salaries, principal of and interest on indebtedness and amounts becoming due upon lawful contracts for periods exceeding one year may be disbursed without prior audit by the city board or the board to which such funds are credited.

* NB Effective June 30, 2028

* 6. The chancellor, city board and each district education council referred to in this section shall make, in addition to such classification of its funds as it desires for its own use and information, such further classification of the funds credited to it and of the disbursement thereof as the comptroller of the city of New York shall require; provided that the classification of funds by community councils shall be in accordance with the altered schedules developed pursuant to subdivision eight of section twenty-five hundred ninety-i of

this article. The chancellor, city board and community district education councils shall furnish such data in relation to such funds and their disbursements as the comptroller of the city of New York shall require.

* NB Effective until June 30, 2028

* 6. The city board and each board referred to in this section shall make, in addition to such classification of its funds as it desires for its own use and information, such further classification of the funds credited to it and of the disbursement thereof as the comptroller of the city of New York shall require; provided that the classification of funds by community boards shall be in accordance with the altered schedules developed pursuant to subdivision eight of section twenty-five hundred ninety-i of this article. The city board and community boards shall furnish such data in relation to such funds and their disbursements as the comptroller of the city of New York shall require.

* NB Effective June 30, 2028

7. The comptroller of the city of New York shall audit the accounts of the city board and each community district, and, subject to laws safeguarding the disclosure of individual information, make public the results of such audits, at least once every four years; provided that this section shall not limit the obligations of the school districts pursuant to section twenty-one hundred sixteen-a of this chapter. The comptroller of the city of New York shall be entitled to the cooperation of the commissioner of finance of the city of New York, the chief fiscal investigations officer and the internal auditors appointed pursuant to subdivision thirty-seven of section twenty-five hundred ninety-h of this article.

* 8. Notwithstanding any provision of law to the contrary, the powers and duties conferred on a community district education council by this section shall be exercised exclusively by the community superintendent employed by such council.

* NB Effective until June 30, 2028

* 8. Notwithstanding any provision of law to the contrary, the powers and duties conferred on a community school board by this section shall be exercised exclusively by the community superintendent employed by such board.

* NB Effective June 30, 2028

§ 2590-n. Conflicts of interest. * 1. It shall be unlawful for any community board member, community superintendent, or any such other officer or employee in schools and programs under the jurisdiction of the community board as the chancellor by regulation shall specify, to be directly or indirectly interested in the furnishing of any supplies or materials, or in the doing of any work or labor, or in the sale or leasing of any real estate, or in any proposal, agreement, or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any school moneys, or who shall have received from any source whatever any commission or compensation in connection with any of the matters aforesaid.

* NB Effective until June 30, 2028

* 1. It shall be unlawful for any community board member, community superintendent or any such other officer or employee in schools and programs under the jurisdiction of the community board as the city board by regulation shall specify, to be directly or indirectly interested in the furnishing of any supplies or materials, or in the doing of any work or labor, or in the sale or leasing of any real estate, or in any proposal, agreement or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any school moneys, or who shall have received from any source whatever any commission or compensation in connection with any of the matters aforesaid.

* NB Effective June 30, 2028

2. a. A community board member may not (i) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; or (ii) directly or indirectly coerce, attempt to coerce or command a community board employee or a city board employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes or to participate in any political campaign.

b. Notwithstanding any provision of this subdivision to the contrary, a community board member may participate in, affect or aid the result of such person's own election or nomination for office or express opinions on political subjects and candidates.

c. Nothing in this subdivision shall be construed (i) to limit the applicability of section one hundred seven of the civil service law to community board members; or (ii) to preclude a community board member from carrying out any duty prescribed by law.

3. Violation of this section shall constitute cause for removal from office in accordance with notice and hearing provisions contained in regulations and by-laws of the city board.

4. The provisions of this section shall not apply to authors of school books used in any of the public schools because of any interest they may have as authors in such books.

*** § 2590-o. Educational facilities master plan.** 1. In accordance with the schedule set forth in subdivision two of this section, the chancellor shall prepare an educational facilities master plan to take effect on July first, nineteen hundred eighty-nine, which shall set forth all the actions necessary to restore the city's educational facilities to a state of good repair by January first, two thousand. The plan shall (i) set forth the minimum acceptable standards for each type of educational facility and the number and identity to the extent ascertainable of facilities of each such type that the chancellor believes do not currently meet such minimum standards, (ii) identify those facility defects and shortcomings that most seriously impede learning and teaching, (iii) describe the remedial measures proposed to be taken, (iv) establish priorities for their initiation and completion, including a list of prioritized projects to the extent ascertainable and (v) list each proposed new educational facility and set forth a justification, including demographic data, documenting the longterm need therefor. In addition, the master plan shall include an estimate of its cost and such other information as the chancellor shall determine.

2. No later than January sixth, nineteen hundred eighty-nine, the chancellor shall, in conjunction with the submission of the five-year educational facilities capital plan required by section twenty-five hundred ninety-p of this chapter, submit the master plan to each community school board, which shall conduct a public hearing on both the educational facilities master plan and the five-year educational facilities capital plan and shall prepare and submit recommendations to the chancellor on or before February twentieth, nineteen hundred eighty-nine with respect to matters in the plans that involve that school district. The chancellor shall consider the recommendations received from the community school boards, and, on or before March eighth, nineteen hundred eighty-nine, shall submit a final educational facilities master plan to the city board for its approval. On or before March twenty-second, nineteen hundred eighty-nine, the city board shall approve the educational facilities master plan submitted by the chancellor or such plan as is determined by the city board.

** 3. No later than January first, nineteen hundred ninety-three, the chancellor shall prepare and submit a preliminary proposed revision to the educational facilities master plan to the city board and to each community school board. This proposed revision shall reflect the progress achieved during the first three years of the master plan and shall incorporate such changes to the master plan as the chancellor deems necessary. Each such community school board shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before March first, nineteen hundred ninety-three with respect to matters in the plan that involve that school district. The chancellor shall consider the recommendations received from the community school boards, and, on or before April first, nineteen hundred ninety-three, shall submit a final proposed revision to the master plan to the city board for its approval. On or before May first of such year, the city board shall approve the revision to the educational facilities master plan submitted by the chancellor.

** NB Effective until June 30, 2028

** 3. No later than January first, nineteen hundred ninety-three, the chancellor shall prepare and submit a preliminary proposed revision to the educational facilities master plan to the city board and to each

community school board. This proposed revision shall reflect the progress achieved during the first three years of the master plan and shall incorporate such changes to the master plan as the chancellor deems necessary. Each such community school board shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before March first, nineteen hundred ninety-three with respect to matters in the plan that involve that school district. The chancellor shall consider the recommendations received from the community school boards, and, on or before April first, nineteen hundred ninety-three, shall submit a final proposed revision to the master plan to the city board for its approval. On or before May first of such year, the city board shall approve the revision to the educational facilities master plan submitted by the chancellor or such plan as is determined by the city board.

** NB Effective June 30, 2028

* NB There are 2 § 2590-o's

*** § 2590-o. Neutrality of school employees in community board elections.** 1. In their official capacities during school hours all school, community district and city district employees shall maintain a posture of complete neutrality with respect to elections of candidates for community board. No school, community district or city district facilities or supplies shall be used on behalf of any candidate.

2. The city board shall have the authority and responsibility with regard to the investigation and trial of employees against whom violations of this section are charged. Wilful violations of this section shall constitute cause for removal from office or termination of employment.

3. The city board shall adopt regulations to achieve the purposes of this section.

* NB There are 2 § 2590-o's

§ 2590-p. Educational facilities capital plan. 1. In accordance with

subdivision three of this section, the chancellor shall prepare proposed five-year educational facilities capital plans. Each such plan shall describe each program element proposed in the plan, and shall set forth an estimate of the cost of each program element, an estimate of the capital funding required each year and the expected sources of such funding. The plan shall also set forth an estimate of the cost of each project identified in the plan, shall assign priorities to the projects included therein and shall state the year in which each such project's design and construction is proposed to be initiated and estimated to be completed. In preparing the plan and each project contained therein, the chancellor shall factor and account for the effect of data provided by the office of city planning, the department of buildings, the department of housing preservation and development and the department of health and mental hygiene pursuant to subdivisions thirteen-a, thirteen-b, thirteen-c, and thirteen-d of section seventeen hundred twenty-eight of the public authorities law.

2. Program elements shall mean the following categories of work and, with respect to each such category, the plan shall include the following information:

a. New construction: The plan shall identify the type, approximate size in terms of gross square footage and student capacity and approximate location of each proposed new educational facility, and if the construction of such new facility is to result in the closing or replacement of an existing educational facility or facilities, the plan shall identify each such facility to be closed or replaced.

b. Building additions: The plan shall identify each educational facility for which a building addition is proposed and describe the nature, purpose and approximate size of such addition.

c. Major modernization and rehabilitation: The plan shall identify each educational facility at which a rehabilitation or major modernization is to be performed, describe the general scope of such work at each such facility and describe the nature and estimated cost of the arrangements proposed in order to accommodate any students who will

be temporarily displaced as a result of the work.

d. Athletic fields, playgrounds and pools: The plan shall identify each educational facility at which an athletic field, playground or pool is to be constructed or at which an existing athletic field, playground or pool is to be the subject of a major repair or rehabilitation.

e. System replacements: The plan shall identify (i) each particular system to be replaced, in part or in its entirety, including electrical, plumbing, boilers, elevators, heating, ventilation and air conditioning, roof replacement, window replacement, kitchens and warming pantries, lighting, exterior masonry and painting and plaster, (ii) the general standards to be adopted for such replacement systems and (iii) the number, and to the extent ascertainable, the identity of educational facilities in each borough at which each such system replacement is to be performed.

f. Security: The plan shall describe the nature of security devices and systems proposed to be installed at educational facilities and the number, and to the extent ascertainable, the identity of facilities in each borough at which such a security system is to be installed.

g. Educational enhancements: The plan shall describe programs for the redesign and reconfiguration of space within educational facilities in order to enhance educational activities therein, including the installation of wiring or other facilities to permit or facilitate the use of computers or other educational devices and equipment and shall identify the number, and to the extent ascertainable, the identity of educational facilities in each borough at which such educational enhancement programs shall be undertaken.

h. Emergency, unspecified and miscellaneous: The plan shall include an estimate of the funding requirements to perform emergency projects, unspecified projects and miscellaneous capital activities; provided, however, that the cost of such program element shall not exceed five percent of the total estimated cost of the five-year capital plan.

* 3. a. No later than January sixth, nineteen hundred eighty-nine, the

chancellor shall, in conjunction with the submission of the educational facilities master plan required by section twenty-five hundred ninety-o of this chapter, submit the initial proposed five-year educational facilities capital plan to each community district education council, which shall conduct a public hearing on both the educational facilities master plan and the five-year educational facilities capital plan and shall prepare and submit recommendations to the chancellor on or before February twentieth, nineteen hundred eighty-nine with respect to matters in the plans that involve that school district. The chancellor shall consider the recommendations received from the community district education councils on both the proposed educational facilities master plan and the proposed five-year educational facilities capital plan, and, on or before March eighth, nineteen hundred eighty-nine, shall submit a final proposed five-year educational facilities capital plan to the city board for its approval. On or before March twenty-second, nineteen hundred eighty-nine, the city board shall approve the five-year educational facilities capital plan submitted by the chancellor or such plan as is determined by the city board, which shall take effect on July first, nineteen hundred eighty-nine.

b. Commencing on November first, nineteen hundred ninety-three, and every five years thereafter, the chancellor shall submit a proposed five-year educational facilities capital plan to take effect on the succeeding July first to each community school district education council, which shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before January first of the ensuing year with respect to matters in the plan that involve that school district. Upon submission of such recommendations to the chancellor, the board shall make public, pursuant to this paragraph:

(i) a summary of the issues raised at such hearing;

(ii) a statement of the reasons why any significant alternative recommendations at such hearing were or were not incorporated into the final plan; and

(iii) a description of any changes made to the proposed plan as a result of the issues raised at such hearing.

The chancellor shall consider the recommendations received from the

community district education councils, and, on or before February first of such year, shall submit a final proposed five-year educational facilities capital plan to the city board for its approval pursuant to paragraph (d) of subdivision one of section twenty-five hundred ninety-g of this article.

* NB Effective until June 30, 2028

* 3. a. No later than January sixth, nineteen hundred eighty-nine, the chancellor shall, in conjunction with the submission of the educational facilities master plan required by section twenty-five hundred ninety-o of this chapter, submit the initial proposed five-year educational facilities capital plan to each community school board, which shall conduct a public hearing on both the educational facilities master plan and the five-year educational facilities capital plan and shall prepare and submit recommendations to the chancellor on or before February twentieth, nineteen hundred eighty-nine with respect to matters in the plans that involve that school district. The chancellor shall consider the recommendations received from the community school boards on both the proposed educational facilities master plan and the proposed five-year educational facilities capital plan, and, on or before March eighth, nineteen hundred eighty-nine, shall submit a final proposed five-year educational facilities capital plan to the city board for its approval. On or before March twenty-second, nineteen hundred eighty-nine, the city board shall approve the five-year educational facilities capital plan submitted by the chancellor or such plan as is determined by the city board, which shall take effect on July first, nineteen hundred eighty-nine.

b. Commencing on November first, nineteen hundred ninety-three, and every five years thereafter, the chancellor shall submit a proposed five-year educational facilities capital plan to take effect on the succeeding July first to each community school district education council, which shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before January first of the ensuing year with respect to matters in the plan that involve that school district. The chancellor shall consider the recommendations received from the community school district education council, and, on or before February first of such year, shall submit a final proposed

five-year educational facilities capital plan to the city board for its approval. On or before March first of such year, the city board shall approve the five-year educational facilities capital plan submitted by the chancellor or such plan as is determined by the city board. Upon submission of such recommendations to the chancellor, the board shall make public, pursuant to this paragraph:

(i) a summary of the issues raised at such hearing;

(ii) a statement of the reasons why any significant alternative recommendations at such hearing were or were not incorporated into the final plan; and

(iii) a description of any changes made to the proposed plan as a result of the issues raised at such hearing.

* NB Effective June 30, 2028

* 4. Following approval by the city board of a five-year educational facilities capital plan, the chancellor shall submit such plan to the mayor and the council of the city of New York for their approval. After consultation with the chancellor and the city board, the mayor shall include in the city's executive capital budget for the fiscal year in which the five-year plan is to commence an appropriation for educational facilities in an amount he or she recommends as sufficient to provide for the funding of a five-year capital program for the city board and shall specify amounts for each fiscal year within such five year period. Such five-year appropriation, which shall specify the annual amounts for each fiscal year to be made available, shall be subject to adoption, veto, and, except as hereinafter provided, amendment in accordance with the procedures set forth in the charter of the city of New York. Upon adoption of a five-year appropriation pursuant to such process, the capital program of the city board shall, if the amount so appropriated differs from the cost estimated in the plan approved by the city board, be amended to reflect the funding so provided. No reduction shall thereafter be made by the city in the amount of such appropriation until completion of the plan, unless (i) the chancellor with the approval of the city board shall so recommend or (ii) a general, across-the-board reduction is made in the city's capital appropriations in order to accommodate an unforeseen reduction in the availability of city capital funds. In the event the chancellor with the approval of the city board so recommends or such a reduction is made, the appropriation may be

reduced in accordance with such recommendation or proportionately to the reduction in the city's general capital appropriations. In the event the chancellor with the approval of the city board requests additional appropriations from such city during the five-year period of the then effective plan, the chancellor shall specify the needs to be met by such additional appropriations. The city may appropriate an additional amount for the five-year educational facilities capital plan; provided that in no event shall such an additional appropriation be conditioned upon a reduction or alteration of the five-year plan then in effect. The authority may not spend more in any fiscal year of the capital program than the amount specified in the five-year city appropriation therefor, as amended from time to time; provided that any amounts not expended during a fiscal year may be expended in any succeeding fiscal year; and provided further that the mayor may authorize funds to be expended at a rate faster than the amounts so specified, within the balance of the five-year appropriation available therefor.

* NB Effective until June 30, 2028

* 4. Following approval by the city board of a five-year educational facilities capital plan, the chancellor shall transmit such plan to the mayor and the council of the city of New York. After consultation with the chancellor and the city board, the mayor shall include in the city's executive capital budget for the fiscal year in which the five-year plan is to commence an appropriation for educational facilities in an amount he recommends as sufficient to provide for the funding of a five-year capital program for the city board and shall specify amounts for each fiscal year within such five year period. Such five-year appropriation, which shall specify the annual amounts for each fiscal year to be made available, shall be subject to adoption, veto and, except as hereinafter provided, amendment in accordance with the procedures set forth in the charter of the city of New York. Upon adoption of a five-year appropriation pursuant to such process, the capital program of the city board shall, if the amount so appropriated differs from the cost estimated in the plan approved by the city board, be amended to reflect the funding so provided. No reduction shall thereafter be made by the city in the amount of such appropriation until completion of the plan unless (i) the city board shall so recommend or (ii) a general, across-the-board reduction is made in the city's capital appropriations

in order to accommodate an unforeseen reduction in the availability of city capital funds. In the event the city board so recommends or such a reduction is made, the appropriation may be reduced in accordance with such recommendation or proportionately to the reduction in the city's general capital appropriations. In the event the city board requests additional appropriations from such city during the five-year period of the then effective plan, the city board shall specify the needs to be met by such additional appropriations. The city may appropriate additional amount for the five-year educational facilities capital plan, provided that in no event shall such an additional appropriation be conditioned upon a reduction or alteration of the five-year plan then in effect. The authority may not spend more in any fiscal year of the capital program than the amount specified in the five-year city appropriation therefor, as amended from time to time; provided that any amounts not expended during a fiscal year may be expended in any succeeding fiscal year, and provided further that the mayor may authorize funds to be expended at a rate faster than the amounts so specified, within the balance of the five-year appropriation available therefor.

* NB Effective June 30, 2028

5. * a. The chancellor may in his or her discretion submit amendments to an approved five-year educational facilities capital plan to the city board, mayor, and city council for their approval.

* NB Effective until June 30, 2028

* a. The chancellor may in his discretion submit amendments to an approved five-year educational facilities capital plan to the city board for its approval.

* NB Effective June 30, 2028

b. The chancellor shall submit such amendments in the event (i) the estimated cost of any program element shall increase by more than ten percent from the estimate contained in the plan, (ii) a project will not be commenced within six months from the date set forth in the plan, (iii) a project to be performed at an identified educational facility is proposed to be performed at a different educational facility or (iv) a project not identified in the plan, other than projects to be performed

pursuant to paragraph h of subdivision two of this section, is proposed to be initiated.

c. In the event the city shall appropriate an amount less than the amount proposed to be funded by the city in the then approved five-year educational facilities capital plan, or in the event an appropriation shall be reduced below such level as provided in subdivision four of this section, the chancellor shall prepare and submit to the city board for its approval an amendment to such plan to reflect the reduced amount of funding from the city.

d. If the effect of any plan amendment would require an additional appropriation by the city, no such amendment shall be implemented unless and until the city shall make such additional appropriation.

e. Amendments submitted by the chancellor as described in paragraph c and in clauses (iii) and (iv) of paragraph b of this subdivision shall also be submitted to each affected community school board, which may conduct a public hearing and prepare and submit recommendations to the city board within forty-five days of such submission.

6. a. For each project included in an approved five-year educational facilities capital plan, the chancellor shall develop a detailed scope of the project, which shall include the following: (i) the purposes and public to be served, (ii) the programs to be conducted in the facility, (iii) the gross amounts of space and bulk for any building or structure, (iv) identification of the intent to use architectural, engineering or other consultant services and estimated fees for such consultant services, (v) the schedule of design and construction, (vi) the total estimated project costs, including costs for site acquisition, preparation and tenant relocation, design, construction and equipment, (vii) maximum estimated expenditures for the project for each fiscal year until its completion, (viii) costs associated with maintenance and operation of the physical plant, (ix) how the data provided by the office of city planning, the department of buildings, the department of housing preservation and development and the department of health and mental hygiene pursuant to subdivisions thirteen-a, thirteen-b,

thirteen-c, and thirteen-d of section seventeen hundred twenty-eight of the public authorities law is factored and accounted for, and (x) such other information as the chancellor shall specify. In the event, a project consists of a program element without identification of the particular education facility at which such project is to be performed, the detailed scope of the project shall specify the nature of the work to be performed, applicable price and quality standards, a list of the schools eligible for such work, annual performance targets and the total estimated costs of such project during each fiscal year until its completion.

b. The chancellor may request the New York city school construction authority, and the authority shall be authorized, to develop preliminary plans for each project, to assist the chancellor in the development of the detailed scope of project, to proceed with site acquisition for such project and to assist in responding to emergency projects undertaken pursuant of paragraph h of subdivision two of this section. The authority may expend moneys for such purposes for projects to be funded pursuant to subdivision four of this section in such amounts as are consistent with the city capital budget appropriation therefor.

* c. The chancellor shall prepare preliminary scopes (i) for each project contained within the program elements defined in paragraphs a and b of subdivision two of this section and, where appropriate, paragraph g of subdivision two of this section, (ii) for each major modernization project contained in paragraph c of such subdivision two, and (iii) for each new construction project contained in paragraph d of such subdivision two, and shall transmit such preliminary scopes to the affected community district education councils. The community district education council may hold hearings on such scope; provided, however, that the community district education council must submit any comments to the chancellor no later than thirty days following the date of submission. The chancellor shall consider the comments in preparing the scope that he or she will submit to the director of management and budget of the city pursuant to paragraph d of this subdivision.

* NB Effective until June 30, 2028

* c. The chancellor shall prepare preliminary scopes (i) for each project contained within the program elements defined in paragraphs a

and b of subdivision two of this section and, where appropriate, paragraph g of subdivision two of this section, (ii) for each major modernization project contained in paragraph c of such subdivision two, and (iii) for each new construction project contained in paragraph d of such subdivision two, and shall transmit such preliminary scopes to the affected community school boards. The community school board may hold hearings on such scope, provided, however, that the community school board must submit any comments to the chancellor no later than thirty days following the date of submission. The chancellor shall consider the comments in preparing the scope that he will submit to the director of management and budget of the city pursuant to paragraph d of this subdivision.

* NB Effective June 30, 2028

* d. For projects to be funded pursuant to subdivision four of this section, the chancellor shall transmit the detailed scope of each such project to the director of management and budget of the city for approval.

(i) Except as provided in paragraph b of this subdivision, no expenses shall be incurred by the city board or the authority for any such project prior to approval of the detailed scope of any such project.

(ii) No detailed scope of project shall be approved unless the total estimated costs of such project, together with the aggregate estimated costs of all projects for which a detailed scope has theretofore been approved, are within city capital budget appropriations available therefor. A detailed scope of project that is not disapproved by the director of management and budget within thirty days of its submission shall be deemed approved. To the extent the director disapproves all or part of a scope, he or she shall set forth in writing the reasons therefor.

(iii) Upon approval of the detailed scope of project, the chancellor shall refer such project to the New York city school construction authority for implementation in accordance with an agreement between the authority and the city board and shall transmit the approved project scope to the comptroller, whereupon the total estimated costs of such project as set forth in such approved project scope shall be available for expenditure.

(iv) Approval of the director of management and budget shall be

required for any material change in the approved detailed scope of project or for any increase in the total cost of such project in excess of any reserve provided in the approved detailed scope of project. Such approval shall be given or deemed given in the manner provided herein.

(v) The provisions of this paragraph shall not apply to emergency projects undertaken pursuant to paragraph h of subdivision two of this section, the estimated costs of which, together with the costs of other projects undertaken pursuant to said paragraph h, does not exceed the amount set forth in the educational facilities capital plan for activities pursuant to paragraph h of subdivision two of this section.

* NB Effective until June 30, 2028

* d. For projects to be funded pursuant to subdivision four of this section, the chancellor shall transmit the detailed scope of each such project to the director of management and budget of the city for approval.

(i) Except as provided in paragraph b of this subdivision, no expenses shall be incurred by the city board or the authority for any such project prior to approval of the detailed scope of any such project.

(ii) No detailed scope of project shall be approved unless the total estimated costs of such project, together with the aggregate estimated costs of all projects for which a detailed scope has theretofore been approved, are within city capital budget appropriations available therefor. A detailed scope of project that is not disapproved by the director of management and budget within thirty days of its submission shall be deemed approved. To the extent the director disapproves all or part of a scope, he shall set forth in writing the reasons therefor.

(iii) Upon approval of the detailed scope of project, the chancellor shall refer such project to the New York city school construction authority for implementation in accordance with an agreement between the authority and the city board and shall transmit the approved project scope to the comptroller whereupon the total estimated costs of such project as set forth in such approved project scope shall be available for expenditure.

(iv) Approval of the director of management and budget shall be required for any material change in the approved detailed scope of project or for any increase in the total cost of such project in excess of any reserve provided in the approved detailed scope of project. Such

approval shall be given or deemed given in the manner provided herein.

(v) The provisions of this paragraph shall not apply to emergency projects undertaken pursuant to paragraph h of subdivision two of this section, the estimated costs of which, together with the costs of other projects undertaken pursuant to said paragraph h, does not exceed the amount set forth in the educational facilities capital plan for activities pursuant to paragraph h of subdivision two of this section.

* NB Effective June 30, 2028

e. For projects contained within a five-year educational facilities capital plan and not funded in whole or in part by the city, the chancellor shall refer such projects to the New York city school construction authority for implementation in accordance with any agreement between the authority and the city board.

* f. The chancellor and the president of the New York city school construction authority, shall notify the mayor of the amount of appropriated funds projected to be spent for (i) development of detailed scopes, (ii) development of preliminary plans, (iii) site acquisition and (iv) emergencies, and the mayor shall thereupon authorize the issuance of bonds therefor in accordance with the local finance law and shall notify the city comptroller of his or her authorization to expend such amounts for such purposes. Such notice shall be given or amended at least ten days prior to any expenditure included therein; provided that the chancellor, the president of the authority and the mayor shall develop procedures to expedite authorization of emergency expenditures. Neither the city board nor the authority shall expend funds for such purposes in excess of the amounts specified in such notice until the chancellor shall have amended such notice to reflect such excess. Upon approval of the detailed scope of a project, the mayor shall authorize the issuance of bonds therefor in accordance with the local finance law and shall notify the city comptroller of his or her authorization to expend appropriated funds for the entire estimated cost of such project.

* NB Effective until June 30, 2028

* f. The chancellor and the president of the New York city school construction authority shall notify the mayor of the amount of appropriated funds projected to be spent for (i) development of detailed scopes, (ii) development of preliminary plans, (iii) site acquisition

and (iv) emergencies, and the mayor shall thereupon authorize the issuance of bonds therefor in accordance with the local finance law and shall notify the city comptroller of his authorization to expend such amounts for such purposes. Such notice shall be given or amended at least ten days prior to any expenditure included therein; provided that the chancellor, the president of the authority and the mayor shall develop procedures to expedite authorization of emergency expenditures. Neither the city board nor the authority shall expend funds for such purposes in excess of the amounts specified in such notice until the chancellor shall have amended such notice to reflect such excess. Upon approval of the detailed scope of a project, the mayor shall authorize the issuance of bonds therefor in accordance with the local finance law and shall notify the city comptroller of his authorization to expend appropriated funds for the entire estimated cost of such project.

* NB Effective June 30, 2028

7. The provisions of subdivision a of section two hundred fourteen of the charter of the city of New York shall not apply to a proposed five-year appropriation made in accordance with subdivision four of this section, and the provisions of subdivision b of section two hundred seventeen of such charter shall apply only after the end of the fifth year of a five-year appropriation made pursuant to such subdivision. To the extent any other provision of chapter nine or ten of such charter is inconsistent with the provisions of this section, the provisions of this section shall govern.

*** § 2590-q. Budgetary and fiscal processes.** 1. The chancellor shall annually advise the community district education councils with respect to the form and content of the budget requests and accompanying fiscal estimates required to be submitted by the mayor of the city of New York for the next ensuing fiscal year, together with such additional information as he or she may require.

4. On such date as the mayor shall direct, the chancellor shall submit to the mayor:

(a) estimates, as adopted by the city board, of the total sum of money

which it deems necessary for the operation of the city district (other than functions to be financed from funds provided for in the capital budget of the city) during the next fiscal year of the city, together with the estimates submitted by the community district education councils;

(b) estimates of the amount to be received as a result of the apportionment of moneys payable from the state in such fiscal year; and

(c) estimates of the amount to be received for school system expenditures by the city district in such fiscal year from sources other than appropriations of city funds or appropriations or other provisions of funds in the capital budget of the city or apportionment of moneys from the state payable in such fiscal year.

5. All estimates submitted by the chancellor shall be prepared in the manner prescribed by the New York city charter for submission of departmental estimates for current expenses to the mayor and shall set forth the total amounts proposed for programs or activities of the community district education councils in units of appropriation separate from those set forth for programs or activities operated by the city board; provided, however, that nothing shall prevent the inclusion in such estimates of a unit or units of appropriation to be allocated to community district education councils pursuant to subdivision ten of this section to finance innovative programs or activities by such community district education councils.

6. In acting on the proposed units of appropriation for programs or activities of community district education councils, the city council of the city of New York may, subject to the veto of the mayor, increase or decrease the total amount of each such unit of appropriation but, notwithstanding any provision of the New York city charter or any other law to the contrary, it shall not have power to add any other unit of appropriation for one or more community district education councils.

7. (b) Not later than thirty days after the amount of such funds becomes determined by adoption of the budget pursuant to subdivision six of this section, by allocation pursuant to subdivisions ten, eleven, fourteen, and fifteen of this section, or otherwise, the chancellor

shall transmit to each community district education council a statement enumerating the federal, state, city, and private funds which have been allocated thereunder to such community district education council for its programs.

(c) At the same time, the chancellor shall transmit to the community district education councils a statement of the allocation of the balance of such funds to the several programs administered by him or her and the city board including the distinct amounts assigned to each category of schools and programs set forth in section twenty-five hundred ninety-i of this article and the amount allocated for the operation of the city board, his or her office, and the other administrative bureaus and divisions thereof.

9. Special estimates to meet extraordinary expenses of emergencies which may arise in the course of a fiscal year may be submitted to the chancellor by any community district education council and, pursuant to subdivision six of section twenty-five hundred seventy-six of this title, the chancellor may, in his or her discretion, submit such special estimates to the mayor of the city of New York. The chancellor may also submit special estimates to the mayor in connection with the schools and programs under his or her jurisdiction.

10. Notwithstanding any provisions of law to the contrary, any moneys appropriated to or authorized for expenditure by the city board including moneys so appropriated to finance innovative programs or activities by community district education councils (but other than moneys so appropriated for the exercise of powers or duties reserved to the city board) may be allocated by the chancellor to any community district education council. Allocations made pursuant to this subdivision shall be based on the needs of the recipient community district education councils, considered in conjunction with the needs of the schools and programs under the jurisdiction of the city board, in the case of moneys appropriated for innovative programs or activities, the relative merit of the programs or activities proposed by the respective community district education councils.

11. The chancellor shall perform all functions in connection with

article seventy-three of this chapter; provided that the chancellor shall allocate to the community district education councils the state funds apportioned to the city district pursuant to such article seventy-three, less the amount of such funds necessary to enable the chancellor to carry out his or her responsibilities, on the basis of an objective formula established by the chancellor and approved by the city board annually, after consultation with the community district education councils and the mayor, which formula shall reflect the relative educational needs of the community districts to the maximum extent feasible.

12. The chancellor shall perform all functions in connection with sections twenty-five hundred seventy-six, twenty-five hundred seventy-seven, twenty-five hundred seventy-nine, twenty-five hundred eighty-one, twenty-five hundred eighty-two, twenty-five hundred eighty-three, and twenty-five hundred eighty-four of this title.

13. The city board through the chancellor shall perform all functions in connection with the capital budget as provided in chapter nine of the charter of the city of New York, except as otherwise provided herein.

14. With respect to special, federal, state, and private funds, each community district education council may:

(a) contract for and receive funds to be transmitted to the city board and disbursed through the chancellor. No special funds may be used as a means of bringing about the elimination of existing personnel lines, titles, or employees. Community district education councils may use budget funds allocated and resources obtained within the scope of existing law and contractual obligations to design programs of educational excellence tailored to the needs and peculiar characteristics of the district;

(b) enter into contracts necessary or convenient to the discharge of the powers and duties with the city, state, and federal governments, private foundations, agencies and individuals, the city board, and other community district education councils, subject to the approval of the chancellor;

(c) in the case of federal or state funds not allocated to the city

district on a formula basis, to apply to the funding agency, as a local educational agency, and to accept any funds granted or apportioned in this connection for its use and account; provided, however, that as to federal funds available to areas affected by federal activities pursuant to public law eight hundred seventy-four, community councils shall not be considered local educational agencies and shall have no power to apply directly to the funding agency, but such funds shall be reallocated to community district education councils by the chancellor in accordance with a formula established by the chancellor and approved by the city board as provided in subdivision ten of this section; and

(d) in the case of special funds allocated to the city district on a formula basis, to submit proposals to the chancellor for a review as to form only and prompt transmittal to the funding agency; provided, however, that in the case of such special funds community district education councils shall not be considered local educational agencies; and provided further that the total amount of such proposals submitted by any community district education council shall not exceed the amount of an apportionment made by the chancellor on the basis of a formula established by the chancellor and approved by the city board, after considering the recommendation of the chancellor and after consultation with community district education councils and the mayor, which formula reflects the same educational and economic factors as the formula for apportionment of such special funds to the city district; and provided further that each community district education council shall consult fully with non-public school authorities on a continuing basis with respect to any of such special funds applicable to non-public school programs and students subject to the power and duty of the city board through the chancellor to ensure that applicable provisions of state and federal law and regulations with respect to programs for students in attendance at non-public schools throughout the city district shall be carried out.

15. With respect to special, federal, state, and private funds, the chancellor shall provide community district education councils with information about the availability of such funds and furnish technical assistance with respect to the preparation of proposals, record keeping, and the administration of such programs.

16. On or before October first of each year, the chancellor shall submit to the commissioner, in the form to be prescribed by him or her, the annual budget for the city district for the current fiscal year.

17. (a) Each community superintendent shall prepare semi-annual reports which shall be due by December fifteenth and April fifteenth of each year. Each report shall include but not be limited to an accounting of all funds received and expended by the subject community district education council from all sources, including appropriations for programs and activities of the district education council and receipts from external sources.

(b) In addition, a final year-end report shall be due on August fifteenth and shall include an accounting of all funds received and expended by the subject community district education council from all sources, including appropriations for programs and activities of the district education council.

(c) Copies of reports outlined in paragraphs (a) and (b) of this subdivision shall be given to the chancellor and the subject community district education council and shall be available to the public.

18. Notwithstanding any provision of law to the contrary, the powers and duties conferred on a community district education council by this section shall be exercised exclusively by the community superintendent employed by such council.

* NB Effective until June 30, 2028

* § 2590-q. Budgetary and fiscal processes. 1. The chancellor shall annually advise the community boards with respect to the form and content of the budget requests and accompanying fiscal estimates required to be submitted by the mayor of the city of New York for the next ensuing fiscal year, together with such additional information as he may require.

4. On such date as the mayor shall direct, the city board shall submit to the mayor:

(a) estimates, as adopted, of the total sum of money which it deems necessary for the operation of the city district (other than functions

to be financed from funds provided for in the capital budget of the city) during the next fiscal year of the city, together with the estimates submitted by the community boards, as originally submitted and as modified pursuant to subdivision three of this section;

(b) estimates of the amount to be received as a result of the apportionment of moneys payable from the state in such fiscal year; and

(c) estimates of the amount to be received for school system expenditures by the city district in such fiscal year from sources other than appropriations of city funds or appropriations or other provisions of funds in the capital budget of the city or apportionment of moneys from the state payable in such fiscal year.

5. All estimates submitted by the city board shall be prepared in the manner prescribed by the New York city charter for submission of departmental estimates for current expenses to the mayor and shall set forth the total amounts proposed for programs or activities of the community boards in units of appropriation separate from those set forth for programs or activities operated by the city board; provided, however, that nothing shall prevent the city board from including in such estimates a unit or units of appropriation to be allocated to it in its discretion, to community boards pursuant to subdivision ten of this section to finance innovative programs or activities by such community boards.

6. In acting on the proposed units of appropriation for programs or activities of community boards, the board of estimate and city council of the city of New York may, subject to the veto of the mayor, increase or decrease the total amount of each such unit of appropriation but, notwithstanding any provision of the New York city charter or any other law to the contrary, they shall not have power to add any other unit of appropriation for one or more community boards.

7. (b) Not later than thirty days after the amount of such funds becomes determined by adoption of the budget pursuant to subdivision six, by allocation pursuant to subdivisions ten, eleven, fourteen and fifteen of this section, or otherwise, the chancellor shall transmit to each community board a statement enumerating the federal, state, city

and private funds which have been allocated thereunder to such community board for its programs.

(c) At the same time, the chancellor shall transmit to the community boards a statement of the allocation of the balance of such funds to the several programs administered by him and the city board including the distinct amounts assigned to each category of schools and programs set forth in section twenty-five hundred ninety-i and the amount allocated for the operation of the city board, his office and the other administrative bureaus and divisions thereof.

9. Special estimates to meet extraordinary expenses of emergencies which may arise in the course of a fiscal year may be submitted to the chancellor by any community board and, pursuant to subdivision six of section twenty-five hundred seventy-six of this chapter, the chancellor may, in its discretion, submit such special estimates to the mayor of the city of New York. The chancellor may also submit special estimates to the mayor in connection with the schools and programs under his jurisdiction.

10. Notwithstanding any provisions of law to the contrary, any moneys appropriated to or authorized for expenditure by the city board including moneys so appropriated to finance innovative programs or activities by community boards (but other than moneys so appropriated for the exercise of powers or duties reserved to the city board) may be allocated by the chancellor to any community board. Allocations made pursuant to this subdivision shall be based on the needs of the recipient community boards, considered in conjunction with the needs of the schools and programs under the jurisdiction of the city board, in the case of moneys appropriated for innovative programs or activities, the relative merit of the programs or activities proposed by the respective community boards.

11. The chancellor shall perform all functions in connection with article seventy-three of this chapter; provided that the chancellor shall allocate to the community boards the state funds apportioned to the city district pursuant to article seventy-three, less the amount of such funds necessary to enable the chancellor to carry out his

responsibilities, on the basis of an objective formula established by the city board annually, after consultation with the community boards and the mayor, which formula shall reflect the relative educational needs of the community districts to the maximum extent feasible.

12. The chancellor shall perform all functions in connection with sections twenty-five hundred seventy-six, twenty-five hundred seventy-seven, twenty-five hundred seventy-nine, twenty-five hundred eighty-one, twenty-five hundred eighty-two, twenty-five hundred eighty-three and twenty-five hundred eighty-four of this chapter.

13. The city board through the chancellor shall perform all functions in connection with the capital budget as provided in chapter nine of the charter of the city of New York, except as otherwise provided herein.

14. With respect to special, federal, state and private funds, each community board may:

(a) contract for and receive funds to be transmitted to the city board and disbursed through the chancellor. No special funds may be used as a means of bringing about the elimination of existing personnel lines, titles or employees. Community boards may use budget funds allocated and resources obtained within the scope of existing law and contractual obligations to design programs of educational excellence tailored to the needs and peculiar characteristics of the district;

(b) enter into contracts necessary or convenient to the discharge of the powers and duties with the city, state and federal governments, private foundations, agencies and individuals, the city board and other community boards subject to the approval of the chancellor;

(c) in the case of federal or state funds not allocated to the city district on a formula basis, to apply to the funding agency, as a local educational agency, and to accept any funds granted or apportioned in this connection for its use and account, provided, however, that as to federal funds available to areas affected by federal activities pursuant to public law eight hundred seventy-four, community boards shall not be considered local educational agencies and shall have no power to apply directly to the funding agency but such funds shall be reallocated to community boards by the chancellor in accordance with a formula

determined by the city board as provided in subdivision ten of this section; and

(d) in the case of special funds allocated to the city district on a formula basis, to submit proposals to the chancellor for a review as to form only and prompt transmittal to the funding agency; provided, however, that in the case of such special funds community boards shall not be considered local educational agencies; and provided further that the total amount of such proposals submitted by any community board shall not exceed the amount of an apportionment made by the chancellor on the basis of a formula determined by the city board, after considering the recommendation of the chancellor and after consultation with community boards and the mayor, which formula reflects the same educational and economic factors as the formula for apportionment of such special funds to the city district; and provided further that each community board shall consult fully with non-public school authorities on a continuing basis with respect to any of such special funds applicable to non-public school programs and students subject to the power and duty of the city board through the chancellor to ensure that applicable provisions of state and federal law and regulations with respect to programs for students in attendance at non-public schools throughout the city district shall be carried out.

15. With respect to special, federal, state and private funds, the chancellor shall provide community boards with information about the availability of such funds and furnish technical assistance with respect to the preparation of proposals, record keeping and the administration of such programs.

16. On or before October first of each year, the city board shall submit to the commissioner, in the form to be prescribed by him, the annual budget for the city district for the current fiscal year.

17. (a) Each community superintendent shall prepare semi-annual reports which shall be due by December fifteenth and April fifteenth of each year. Each report shall include but not be limited to an accounting of all funds received and expended by the subject community board from all sources including appropriations for programs and activities of the

school board and receipts from external sources.

(b) In addition, a final year-end report shall be due on August fifteenth and shall include an accounting of all funds received and expended by the subject community board from all sources including appropriations for programs and activities of the school board.

(c) Copies of reports outlined in paragraphs (a) and (b) of this subdivision shall be given to the city board and the subject community board and shall be available to the public.

18. Notwithstanding any provision of law to the contrary, the powers and duties conferred on a community school board by this section shall be exercised exclusively by the community superintendent employed by such board.

* NB Effective June 30, 2028

*** § 2590-r. School based budgeting and expenditure reporting.** The chancellor shall, in consultation with the city board and community district superintendents, establish in regulations a comprehensive process of school-based budgeting and expenditure reporting no later than November first, nineteen hundred ninety-eight. Notwithstanding any provision of section twenty-five hundred ninety-q of this article to the contrary, such regulations shall include provisions for:

a. the allocation of projected revenues among community districts and their schools on the basis of objective formulae developed by the chancellor, after consultation with the community councils, community superintendents and the mayor, and approved by the city board, such formulae shall reflect the relative educational needs of the community districts and their schools to the maximum extent feasible;

b. (i) following release of the executive budget of the city of New York by the mayor of the city of New York, the chancellor to inform the principal of each school of that school's preliminary budget allocation, and the principal to propose a school-based budget, after consulting with members of the school based management team and soliciting input pursuant to sections twenty-five hundred ninety-h, and twenty-five

hundred ninety-i of this article on budget priorities from all members of the school community;

(ii) for schools under the jurisdiction of a community superintendent, the principal shall be required to provide written justification, in a form and manner prescribed by the community superintendent pursuant to paragraph (h) of subdivision one of section twenty-five hundred ninety-f of this article, to demonstrate that the school-based budget proposal is aligned with the school's comprehensive educational plan;

c. the review, modification, approval and certification of the proposed school budget for schools under the jurisdiction of a community superintendent pursuant to paragraph (h) of subdivision one of section twenty-five hundred ninety-f of this article;

d. within amounts estimated by the chancellor, the aggregation of the proposed school-based budgets, as modified and approved by the community superintendent, with a proposed budget for the administrative and operational expenses of the community superintendent and community council, as developed by the community superintendent, for submission to the chancellor;

e. the chancellor to develop a school-based budgeting process for schools under his or her jurisdiction consistent with this section which shall require that: (i) each principal provide written justification demonstrating that the school-based budget is aligned with such school's comprehensive educational plan; (ii) the school based management team submit comments regarding such justification; and (iii) the chancellor certify that the school-based budget is sufficiently aligned with such school's comprehensive educational plan after reviewing the principal's justification and the school based management team's comments;

f. the aggregation of the community district budgets, as modified and approved by the chancellor, with a proposed budget for administrative and operational expenditures of the city board and the chancellor, as prepared by the chancellor, for submission to and adoption by the city board after a public hearing;

g. after final adoption of the budget for the city district by the mayor and city council, a process of distributing any reductions or increases required by such adoption in an equitable manner which considers the relative needs of community districts and schools to the maximum extent feasible and for modifying the proposed budget accordingly. Such process shall include an analysis of the relative funding levels of the state, the city, the federal government, and other sources of funds; a comparison of the level of such funding against previous years' total appropriations and actual expenditures; and an analysis of the distribution of funds;

h. a comprehensive system of public reporting on the final enacted budget including the levels of appropriation provided by the city, the state and the federal government with a comparison of the level of such funding against previous years' totals, and an explanation of the final budget;

i. procedures for schools, superintendents and the chancellor to modify and reallocate monies in the enacted budget;

j. a uniform system of budget requests, reports and appropriations. Such units of appropriation shall include (i) such compensation and benefits for staff; (ii) instruction and for pupil services, including costs for purchases, library services, instructional materials, and all other school-based instructional and instructional support costs attributable to other than personal services; (iii) administrative and non-instructional cost and (iv) extra-curricular activities;

k. the provision of appropriate technical support and training to school personnel, parents and other participants in school-based budgeting;

l. a comprehensive planning and monitoring process to promote the implementation of school-based budgeting;

m. an annual update of a capital plan by the superintendent with participation of principals and schools, addressing health and safety,

maintenance, capacity and technology; and

n. a collaborative school-based planning process involving parents, teachers, other school personnel and, where appropriate, students to effectuate the purposes of this section.

* NB Effective until June 30, 2028

* § 2590-r. School based budgeting and expenditure reporting. The chancellor shall, in consultation with the city board and community district superintendents, establish in regulations a comprehensive process of school-based budgeting and expenditure reporting no later than November first, nineteen hundred ninety-eight. Notwithstanding any provision of section twenty-five hundred ninety-q of this article to the contrary, such regulations shall include provisions for:

a. the allocation of projected revenues among community districts and their schools on the basis of objective formulae developed by the chancellor, after consultation with the community boards, community superintendents and the mayor, and approved by the city board, such formulae shall reflect the relative educational needs of the community districts and their schools to the maximum extent feasible;

b. the principal of each school to propose a school-based expenditure budget, after soliciting input pursuant to section twenty-five hundred ninety-h, and twenty-five hundred ninety-i of this article on budget priorities from all members of the school community;

c. the review, modification and approval of the proposed school budget by the community superintendent;

d. within amounts estimated by the chancellor, the aggregation of the proposed school-based budgets, as modified and approved by the community superintendent, with a proposed budget for the administrative and operational expenses of the community superintendent and community board, as developed by the community superintendent, for submission to the chancellor;

e. the chancellor to develop a school-based budgeting process for

schools under his or her jurisdiction consistent with this section;

f. the aggregation of the community district budgets, as modified and approved by the chancellor, with a proposed budget for administrative and operational expenditures of the city board and the chancellor, as prepared by the chancellor, for submission to and adoption by the city board after a public hearing;

g. after final adoption of the budget for the city district by the mayor and city council, a process of distributing any reductions or increases required by such adoption in an equitable manner which considers the relative needs of community districts and schools to the maximum extent feasible and for modifying the proposed budget accordingly. Such process shall include an analysis of the relative funding levels of the state, the city, the federal government, and other sources of funds; a comparison of the level of such funding against previous years' total appropriations and actual expenditures; and an analysis of the distribution of funds;

h. a comprehensive system of public reporting on the final enacted budget including the levels of appropriation provided by the city, the state and the federal government with a comparison of the level of such funding against previous years' totals, and an explanation of the final budget;

i. procedures for schools, superintendents and the chancellor to modify and reallocate monies in the enacted budget;

j. a uniform system of budget requests, reports and appropriations. Such units of appropriation shall include (i) such compensation and benefits for staff; (ii) instruction and for pupil services, including costs for purchases, library services, instructional materials, and all other school-based instructional and instructional support costs attributable to other than personal services; (iii) administrative and non-instructional cost and (iv) extra-curricular activities;

k. the provision of appropriate technical support and training to

school personnel, parents and other participants in school-based budgeting;

l. a comprehensive planning and monitoring process to promote the implementation of school-based budgeting;

m. an annual update of a capital plan by the superintendent with participation of principals and schools, addressing health and safety, maintenance, capacity and technology; and

n. a collaborative school-based planning process involving parents, teachers, other school personnel and, where appropriate, students to effectuate the purposes of this section.

* NB Effective June 30, 2028

§ 2590-s. Prompt payment of salaries. In a city with a population of one million or more, all employees of the board of education shall be paid the amount of compensation due them pursuant to collective bargaining agreements, except as is otherwise provided in section three thousand eleven of this chapter. If such payments are not made on the dates so required, interest shall be recovered beginning thirty days, following the later of the effective date of this section or the required payment date through the day that payment is in fact tendered. In the case of a salary differential, the date compensation is due shall be defined as thirty days following the date an employee's application is filed by the employee with the board of education of the city of New York. Interest shall be computed at the rate set forth in paragraph one of subsection (e) of section one thousand ninety-six of the tax law and shall be added to any compensation amounts referred to in this section that have not been paid when owed.

*** § 2590-t. New York city comptroller audits.** The comptroller of the city of New York shall have the authority to conduct operational and programmatic audits, in addition to financial audits, of the city district to the same extent that such comptroller has such authority for

agencies of the city of New York.

* NB Repealed June 30, 2028

*** § 2590-u. New York city independent budget office reports.** 1. The independent budget office of the city of New York shall be authorized to provide analysis and issue public reports regarding financial and educational matters of the city district, to enhance official and public understanding of such matters including but not limited to:

(a) student graduation and dropout data;

(b) student enrollment projections;

(c) school utilization, class sizes and pupil-to-teacher ratios;

(d) student assessment data;

(e) the delivery of services to students who are in bilingual or English as a second language programs;

(f) the delivery of services to students with disabilities;

(g) the utilization of federal funds including funds pursuant to title I of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended, directed at parental involvement; and

(h) matters relating to city district finances.

2. In addition to the appropriation available pursuant to section two hundred fifty-nine of the New York city charter, the city of New York shall appropriate during each fiscal year an amount to the independent budget office of the city of New York not less than two and one-half per centum of the appropriations available to pay for the expenses of the office of management and budget of the city of New York during each fiscal year, to carry out the duties and functions assigned in this subdivision.

3. The director of the independent budget office of the city of New York shall be authorized to secure such information, data, estimates and statistics from the city board and the chancellor as such director determines to be necessary for the performance of the functions and duties of such office, and the city board and the chancellor shall provide such information, to the extent that it is available, in a timely fashion. The director of the independent budget office of the

city of New York shall not be entitled to obtain records which are protected by the privileges for attorney-client communications, attorney work product, and material prepared for litigation.

4. The director of the independent budget office of the city of New York shall ensure that such office uses up-to-date appropriate and professionally accepted methodologies in producing annual data reports related to the city district and that such methodologies used are identified in such reports.

* NB Repealed June 30, 2028

§ 2590-v. Notice to students regarding certain test scores. The office of the chancellor shall include a notice in the official score report of all students who received a score of "advanced" on the seventh grade state assessment in either English Language Arts or Mathematics, informing the student of opportunities to apply for admission to the specialized high schools authorized in paragraph (b) of subdivision one of section twenty-five hundred ninety-h of this article; provided that the chancellor shall annually notify all seventh grade students of opportunities to apply for admission to such schools.

ARTICLE 53

SCHOOL ELECTIONS IN CITY SCHOOL DISTRICTS OF CITIES WITH LESS THAN ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS

Section 2601. Application of article.
2601-a. Procedures for adoption of school budgets in small city school districts.
2602. Annual and special school district meetings.
2603. Qualifications of voters.
2604. Division of city school district into school election districts; elections held in schoolhouses.
2606. Registration of voters.
2607. Inspectors of election; organization.
2608. Nomination and ballot.
2609. Conduct of election; challenges.

2610. Canvass of votes and return to board of education; declaration of result.
2611. Use of voting machines.
2613. Absentee, early mail, and military ballots.
2614. Transmission of publicly available data to the New York voting and elections database.

§ 2601. Application of article. This article shall apply to each city school district of a city which has less than one hundred twenty-five thousand inhabitants, according to the latest federal census, except as otherwise provided in section twenty-six hundred one-a of this chapter and except as otherwise provided by subdivision nine-a of section twenty-five hundred two of this chapter.

§ 2601-a. Procedures for adoption of school budgets in small city school districts. 1. The board of education of each city school district subject to this article shall provide for the submission of a budget for approval of the voters pursuant to the provisions of this section and in accordance with the requirements set forth in section two thousand twenty-three-a of this title.

2. The board of education shall conduct all annual and special school district meetings for the purpose of adopting a school district budget in the same manner as a union free school district in accordance with the provisions of article forty-one of this title, except as otherwise provided by this section. The annual meeting and election of each such city school district shall be held on the third Tuesday of May in each year, provided, however that such annual meeting and election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances, and any school budget revote shall be held on the date and in the same manner specified in subdivision three of section two thousand seven of this title. The provisions of this article, and where applicable subdivision nine-a of section twenty-five hundred two of this title, governing the

qualification and registration of voters, and procedures for the nomination and election of members of the board of education shall continue to apply, and shall govern the qualification and registration of voters and voting procedures with respect to the adoption of a school district budget.

3. The board of education shall prepare a proposed school district budget for the ensuing year in accordance with the provisions of section seventeen hundred sixteen of this chapter, including all provisions relating to required notices and appendices to the statement of expenditures. No board of education shall incur a school district liability except as authorized by the provisions of section seventeen hundred eighteen of this chapter. Such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements, any and all expenditures associated with the operation of the board of education, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease

expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-seven--ninety-eight school year, the board of education shall separate its program, capital and administrative costs for the nineteen hundred ninety-six--ninety-seven school year in the manner as if the budget for such year had been presented in three components. Except as provided in subdivision four of this section, nothing in this section shall preclude the board, in its discretion, from submitting additional items of expenditure to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this chapter subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

4. The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this title. In the event the qualified voters of the district reject the budget proposed pursuant to subdivision three of this section, the board may propose to the voters a revised budget pursuant to subdivision three of section two thousand seven of this title or may adopt a contingency budget pursuant to subdivision five of this section and subdivision five of section two thousand twenty-two of this title. The school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice. In the event the qualified voters reject the resubmitted budget, the board shall adopt a contingency budget in accordance with subdivision five of this section and subdivision five of such section two thousand twenty-two of this title.

5. If the qualified voters fail or refuse to vote the sum estimated to be necessary for teachers' salaries and other ordinary contingent expenses, the board shall adopt a contingency budget in accordance with this subdivision and shall levy a tax for that portion of such sum remaining after applying thereto the moneys received or to be received from state, federal or other sources, in the same manner as if the budget had been approved by the qualified voters; subject to the limitations imposed in subdivision four of section two thousand twenty-three of this chapter, subdivision eight of section two thousand twenty-three-a of this title and this subdivision. The administrative component shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component. Such contingency budget shall include the sum determined by the board to be necessary for:

(a) teachers' salaries, including the salaries of all members of the teaching and supervising staff;

(b) items of expense specifically authorized by statute to be incurred by the board of education, including, but not limited to, expenditures for transportation to and from regular school programs included as ordinary contingent expenses in subdivision twelve of section twenty-five hundred three of this chapter, expenditures for textbooks, required services for non-public school students, school health services, special education services, kindergarten and nursery school programs, and the district's share of the administrative costs and costs of services provided by a board of cooperative educational services;

(c) items of expense for legal obligations of the district, including, but not limited to, contractual obligations, debt service, court orders or judgments, orders of administrative bodies or officers, and standards and requirements of the board of regents and the commissioner that have the force and effect of law;

(d) the purchase of library books and other instructional materials associated with a library;

(e) items of expense necessary to maintain the educational programs of

the district, preserve the property of the district or protect the health and safety of students and staff, including, but not limited to, support services, pupil personnel services, the necessary salaries for the necessary number of non-teaching employees, necessary legal expenses, water and utility charges, instructional supplies for teachers' use, emergency repairs, temporary rental of essential classroom facilities, and expenditures necessary to advise school district voters concerning school matters; and

(f) expenses incurred for interschool athletics, field trips and other extracurricular activities; and

(g) any other item of expense determined by the commissioner to be an ordinary contingent expense in any school district.

6. The commissioner shall determine appeals raising questions as to what items of expenditure are ordinary contingent expenses pursuant to subdivision five of this section in accordance with section two thousand twenty-four and three hundred ten of this chapter.

7. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in

special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

§ 2602. Annual and special school district meetings. 1. Except as otherwise provided in this chapter, including the provisions of this article, an annual school election shall be held on the same day as the annual budget vote pursuant to the provisions of article forty-one of this chapter in each city school district.

2. Except as otherwise provided in section twenty-six hundred one-a of this article, special school district meetings may be called in each city school district by the board of education thereof in accordance with sections two thousand four and two thousand seven of this chapter, whenever such board shall deem it necessary and proper.

3. Notwithstanding any provisions of article forty-one of this chapter to the contrary, the polls of such annual and special district meetings shall be open during such consecutive hours, not less than nine, beginning not earlier than six o'clock in the forenoon, and two of which hours shall be after six o'clock in the evening, as the board of education shall by resolution determine.

§ 2603. Qualifications of voters. A person shall be entitled to vote at a school election in a city school district who is:

1. A citizen of the United States.

2. Eighteen years of age.

3. a. A resident of the state and of the city school district for thirty days next preceding the election.

b. Where territory is added to a city school district by consolidation or alteration of boundaries pursuant to article thirty-one of this chapter, residence in the territory so added shall be and shall be deemed to be residence in the city school district for the purposes of this section.

c. Notwithstanding the foregoing provisions of this subdivision, no Indian who shall have resided on the Allegany Indian reservation for a period of thirty days preceding the election at which he offers to vote, shall be deemed ineligible to vote at any such election in the city school district of the city of Salamanca because of his residence on part of such reservation located outside of such city school district.

4. No person shall have the right to register for or vote at any school meeting or election who would not be qualified to register for or vote at an election in accordance with the provisions of section 5-106 of the election law.

§ 2604. Division of city school district into school election districts; elections held in schoolhouses. The board of education of each city school district shall adopt a resolution on or before the first day of April, preceding the first annual school election held hereunder, dividing the city school district into school election districts. The city school district shall be so divided that if circumstances will permit, school election districts will be coterminous with one or more general election districts, and that, if practicable, there shall be a schoolhouse in each election district. The election districts thus formed shall continue in existence until modified by resolution of the board of education. Such resolution shall accurately describe the boundaries of such election districts by streets, alleys and highways, when practicable. School elections shall be held in such school election districts so far as may be possible in the public schoolhouses therein. If there is no public schoolhouse in a school

election district, the board of education shall by resolution designate the place where the election in such district shall be held. Notwithstanding the foregoing provisions of this section, the board of education of any city school district of a city of less than ten thousand inhabitants may, by resolution, designate the entire city school district as a single school district.

§ 2606. Registration of voters. 1. The board of education except in those city school districts which have adopted a resolution pursuant to section twenty-five hundred thirty-one of this chapter, shall, on or before the fifteenth day of February in each year, appoint a board of registration for a term of one year, consisting of as many members as the board shall deem necessary, not more than half of whom shall belong to the same political party, and shall designate a place within the city school district where such board of registration shall attend for the purpose of preparing a register for each school election district. Each member of the board of registration shall be entitled to compensation at a rate not to exceed that paid at general elections in the city.

2. The board of registration of such city school district shall meet at the designated place for the purpose of preparing the registers for such election on such day or days as shall be fixed by the board of education, the last day of which, however, shall not be less than two weeks preceding each school election, at such hours as the board of education shall by resolution designate at least twenty days before the first registration day, which hours shall include at least four hours between seven o'clock in the morning and eight o'clock in the evening. The registers shall, so far as practicable, be in the same form as the register of voters in an election district for a general election in a city or village having five thousand inhabitants or more, under the election law. Such registers shall be arranged alphabetically by the first letter of surnames, and the place of residence by street and number, or by a description accurately locating such place of residence, of each person entered in such registers shall be given.

Notwithstanding any other general or special law, the board of

registration shall have the power to require the board of elections or other authority having lawful custody of the register or registers used at the general elections last preceding such school election to turn over such register or registers to such board of registration on or before March first of each year for use on the date or dates of such registration and election, for the purpose of preparing the school district registers therefrom. Such board of elections or other authority may, however, elect to furnish, in place of the original registers either a duplicate of the central file registration records, or a list of registered voters, certified to be a complete and accurate copy of the names and addresses of all persons entered in such register for the last preceding general election as well as the names of persons who have registered with such board of elections or other authority up to five days before the date of furnishing such list. On the day following the day of the election, the general election register or registers shall be returned to the authority from whom such register or registers were secured. In addition, the board of registration shall include in each school district register, the names and addresses of persons who registered for any intervening school district election, but who were not registered for the preceding general election. The board of registration shall, for each election of the school district, add to such registers the names of the qualified voters of the school district who shall present themselves personally for registration. Only those qualified voters who are not registered under permanent personal registration on or before the last registration day found on the original or duplicate registers or records or list furnished by the board of elections and have not voted at an intervening school district election, shall be required to present themselves personally for registration.

3. All the provisions of the election law in relation to the registration of voters in a city or village having five thousand inhabitants or more, shall so far as practicable and consistent with the provisions of this article, apply to the registration provided for in this section.

4. The district clerk shall furnish the necessary registration

material to the board of registration at the expense of the school district.

5. The board of education shall publish a notice of registration at least once in each of the two weeks preceding the first registration day designated, in a newspaper having a general circulation in the city school district; or, at least two weeks preceding the first registration day designated, the board shall post a printed copy of the notice conspicuously in twenty places frequented by the public within such district. Such notice shall state that at a place and hour or hours at which the board of registration shall meet to prepare the school election district registers, any person who has not currently registered under permanent personal registration by the last date found on such original or duplicate registers, or records, or list furnished by the board of elections, and has not voted at an intervening election, must, in order to be entitled to vote, present himself personally for registration. Such notice shall state the last date found on such original or duplicate registers or records or list furnished by the board of elections.

6. The registers prepared as provided in this section shall, immediately upon completion and not less than two weeks prior to the time set for the school election at which they are to be used, be filed in the office of the clerk of the board of education, and thereafter shall at all reasonable times be open to inspection by any qualified voter of the school district. Upon the filing of such registers, the board of education shall publish at least once in each of the two weeks preceding such election in a newspaper having a general circulation in the city school district, or shall post conspicuously in twenty places frequented by the public within the school district, a notice stating that the school election district registers have been filed and noting the place at which they are on file and the hours during which they will be open for inspection in each day up to the day set for the election.

7. Any person who is duly qualified to vote and who registered for the preceding general election or any intervening school district election, and whose name was by mistake, error or neglect of the board of

registration, omitted from the school election district register, may at any time either before or during election day request the clerk of the board of education to place the name of such voter on the appropriate register. If the clerk of the board of education shall find that such an omission has been made, he shall place the voter's name on the register. In the event of the failure, refusal or neglect of the clerk of the board of education to comply with such request, a court, justice or judge in a proceeding instituted by such voter may grant an order compelling such clerk forthwith to enter the voter's name on the register.

8. A qualified voter may, upon the examination of the registers, file a challenge of the qualifications as a voter of any person whose name appears on such registers. Such challenges shall be written, shall be under oath and shall be on blanks to be furnished by the board of education.

9. Challenges shall be received and preserved by the clerk of the board or other person designated by the board, and upon receipt thereof, the clerk shall file such challenge or copy thereof with the register, and shall place the words "to be challenged on the day of election" opposite the name of such person on the register.

10. The clerk of the board of education shall cause a copy of the appropriate register of such school district to be delivered on the day of the election before the opening of the polls to the inspectors of election at each voting place within the district at the place or places where the election is to be held.

11. School elections in any school district subject to the provisions of this article, shall hereafter be conducted in the manner provided in this article, and no person shall be entitled to vote whose name does not appear upon the register of the school election district in which he claims to be entitled to vote.

Any person who has moved from one school election district to another, in the same city school district and who has not registered in the new

school election district, and who is still registered in the district from which he moved, may vote in the election district in which he is registered. Such person must at the time of voting advise the election inspectors of his new address and they shall advise the board of registration to correct such registration.

12. The provisions of this section shall not apply with respect to any person registered to vote pursuant to the provisions of section three hundred fifty-two of the election law.

§ 2607. Inspectors of election; organization. Not less than ten days prior to each special or annual election, the board of education shall appoint for each election district three qualified voters residing therein to act as inspectors of election in such election district at such election. The clerk of the board of education shall give written notice of appointment to the persons so appointed. If a person appointed an inspector of election refuses to accept such appointment or fails to serve, the board may appoint a qualified voter of the school election district to fill the vacancy. Additional inspectors of elections for each district may be appointed for one or more of such school election districts when, in the opinion of the board, special circumstances exist requiring the services of such additional inspectors. Such inspectors shall, before opening the polls in the election district for which they are appointed, organize by electing one of their number as chairperson and one as poll clerk. The chairperson may also appoint one of the inspectors as an assistant poll clerk. Each inspector shall receive for his or her services a compensation to be fixed by the board of education, not to exceed the basic compensation paid to inspectors of election at the preceding general elections, as fixed by the governing body of the city in which such school district is wholly or partly located, to be paid out of the school funds in the same manner as other claims against the city school district. Notwithstanding the foregoing provisions of this section, a person seventeen years of age who is enrolled in a school district and fulfilling the requirements of section thirty-two hundred seven-a of this chapter shall be eligible to be appointed as, and to perform the duties of, an election inspector or

poll clerk as provided in this article.

§ 2608. Nomination and ballot. 1. Candidates for members of the board of education in a city school district shall be nominated by petition directed to the board of education and signed by at least one hundred persons qualified to vote at school elections in such district. Such petition shall contain the names and residences of the candidates for the vacancies in the board of education to be filled at the annual election. Where a proposition has been adopted by the voters of such district to require that each vacancy on the board of education to be filled shall be considered a separate specific office, a separate petition shall be required to nominate a candidate to each separate office and such petition shall describe the specific vacancy on the board of education for which the candidate is nominated, which description shall include at least the length of the term of office and the name of the last incumbent, if any. Such petitions shall be filed in the office of the clerk of the board of education between the hours of nine a.m. and five p.m., on or before the twentieth day preceding the day of the annual election. The clerk shall refuse to accept petitions signed by an insufficient number of qualified voters, or petitions which are not timely. If a candidate for whom a nominating petition for the office of member of a board of education has been duly filed withdraws such petition, dies or becomes otherwise ineligible to hold such office at a time which is later than fifteen days before the last day for the filing of nominating petitions as provided in this subdivision, the time for filing nominating petitions for such office shall be extended to five p.m. on the fifteenth day after the date on which the candidate withdrew, died or otherwise became ineligible to hold such office, provided that no such nominating petition may be filed after five p.m. on the seventh day preceding the election.

2. The board of education shall cause to be printed official ballots containing the names of all candidates as above provided, except that the board may refuse to have the names of ineligible candidates placed on such ballots. The names of the candidates shall be arranged in the order as determined by the drawing by lot in accordance with the

provisions of paragraph b of subdivision two of section two thousand thirty-two of this law. Blank spaces shall be provided so that voters may vote for candidates who have not been nominated for the offices to be filled at such elections. The form of such ballots shall conform substantially to the form of ballots used at general elections as prescribed in the election law. Such ballots shall be printed at the expense of the city school district.

3. There shall be delivered to the inspectors in each school election district on the day of the annual election, before the opening of the polls therein, a supply of such ballots which shall at least equal the number of qualified voters entitled to vote in such district.

4. Such ballots shall have printed thereon instructions as to the marking of the ballots and the number of candidates for the several offices for which a voter is permitted to vote.

5. If official ballots are not furnished as above provided, an election of members of a board of education in a city school district shall not be declared invalid or illegal because of the use of ballots which do not conform to the requirements of this section or of the provisions of the election law, provided the intent of the voter may be ascertained from the use of such irregular or defective ballots and such use was not fraudulent and did not substantially affect the result of the election.

§ 2609. Conduct of election; challenges. 1. Such elections shall be conducted, so far as may be, in accordance with the provisions of the election law, relative to general elections, except as otherwise provided herein. Ballot boxes shall be provided by the board of education for each school election district, at least one to contain the ballots voted and at least one other for the rejected or defective ballots.

2. All persons whose names appear upon the register prepared for such election as residing in such election district shall be permitted to

vote and shall be given ballots for such purpose.

Where the general election registers have been turned over to the board of education, the board may require that the registers be used on election day for the purpose of verifying the signature of each voter. Where the board of elections, or other authority having lawful custody of the register or registers, has elected to furnish certified registry lists in place of the original registers, the board of education may require that any voter offer evidence to prove his identity before being permitted to vote. In such case, not less than ten days prior to election day, the board shall establish reasonable rules and regulations governing the evidence necessary to prove the identity of each voter.

3. Booths shall be provided and voters shall be required to enter such booths for the purpose of marking their ballots. The ballots when presented to the inspector shall be folded so as to conceal the names of the candidates for whom the voter has voted.

4. All voters entitled to vote who are in the place where the election is held at or before the time of closing the polls shall be allowed to vote. The inspectors shall keep a poll list, containing the name and address of each qualified elector who votes at such election for the candidates or propositions voted for thereat.

4-a. (a) At each such election there shall be conspicuously placed, by the inspectors of election, distance markers at a distance of one hundred feet from the polling place. Such distance markers shall indicate the prohibition contained in paragraph (b) of this subdivision and shall be so placed at least one-half hour before the opening of the polls and shall remain until the polls are closed.

(b) Where such markers are so placed and the polls are open, no person shall do any electioneering within the polling place, or within one hundred feet therefrom in any public street, or within such distance in any place in a public manner and no banner, poster or placard on behalf of or in opposition to any candidate or issue to be voted upon shall be allowed in or upon the polling place or within one hundred feet therefrom during the election. For the purposes of this subdivision, the

one hundred foot distance shall be deemed to include a one hundred foot radial measured from the entrances, designated by the inspectors of election, to a building where such election is being held. This section shall not be deemed to prohibit the board of trustees or board of education from displaying within any polling place a copy or copies of any proposition to be voted upon.

(c) Any person who wilfully violates the provisions of paragraph (b) of this subdivision shall be guilty of a misdemeanor.

5. Any qualified voter of a city school district may challenge the right of a person to vote at the time when he requests a ballot. All persons named upon the applicable register as having been challenged prior to the day of the election shall also be challenged before they are given ballots to vote. The chairman of the board of inspectors shall administer to each person so challenged the following oath: "I do solemnly swear (or affirm) that I am a citizen of the United States; that I am of the age of eighteen years or more; that I have been an inhabitant of the State for the past year, a resident of the county for the past four months and for the thirty days past an actual resident of this city school district and am therefore qualified to vote at this election." If the person challenged so swears or affirms, he shall be permitted to vote at such election; but if he shall refuse to so swear or affirm, he shall not be given a ballot or be permitted to vote.

6. A person who wilfully swears or affirms falsely as to his right to vote at such election after his right to vote has been challenged is guilty of perjury and may be punished in the manner provided by law for the punishment of such crime. A person who is not qualified to vote at such election who shall vote thereat, although not challenged, shall be guilty of a misdemeanor, punishable by a fine of not less than twenty-five dollars, or by imprisonment for not less than thirty days, or by both such fine and imprisonment.

§ 2610. Canvass of votes and return to board of education; declaration of result. 1. Immediately upon the close of the polls the inspectors of each school election district shall count the ballots found in the

ballot box without unfolding them, except so far as is necessary to ascertain that each ballot is single. They shall compare the number of ballots found in the ballot box with the number of persons recorded on the poll list as having voted at the election. If the number of ballots found in the ballot box shall exceed the number of names, such ballots shall be replaced without being unfolded in the box from which they were taken and shall be thoroughly mingled in such box and one of the inspectors designated by the board shall then publicly draw out as many ballots as shall be equal to the number of excess ballots. The ballots so drawn out shall be enclosed without unfolding in an envelope which shall be sealed and endorsed with a statement of the number of such excess ballots withdrawn from the box and shall be signed by the inspector who withdrew such ballots. Such envelope with the excess ballots therein shall be placed in the box for the defective or spoiled ballots.

2. The ballots shall be counted or canvassed by the inspectors in the manner provided for the canvassing of ballots at a general election pursuant to the election law except as otherwise provided herein. The votes cast for each candidate or proposition shall be tallied and counted by the inspectors and a statement shall be made containing the names of each candidate receiving votes in such district and the number of votes cast for each candidate or proposition. Such statement shall also give the number and describe the ballots which are declared void and shall also specify the number of wholly blank ballots cast. Such statement shall be signed by the inspectors. The ballots which were declared void and not counted shall be enclosed in an envelope which shall be sealed and endorsed as containing void ballots and signed by the inspectors. Such envelope shall be placed in the ballot box containing the defective and spoiled ballots.

3. After the ballots are counted and the statements have been made as required herein the ballots shall be replaced in the ballot box. Each box shall be securely locked and sealed and deposited by an inspector designated for the purpose with the clerk of the board of education. The unused ballots shall be placed in a sealed package and returned by the inspector designated for such purpose to such clerk at the same time

that such ballot boxes are delivered to him. The statement of the canvass of the votes shall be delivered to the clerk of the board of education either after the close of the polls on the day of the annual or special election or on the day following the annual or special election as the board of education shall determine by resolution adopted at the last meeting of such board held before such election.

4. The board of education shall meet at the usual place of meeting at such time as the statement of the canvass of the votes shall have been delivered to the clerk of the board of education on the day of the annual or special election or at eight o'clock in the evening of the day following such election and shall forthwith examine and tabulate the statements of the result of the election in the several school election districts. Such board shall canvass the returns as contained in such statements and shall determine the number of votes cast for each candidate or proposition in the several school election districts. The board shall thereupon declare the result of the canvass. The candidates receiving a plurality of the votes cast respectively for the several offices shall be declared elected. Where more than one office is to be filled by such election and there is a variance in the length of the terms for which such offices are to be filled as authorized by this chapter, or where one or more persons are to be elected for a full term or terms and one or more persons are to be elected for the unexpired portion of a term or terms, or both, the candidate receiving the largest number of votes shall be entitled to the longest term and the candidates receiving the next highest numbers of votes shall be entitled, in decreasing order of the respective numbers of votes, to the several offices, in decreasing order of the length of such terms or unexpired portions of terms. The proposition or propositions receiving a majority of the votes cast therefor shall be declared adopted, except as otherwise provided by law. The clerk of the board of education shall record the result of the election as announced by the board of education.

5. The clerk of the board of education shall within twenty-four hours after the result of the election has been declared serve a written notice either personally or by mail upon each person declared to be

elected as a member of the board of education.

6. In the event that more eligible persons than the number remaining to be elected receive, for the same office or offices, an equal number of votes sufficient that fewer persons receiving such number of votes would be elected, the board of education shall call a special run-off election to be held within forty-five days following the general or special election at which such tie vote was cast to determine which of such candidates shall be elected to such office. The only persons who shall be deemed nominated for such run-off election shall be the candidates who have received such equal number of votes.

§ 2611. Use of voting machines. The board of education of a city school district may authorize the use of voting machines at a school election. When such voting machines are used the provisions of section two thousand thirty-five of this chapter shall apply to and govern the use of such machines in such school election.

§ 2613. Absentee, early mail, and military ballots. The board of education of each city school district to which this article applies shall provide for absentee ballots in accordance with the provisions of section two thousand eighteen-a of this title, early mail ballots in accordance with the provisions of section two thousand eighteen-e of this title, and military ballots in accordance with section two thousand eighteen-d of this title.

§ 2614. Transmission of publicly available data to the New York voting and elections database. Upon the certification of election results and the completion of the voter history file after each election, each school district that holds elections pursuant to this article shall transmit copies of records required to be transmitted pursuant to section 3-112 of the election law in a manner and time provided for in such section.

ARTICLE 55

REGULATION BY BOARDS OF EDUCATION OF CONDUCT ON SCHOOL DISTRICT PROPERTY

Section 2801. Codes of conduct on school property.
2801-a. School safety plans.
2801-b. New York state school safety improvement teams.
2802. Uniform violent incident reporting system.
2803. Use of internet-enabled devices during the school day.
2814. Omnibus school violence prevention grant program.

§ 2801. Codes of conduct on school property. 1. For purposes of this section, school property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law; and a school function shall mean a school-sponsored or school-authorized extra-curricular event or activity regardless of where such event or activity takes place, including any event or activity that may take place in another state.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property, including a school function, and conduct, dress and language deemed unacceptable and inappropriate on

school property, including a school function, and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property, including a school function, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

b. standards and procedures to assure security and safety of students and school personnel;

c. provisions for the removal from the classroom and from school property, including a school function, of students and other persons who violate the code;

d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence;

e. provisions for detention, suspension and removal from the classroom of students, consistent with section thirty-two hundred fourteen of this chapter and other applicable federal, state and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school;

f. procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out;

g. provisions ensuring such code and the enforcement thereof are in compliance with state and federal laws relating to students with disabilities;

h. provisions setting forth the procedures by which local law enforcement agencies shall be notified of code violations which

constitute a crime;

i. provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;

j. provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in articles three and seven of the family court act will be filed;

k. circumstances under and procedures by which referral to appropriate human service agencies shall be made;

l. a minimum suspension period, for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law. For purposes of this section, the definition of "repeatedly are substantially disruptive" shall be determined in accordance with the regulations of the commissioner;

m. a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to paragraph a of subdivision two-a of section thirty-two hundred fourteen of this chapter, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law; and

n. provisions to comply with article two of this chapter.

* 3. The district code of conduct shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community district education council shall be authorized to adopt and

implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

* NB Effective until June 30, 2028

* 3. The district code of conduct shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community school district board shall be authorized to adopt and implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

* NB Effective June 30, 2028

4. The board of education, chancellor or other governing body shall provide copies of a summary of the code of conduct to all students at a general assembly held at the beginning of the school year and shall make copies of the code available to persons in parental relation to students at the beginning of each school year, and shall mail a plain language summary of such code to all persons in parental relation to students before the beginning of each school year, and make it available thereafter upon request. The board of education, chancellor or other governing body shall take reasonable steps to ensure community awareness of the code provisions.

5. a. The board of education, chancellor or other governing body shall annually review and update the district's codes of conduct if necessary, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. Each school district is authorized to establish a committee and to facilitate the review of the code of conduct and the district's response to code of conduct violations. Any such committee shall be comprised of similar individuals described in subdivision three of this section. The school board,

chancellor, or other governing body shall reapprove any such updated code only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

b. Each district shall file a copy of its codes of conduct with the commissioner and all amendments to such code shall be filed with the commissioner no later than thirty days after their adoption.

§ 2801-a. School safety plans. 1. The board of education or trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational education and extension board and the chancellor of the city school district of the city of New York shall adopt and amend a comprehensive district-wide school safety plan and building-level emergency response plans regarding crisis intervention, emergency response and management, provided that in the city school district of the city of New York, such plans shall be adopted by the chancellor of the city school district. Such plans shall be developed by a district-wide school safety team and a building-level emergency response team established pursuant to subdivision four of this section and shall be in a form developed by the commissioner in consultation with the division of criminal justice services, the superintendent of the state police and any other appropriate state agencies. The commissioner, in consultation with the superintendent of the state police, is authorized to develop an appeals process from duplicative requirements of a district-wide school safety plan for school districts having only one school building.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

a. policies and procedures for responding to implied or direct threats of violence by students, teachers, other school personnel including bus drivers and monitors, as well as visitors to the school, including threats by students against themselves, which for the purposes of this

section shall include suicide;

b. policies and procedures for responding to acts of violence by students, teachers, other school personnel including bus drivers and monitors, as well as visitors to the school, including consideration of zero-tolerance policies for school violence;

c. appropriate prevention and intervention strategies such as:

(i) collaborative arrangements with state and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited;

(ii) non-violent conflict resolution training programs;

(iii) peer mediation programs and youth courts; and

(iv) extended day and other school safety programs;

d. policies and procedures for contacting appropriate law enforcement officials in the event of a violent incident;

e. policies and procedures for contacting parents, guardians or persons in parental relation to the students of the district in the event of a violent incident and policies and procedures for contacting parents, guardians or persons in parental relation to an individual student of the district in the event of an implied or direct threat of violence by such student against themselves, which for purposes of this section shall include suicide;

f. policies and procedures relating to school building security, including where appropriate the use of school safety officers and/or security devices or procedures. District-wide school safety teams shall consider, as part of its reviews of the comprehensive district-wide safety plan, the installation of a panic alarm system. For purposes of this paragraph, "panic alarm system" shall mean a silent security system signal generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring a response from local law enforcement or, in the case of a school building located in a

municipality in which there is no municipal police department, a location designated by the superintendent of state police and may include one or more of the following: wired panic button or buttons, wireless panic button or buttons or a mobile or computer application;

g. policies and procedures for the dissemination of informative materials regarding the early detection of potentially violent behaviors, including but not limited to the identification of family, community and environmental factors, to teachers, administrators, school personnel including bus drivers and monitors, persons in parental relation to students of the district, students and other persons deemed appropriate to receive such information;

h. policies and procedures for annual school safety training for staff and students; provided that the district must certify to the commissioner that all staff have undergone annual training on the emergency response plan, and that the school safety training include components on violence prevention, mental health and sudden cardiac arrest, such training may be implemented and conducted in conjunction with existing professional development and training; provided however that new employees hired after the start of the school year shall receive training within thirty days of such hire or as part of a district's existing new hire training program, whichever is sooner;

i. protocols for responding to bomb threats, hostage-takings, intrusions and kidnappings;

j. strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence;

k. a description of the duties of hall monitors and any other school safety personnel, the training required of all personnel acting in a school security capacity, and the hiring and screening process for all

personnel acting in a school security capacity;

l. the designation of the superintendent, or superintendent's designee, as the district chief emergency officer responsible for coordinating communication between school staff and law enforcement and first responders, and ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring the completion and yearly updating of building-level emergency response plans;

m. protocols for responding to a declared state disaster emergency involving a communicable disease that are substantially consistent with the provisions of section twenty-seven-c of the labor law; and

n. policies and procedures relating to sudden cardiac arrest. The district-wide school safety team shall develop and implement a cardiac emergency response plan that addresses the use of appropriate personnel to respond to incidents involving any individual experiencing sudden cardiac arrest or similar life-threatening emergency on any school site owned or operated by a school or at a location of a school sponsored event, including but not limited to all athletic programs. Such plan shall be a written document and shall include specific procedures for incidents involving an individual experiencing sudden cardiac arrest or a similar life-threatening emergency while attending or participating in an athletic practice or event while on school grounds that are venue specific. Each plan shall integrate nationally recognized, evidence-based core elements, such as those recommended by the American Heart Association. School officials shall consider how to best integrate their cardiac emergency response plan into community EMS responder protocols. The district-wide school safety team may provide first aid, CPR, and AED training for relevant staff, including members of building-level emergency response teams provided for in subdivision four of this section, provided that such training shall be voluntary.

3. A building level emergency response plan, developed by the building-level emergency response team defined in subdivision four of this section, shall be kept confidential, including but not limited to

the floor plans, blueprints, schematics or other maps of the school interior, school grounds and road maps of the immediate surrounding area, and shall not be disclosed except to authorized department or school staff, and law enforcement officers, and shall include the following elements:

a. policies and procedures for response to emergency situations, such as those requiring evacuation, sheltering, lock-down, and sudden cardiac arrest. These policies shall include, at a minimum, evacuation routes, shelter sites, and procedures for addressing medical needs, transportation and emergency notification of parents and guardians;

b. designation of an emergency response team comprised of school personnel, law enforcement officials, fire officials and representatives from local regional and/or state emergency response agencies, other appropriate incident response teams, and a post-incident response team that includes appropriate school personnel, medical personnel, mental health counselors and others who can assist the school community in coping with the aftermath of a violent incident;

c. floor plans, blueprints, schematics or other maps of the school interior, school grounds and road maps of the immediate surrounding area;

d. establishment of internal and external communication systems in emergencies which may include the installation of a panic alarm system;

e. definition of the chain of command in a manner consistent with the national interagency incident management system/incident command system;

f. coordination of the emergency response plan with the state-wide plan for disaster mental health services to assure that the school has access to federal, state and local mental health resources in the event of a violent incident;

g. procedures for review and the conduct of drills and other exercises to test components of the emergency response plan; and

h. policies and procedures for securing and restricting access to the crime scene in order to preserve evidence in cases of violent crimes on school property.

4. Each district-wide school safety team shall be appointed by the board of education, or the chancellor in the case of the city school district of the city of New York, and shall include but not be limited to representatives of the school board, teacher, administrator, and parent organizations, school safety personnel, and other school personnel including bus drivers and monitors. At the discretion of the board of education, or the chancellor in the case of the city of New York, a student may be allowed to participate on the safety team, provided however, that no portion of a confidential building-level emergency response plan shall be shared with such student nor shall such student be present where details of a confidential building-level emergency response plan or confidential portions of a district-wide emergency response strategy are discussed. Each building-level emergency response team shall be appointed by the building principal, in accordance with regulations or guidelines prescribed by the board of education, chancellor or other governing body. Such building-level teams shall include but not be limited to representatives of teacher, administrator, and parent organizations, school safety personnel and other school personnel including bus drivers and monitors, community members, law enforcement officials, fire officials or other emergency response agencies, and any other representatives the board of education, chancellor or other governing body deems appropriate.

5. The district-wide safety plan and building-level emergency response plans shall be reviewed by the appropriate team on at least an annual basis and updated as needed.

6. Each board of education, chancellor or other governing body shall make each district-wide safety plan available for public comment at least thirty days prior to its adoption. Such district-wide plans may be adopted by the school board only after at least one public hearing that provides for the participation of school personnel, parents, students

and any other interested parties. Each district shall file a copy of its district-wide safety plan with the commissioner and all amendments to such plan shall be filed with the commissioner no later than thirty days after their adoption.

7. Each board of education, chancellor or other governing body or officer shall ensure a copy of each building-level emergency response plan and any amendments thereto, shall be filed with the appropriate local law enforcement agency and with the state police within thirty days of its adoption. Building-level emergency response plans shall be confidential and shall not be subject to disclosure under article six of the public officers law or any other provision of law. If the board of education, chancellor or other governing body or chancellor fails to file such plan as required by this section, the commissioner may, in an amount determined by the commissioner, withhold public money from the district until the district is in compliance.

8. The commissioner shall annually report to the governor and the legislature on the implementation and compliance with the provisions of this section.

9. Whenever it shall have been demonstrated to the satisfaction of the commissioner that a school district has failed to adopt a code of conduct which fully satisfies the requirements of section twenty-eight hundred one of this article, or a district-wide safety plan or building-level emergency response plans which satisfies the requirements of this section, or to faithfully and completely implement all three, the commissioner may, on thirty days notice to the district, withhold from the district monies to be paid to such district for the current school year pursuant to section thirty-six hundred nine-a of this chapter, exclusive of monies to be paid in respect of obligations to the retirement systems for school and district staff and pursuant to collective bargaining agreements, or the commissioner may direct the district to expend up to such amount upon the development and implementation of a code of conduct and a school district safety plan as required by such sections. Prior to such withholding or redirection, the commissioner shall provide the district an opportunity to present

evidence of extenuating circumstances; when combined with evidence that the district shall promptly comply within short time frames that shall be established by the commissioner as part of an agreement between the district and the commissioner, the commissioner may temporarily stay the withholding or redirection of funds pending implementation of such agreement. If the district promptly and fully complies with the agreement and is in full compliance with this section and section twenty-eight hundred one of this article, the commissioner shall abate the withholding in its entirety. Any failure to meet the obligations of the compliance agreement by the district within the time frames established shall be considered a willful violation of a commissioner's order by the members of the district board for purposes of subdivision one of section three hundred six of the education law. Notwithstanding any other law, rule or regulation, such transfer shall take effect upon filing of a notice thereof with the director of the budget and the chairs of the senate finance and assembly ways and means committees.

10. Every school shall define the roles and areas of responsibility of school personnel, security personnel and law enforcement in response to student misconduct that violates the code of conduct. A school district or charter school that employs, contracts with, or otherwise retains law enforcement or public or private security personnel, including school resource officers, shall establish a written contract or memorandum of understanding that is developed with stakeholder input, including, but not limited to, parents, students, school administrators, teachers, collective bargaining units, parent and student organizations and community members, as well as probation officers, prosecutors, defense counsels and courts that are familiar with school discipline. Such written contract or memorandum of understanding shall define the relationship between a school district or charter school, school personnel, students, visitors, law enforcement, and public or private security personnel. Such contract or memorandum of understanding shall be consistent with the code of conduct, define law enforcement or security personnel's roles, responsibilities and involvement within a school and clearly delegate the role of school discipline to the school administration. Such written contract or memorandum of understanding shall be incorporated into and published as part of the district safety

plan.

§ 2801-b. New York state school safety improvement teams. The governor shall establish New York state school safety improvement teams, which may be composed of representatives from the division of homeland security and emergency services, the division of state police, the division of criminal justice services, and the department. Such New York State School Safety Improvement Teams shall review and assess school safety plans submitted, on a voluntary basis, by school districts having a population of less than one hundred twenty-five thousand inhabitants, boards of cooperative educational services, nonpublic schools, and county vocational education and extension boards, and may make recommendations to improve such school safety plans.

§ 2802. Uniform violent incident reporting system. 1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.

2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative educational services and county vocational education and extension boards shall follow.

3. The uniform violent incident reporting system shall require public school districts, boards of cooperative educational services and county vocational education and extension boards to annually report to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents that occurred in the prior school year:

a. the type of offenders;

b. if any offender is a student, the age and grade of the student;

c. the location at which the incident occurred;

d. the type of incident;

e. whether the incident occurred during or outside of regular school hours;

f. where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;

g. the actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders;

h. any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system, and the duration of such action; and

i. the nature of the victim and the victim's age and grade where appropriate.

4. The commissioner shall require a summary of such information to be included, in a form prescribed by the commissioner, in the school district report cards or board of cooperative educational services report cards required by this chapter.

5. By April first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system, and compare the incidence of violent and disruptive

incidents of schools and school districts and boards with other schools and school districts and boards based on similarity in size and grade levels and other characteristics, including student need and resources, as determined by the commissioner. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

6. The commissioner, in conjunction with the commissioner of the division of criminal justice services, shall promulgate regulations to implement the provisions of this section and to assure to the extent practicable that the reports used by school districts are uniform and comparable with respect to the types of incidents reported and the responses of the schools and the school districts. Such regulations shall provide for the confidentiality of all personally identifiable information and shall ensure that any personally identifiable information which is collected is used only for its intended purpose.

7. Notwithstanding any other provision of state or local law, rule or regulation to the contrary, any student who attends a persistently dangerous public elementary or secondary school, as determined by the commissioner pursuant to paragraph a of this subdivision, or who is a victim of a violent criminal offense, as defined pursuant to paragraph b of this subdivision, that occurred on the grounds of a public elementary or secondary school that the student attends, shall be allowed to attend a safe public school within the local educational agency to the extent required by section eighty-five hundred thirty-two of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended.

a. The commissioner shall annually determine which public elementary and secondary schools are persistently dangerous in accordance with regulations of the commissioner developed in consultation with a representative sample of local educational agencies. Such determination

shall be based on data submitted through the uniform violent incident reporting system over a period prescribed in the regulations, which shall not be less than two years.

b. Each local educational agency required to provide unsafe school choice shall establish procedures for determinations by the superintendent of schools or other chief school officer of whether a student is the victim of a violent criminal offense that occurred on school grounds of the school that the student attends. Such superintendent of schools or other chief school officer shall, prior to making any such determination, consult with any law enforcement agency investigating such alleged violent criminal offense and consider any reports or records provided by such agency. The trustees or board of education or other governing board of a local educational agency may provide, by local rule or by-law, for appeal of the determination of the superintendent of schools to such governing board. Notwithstanding any other provision of law to the contrary, the determination of such chief school officer pursuant to this paragraph shall not have collateral estoppel effect in any student disciplinary proceeding brought against the alleged victim or perpetrator of such violent criminal offense. For purposes of this subdivision, "violent criminal offense" shall mean a crime that involved infliction of serious physical injury upon another as defined in the penal law, a sex offense that involved forcible compulsion or any other offense defined in the penal law that involved the use or threatened use of a deadly weapon.

c. Each local educational agency, as defined in subsection thirty of section eighty-one hundred one of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended, that is required to provide school choice pursuant to section eighty-five hundred thirty-two of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended, shall establish procedures for notification of parents of, or persons in parental relation to, students attending schools that have been designated as persistently dangerous and parents of, or persons in parental relation to, students who are victims of violent criminal offenses of their right to transfer to a safe public school within the local educational agency and procedures for such

transfer, except that nothing in this subdivision shall be construed to require such notification where there are no other public schools within the local educational agency at the same grade level or such transfer to a safe public school within the local educational agency is otherwise impossible or to require a local educational agency that has only one public school within the local educational agency or only one public school at each grade level to develop such procedures. The commissioner shall be authorized to adopt any regulations deemed necessary to assure that local educational agencies implement the provisions of this subdivision.

§ 2803. Use of internet-enabled devices during the school day. 1. For purposes of this section:

(a) "Internet-enabled devices" shall mean and include any smartphone, tablet, smartwatch, or other device capable of connecting to the internet and enabling the user to access content on the internet, including social media applications; provided, however, that "internet-enabled devices" shall not include:

(i) non-internet-enabled devices such as cellular phones or other communication devices not capable of connecting to the internet or enabling the user to access content on the internet; or

(ii) internet-enabled devices supplied by the school district, charter school, or board of cooperative educational services that are used for an educational purpose.

(b) "School day" shall mean the entirety of every instructional day as required by subdivision seven of section thirty-six hundred four of this chapter during all instructional time and non-instructional time, including but not limited to homeroom periods, lunch, recess, study halls, and passing time.

(c) "School grounds" shall mean in or on or within any building, structure, athletic playing field, playground, or land contained within the real property boundary line of a district elementary, intermediate, junior high, vocational, or high school, a charter school, or a board of cooperative educational services facility.

2. Notwithstanding paragraph b of subdivision one of section

twenty-eight hundred fifty-four of this chapter, each school district, charter school, and board of cooperative educational services shall adopt a written policy prohibiting the use of internet-enabled devices by students during the school day anywhere on school grounds. Each school district, charter school, and board of cooperative educational services shall consult local stakeholders, including but not limited to the employee organization representing each bargaining unit within the school building, parents, and students, in the development of such policy prior to its adoption.

3. The policy adopted and implemented pursuant to subdivision two of this section shall include one or more methods for persons in parental relation to a student to contact the student during the school day and provide for written notification to such persons in parental relation to a student of these methods at the beginning of each school year and upon enrollment.

4. The policy adopted and implemented pursuant to subdivision two of this section shall include one or more methods for on-site storage where students may store their internet-enabled devices during the school day, which may include student lockers.

5. (a) The policy adopted and implemented pursuant to subdivision two of this section may authorize student use of an internet-enabled device during the school day on school grounds:

(i) if authorized by a teacher, principal, or the school district, charter school, or board of cooperative educational services for a specific educational purpose;

(ii) where necessary for the management of a student's healthcare;

(iii) in the event of an emergency;

(iv) for translation services;

(v) on a case-by-case basis, upon review and determination by a school psychologist, school social worker, or school counselor, for a student caregiver who is routinely responsible for the care and wellbeing of a family member; or

(vi) where required by law.

(b) The policy may not prohibit a student's use of an internet-enabled

device where such use is included in the student's:

(i) individualized education program; or

(ii) plan developed pursuant to section five hundred four of the federal rehabilitation act of 1973, 29 U.S.C. 794.

6. No later than August first, two thousand twenty-five, each school district, charter school, and board of cooperative educational services shall adopt and publish in a clearly visible and accessible location on its website the internet-enabled device policy established pursuant to subdivision two of this section. Translation of such policy into any of the twelve most common non-English languages spoken by limited-English proficient individuals in the state, based on the data in the most recent American community survey published by the United States census bureau, shall be provided upon request by a student or persons in parental relation to a student.

7. (a) No later than September first, two thousand twenty-six, and each September first thereafter, each school district, charter school, and board of cooperative educational services shall publish an annual report on its website detailing enforcement of the policy within the district, charter school, or board of cooperative educational services in the prior school year, including non-identifiable demographic data of students who have faced disciplinary action for non-compliance and analysis of any demographic disparities in enforcement of the policy. If a statistically significant disparate enforcement impact is identified, such report shall include a mitigation action plan.

(b) Each school district, charter school, and board of cooperative educational services shall not permit the suspension of a student if the sole grounds for the suspension is that the student accessed an internet-enabled device in violation of the policy adopted and implemented pursuant to subdivision two of this section.

§ 2814. Omnibus school violence prevention grant program. 1. Within amounts appropriated for implementation of extended day programs and school violence prevention programs, the commissioner is hereby authorized and directed to award grants on a competitive basis to school

districts. Such grants shall be for one or more of the following pursuant to this section: school safety and violence prevention programs consistent with the purposes of the school safety plans required by section twenty-eight hundred one-a of this article and extended day activities defined in this section. School districts shall be prohibited from using funds awarded pursuant to this section to displace school district after-school funding in existence as of the effective date of this article.

a. School safety activities. Programs eligible for funding pursuant to this section may include, but not be limited to: (i) safe corridors programs; (ii) diversity programs; (iii) collaborative school safety programs with law enforcement agencies or community-based organizations; (iv) metal detectors, intercom and other intra-school communication devices and other devices to increase school security and the safety of school personnel and students; (v) programs which facilitate and promote community involvement in school facility planning; (vi) school anti-violence education programs; and (vii) other programs including comprehensive school-based intervention models, approved by the commissioner, that reduce violence and improve school safety. Comprehensive school based intervention models shall coordinate with and collaborate with other services currently being provided in the school district, incorporate appropriate school violence prevention and intervention services, and coordinate appropriate funding sources to ensure the efficient delivery of services. Such comprehensive school-based intervention models shall also include provisions for the involvement of teachers, parents, school administrators in the development and implementation of the program, a detailed statement identifying specific performance goals, a proposed timetable for implementation and achievement of such goals and specific assessment methods which will be used to measure student and school progress. For purposes of this section, school anti-violence education programs shall include school-based or school affiliated programs that are operated by nonprofit organizations during or after the school day and provides evidence-based trauma support and group counseling for youth impacted by gun violence, anti-gun violence education, or youth empowerment programming for students impacted by gun violence, and shall only be

deemed eligible if such programs identify measurable objectives and specific assessment methods, and shall not include any program that uses firearms for training or demonstration in such program.

b. Extended day activities. (i) Eligible extended day activities under this paragraph shall be for programs conducted outside the regular school day whereby students can participate in extra curricular enrichment activities including but not limited to athletics, academic enrichment, art, music, drama, academic tutoring, mentoring, community services and related programs that will increase student achievement and contribute to school violence prevention. Such activities conducted outside the regular school day shall be offered collaboratively between not-for-profit educational organizations, community based organizations, other agencies approved by the commissioner and public elementary or secondary schools, and where applicable, school districts.

(ii) Grantees receiving funding pursuant to this subdivision may expend no more than five percent of grants for administration and no more than five percent for grantee training.

2. In the event the appropriation for the purposes of this section in any year is insufficient to pay all claims pursuant to this subdivision, the commissioner shall pay such claims on a prorated basis among all districts filing such claims until the appropriation is exhausted.

3. Programs supported by grants pursuant to this section shall not be eligible aid pursuant to any other provision of this chapter.

ARTICLE 56
CHARTER SCHOOLS

Section 2850. Short title; purpose.
2851. Eligible applicants; applications; submission.
2852. Issuance of charter.
2853. Charter school organization; oversight; facilities.
2854. General requirements.
2855. Causes for revocation or termination.
2856. Financing of charter schools.

2857. Notice; review and assessment.

§ 2850. Short title; purpose. 1. This article shall be known and may be cited as the "New York charter schools act of nineteen hundred ninety-eight".

2. The purpose of this article is to authorize a system of charter schools to provide opportunities for teachers, parents, and community members to establish and maintain schools that operate independently of existing schools and school districts in order to accomplish the following objectives:

(a) Improve student learning and achievement;

(b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure;

(c) Encourage the use of different and innovative teaching methods;

(d) Create new professional opportunities for teachers, school administrators and other school personnel;

(e) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and

(f) Provide schools with a method to change from rule-based to performance-based accountability systems by holding the schools established under this article accountable for meeting measurable student achievement results.

§ 2851. Eligible applicants; applications; submission. 1. An application to establish a charter school may be submitted by teachers, parents, school administrators, community residents or any combination thereof. Such application may be filed in conjunction with a college, university, museum, educational institution, not-for-profit corporation exempt from taxation under paragraph 3 of subsection (c) of section 501 of the internal revenue code or for-profit business or corporate entity authorized to do business in New York state. Provided however, for-profit business or corporate entities shall not be eligible to

submit an application to establish a charter school pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article, or operate or manage a charter school for a charter issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article. For charter schools established in conjunction with a for-profit business or corporate entity, the charter shall specify the extent of the entity's participation in the management and operation of the school.

2. The information provided on the application shall be consistent with the provisions of this article and other applicable laws, rules and regulations. Such information shall include:

(a) A mission statement for the school and a description of an educational program that implements one or more of the purposes described in subdivision two of section twenty-eight hundred fifty of this article.

(b) A description of student achievement goals for the school's educational program and the chosen methods of evaluating that students have attained the skills and knowledge specified for those goals. Such educational program shall meet or exceed the student performance standards adopted by the board of regents for other public schools.

(c) The proposed governance structure of the school, including a list of members of the initial board of trustees, a description of the qualifications, terms and method of appointment or election of trustees, the organizational structure of the school, a procedure for conducting and publicizing monthly board of trustee meetings at each charter school, and the processes to be followed by the school to promote parental and staff involvement in school governance.

(d) Admission policies and procedures for the school, which shall be consistent with the requirements of subdivision two of section twenty-eight hundred fifty-four of this article.

(e) A proposed budget and fiscal plan for the school, including supporting evidence that the fiscal plan is sound and that sufficient start-up funds will be available to the charter school.

(f) Requirements and procedures for programmatic and independent fiscal audits at least once annually, with such audits being comparable in scope to those required of other public schools.

(g) The hiring and personnel policies and procedures of the school, including the qualifications to be used in the hiring of teachers, school administrators and other school employees, and a description of staff responsibilities.

(h) The rules and procedures by which students may be disciplined, including but not limited to expulsion or suspension from the school, which shall be consistent with the requirements of due process and with federal laws and regulations governing the placement of students with disabilities.

(i) The number of students to be served by the school, which number shall be at least fifty at a single site and the minimum number of teachers to be employed at the school, which shall be at least three. Provided, however, that a charter school may serve fewer than fifty students or employ fewer than three teachers in the school's first year of operation or if the applicant presents a compelling justification, such as the school would serve a geographically remote region.

(j) Information regarding the facilities to be used by the school, including the location of the school, if known, and the means by which pupils will be transported to and from the school. If the facilities to be used by the proposed school are not known at the time the application is submitted, the applicant shall notify the charter entity and, if applicable, the board of regents within ten business days of acquiring facilities for such school; provided, however, that the charter school must obtain a certificate of occupancy for such facilities prior to the date on which instruction is to commence at the school.

(k) The name of the proposed charter school, which shall include the words "charter school" and which shall not include the name or identification of a for-profit business or corporate entity.

(l) A description of the ages and grade levels to be served by the school.

(m) Identification and background information on all applicants and proposed members of the board of trustees.

(n) The school calendar and school day schedule, which shall provide at least as much instruction time during a school year as required of other public schools.

(o) Types and amounts of insurance coverage to be obtained by the school, which shall include adequate insurance for liability, property

loss and the personal injury of students. The commissioner and the superintendent of financial services may jointly promulgate regulations to implement the provisions of this paragraph.

(p) The term of the proposed charter, which shall not exceed five years; provided however, in the case of charters issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article the term of such proposed charter shall not exceed five years in which instruction is provided to pupils plus the period commencing with the effective date of the charter and ending with the opening of the school for instruction.

(q) Evidence of adequate community support for and interest in the charter school sufficient to allow the school to reach its anticipated enrollment, and an assessment of the projected programmatic and fiscal impact of the school on other public and nonpublic schools in the area.

(r) A description of the health and food services to be provided to students attending the school.

(s) Methods and strategies for serving students with disabilities in compliance with all federal laws and regulations relating thereto.

(t) Procedures to be followed in the case of the closure or dissolution of the charter school, including provisions for the transfer of students and student records to the school district in which the charter school is located and for the disposition of the school's assets to the school district in which the charter school is located or another charter school located within the school district. Notwithstanding any other provision of law or of a charter to the contrary, such procedures shall ensure that upon dissolution of a charter school, any funds remaining in the possession of the charter school that can be attributed to public funding, after all of its debts and obligations have been paid, shall be paid over to each school district having resident children served by the charter school in the school year in which the charter was dissolved or the last year in which students were enrolled in the charter school, in the same proportion as the number of students placed by each school district and served by the charter school in the last school year in which children were served by the charter school, bears to the total number of students served by the charter school in such school year. Provided, however, that nothing in this subdivision shall be construed to require a charter school to pay to such districts

any remaining funds that can be attributed to gifts, donations, grants or other authorized charitable contributions.

(u) Requirements for the grant of a diploma, if the school serves the twelfth grade.

(v) A code of ethics for the charter school, setting forth for the guidance of its trustees, officers and employees the standards of conduct expected of them including standards with respect to disclosure of conflicts of interest regarding any matter brought before the board of trustees.

(w) A description of the residential facilities, if any, provided by the charter school.

(x) Any other information relevant to the issuance of a charter required by the charter entity.

3. An applicant shall submit the application to a charter entity for approval. For purposes of this article, a charter entity shall be:

(a) The board of education of a school district eligible for an apportionment of aid under subdivision four of section thirty-six hundred two of this chapter, provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of one million or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;

(b) The board of trustees of the state university of New York; or

(c) The board of regents.

The board of regents shall be the only entity authorized to issue a charter pursuant to this article. Notwithstanding any provision of this subdivision to the contrary, an application for the conversion of an existing public school to a charter school shall be submitted to, and may only be approved by, the charter entity set forth in paragraph (a) of this subdivision. Notwithstanding any law, rule or regulation to the contrary, any such application for conversion shall be consistent with this section but shall not be subject to the process pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article, and the charter entity shall require that the parents or

guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

4. Charters may be renewed, upon application, for a term of up to five years in accordance with the provisions of this article for the issuance of such charters pursuant to section twenty-eight hundred fifty-two of this article; provided, however, that a renewal application shall include:

(a) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(b) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the board of regents.

(c) Copies of each of the annual reports of the charter school required by subdivision two of section twenty-eight hundred fifty-seven of this article, including the charter school report cards and the certified financial statements.

(d) Indications of parent and student satisfaction.

(e) The means by which the charter school will meet or exceed enrollment and retention targets as prescribed by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program which shall be considered by the charter entity prior to approving such charter school's application for renewal. When developing such targets, the board of regents and the board of trustees of the state university of New York shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the charter school is located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district

in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located.

Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

5. Notwithstanding any provision of law, rule or regulation to the contrary for a period of one year from the effective date of this subdivision, a charter school approved by a charter entity listed in subdivision three of this section may apply at any time during this period to another charter entity, defined in paragraph (a), (b) or (c) of subdivision three of this section to request such other charter entity to oversee and supervise such charter school. All standards and requirements established in the original charter agreement shall remain in effect until the scheduled expiration of such charter agreement and provided however that all obligations of the previous charter entity to oversee and supervise a charter school shall terminate upon the transfer of authorization of such charter school to a new charter entity, as defined in subdivision five of section twenty-eight hundred fifty-two of this article, and the previous charter entity shall provide in a timely fashion information relevant to the charter as requested by such other charter entity. A charter school that seeks to change its charter entity must have met all other requirements of this article and cannot be in violation of any legal requirement, in probationary status, or slated for closure.

§ 2852. Issuance of charter. 1. A charter entity that receives an application for approval of a charter school shall act on each request received prior to July first of a calendar year on or before January first of the succeeding calendar year, and a proposed charter between the applicant and the charter entity resulting from such application shall be executed on or before February first of such succeeding year. Nothing in this subdivision shall be construed to prevent a charter

entity from receiving or acting upon an application at any time. This subdivision shall not apply to applications that are submitted pursuant to subdivision nine-a of this section.

2. An application for a charter school shall not be approved unless the charter entity finds that:

(a) the charter school described in the application meets the requirements set out in this article and all other applicable laws, rules and regulations;

(b) the applicant can demonstrate the ability to operate the school in an educationally and fiscally sound manner;

(c) granting the application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of this article;

(d) in a school district where the total enrollment of resident students attending charter schools in the base year is greater than five percent of the total public school enrollment of the school district in the base year (i) granting the application would have a significant educational benefit to the students expected to attend the proposed charter school or (ii) the school district in which the charter school will be located consents to such application; and

(e) for applicants for an initial charter pursuant to paragraph (b-1) of subdivision nine of this section in a school district located in a city with a population of one million or more, the total enrollment of students attending charter schools within the community district in which the charter school will be located in the base year is less than or equal to fifty-five percent of the total public school enrollment attending within such community district in the base year.

In reviewing applications, the charter entity is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure.

3. A charter entity is not required to approve a charter and may require an applicant to modify or supplement an application as a condition of approval. An existing private school shall not be eligible

to convert to a charter school. In determining whether an application involves the conversion of an existing private school, the charter entity and the board of regents shall consider such factors as: (a) whether the charter school would have the same or substantially the same board of trustees and/or officers as an existing private school; (b) whether a substantial proportion of employees of the charter school would be drawn from such existing private school; (c) whether a substantial portion of the assets and property of such existing private school would be transferred to the charter school; (d) whether the charter school would be located at the same site as such existing private school; (e) upon renewal only, whether such private school closed within one year of establishment of the charter school; and (f) upon renewal only, whether a substantial portion of the charter school's students were drawn from such existing private school.

4. Each individual applicant seeking to establish a charter school shall submit a full set of fingerprints to the charter entity for the purpose of obtaining a state and federal criminal records check. The division of criminal justice services is authorized to provide this information to the federal bureau of investigation and to perform a state and federal criminal records check on each applicant and report the results to the charter entity and the board of regents. The criminal records check shall be completed to the satisfaction of the charter entity prior to approval of the application. The department and the division of criminal justice services shall enter into any memoranda of agreement necessary to implement the requirements of this subdivision.

5. Upon approval of an application by a charter entity, the applicant and charter entity shall enter into a proposed agreement allowing the applicants to organize and operate a charter school. Such written agreement, known as the charter, shall include (a) the information required by subdivision two of section twenty-eight hundred fifty-one of this article, as modified or supplemented during the approval process, (b) in the case of charters to be issued pursuant to subdivision nine-a of this section, information required by such subdivision, (c) any other terms or conditions required by applicable laws, rules and regulations, and (d) any other terms or conditions, not inconsistent with law, agreed

upon by the applicant and the charter entity. In addition, the charter shall include the specific commitments of the charter entity relating to its obligations to oversee and supervise the charter school. Within five days after entering into a proposed charter, the charter entity other than the board of regents shall submit to the board of regents a copy of the charter, the application and supporting documentation for final approval and issuance by the board of regents in accordance with subdivisions five-a and five-b of this section.

5-a. Upon receipt of a proposed charter submitted by a charter entity, the board of regents shall review such proposed charter in accordance with the standards set forth in subdivision two of this section, and any other applicable specifications required by this article. The board of regents shall either (a) approve and issue the charter as proposed by the charter entity or (b) return the proposed charter to the charter entity for reconsideration with the written comments and recommendations of the board of regents. If the board of regents fails to act on such proposed charter within ninety days of its submission to the board of regents in accordance with the previous sentence, the proposed charter shall be deemed to have been approved and issued by the board of regents at the expiration of such period.

5-b. If the board of regents returns a proposed charter to the charter entity pursuant to the provisions of subdivision five-a of this section, such charter entity shall reconsider the proposed charter, taking into consideration the comments and recommendation of the board of regents. Thereafter, the charter entity shall resubmit the proposed charter to the board of regents with modifications, provided that the applicant consents in writing to such modifications, resubmit the proposed charter to the board of regents without modifications, or abandon the proposed charter. The board of regents shall review each such resubmitted proposed charter in accordance with the provisions of subdivision five-a of this section; provided, however, that it shall be the duty of the board of regents to approve and issue a proposed charter resubmitted by the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article within thirty days of the resubmission of such proposed charter or such proposed

charter shall be deemed approved and issued at the expiration of such period.

6. The denial of an application for a charter school by a charter entity shall be in writing and shall state the reasons for the denial. Notwithstanding any provision of law to the contrary, such denial is final and shall not be reviewable in any court or by any administrative body.

7. (a) A revision of a charter shall be made only upon the approval of the charter entity and the board of regents in accordance with the provisions of subdivisions five-a and five-b of this section.

(b) When a revision of a charter involves the relocation of a charter school to a different school district, the proposed new school district shall be given at least forty-five days notice of the proposed relocation. In addition, the applicant shall provide an analysis of the community support for such relocation and of the projected programmatic and fiscal impact of the charter school on the proposed new school district of location and other public and nonpublic schools in the area.

8. A charter entity shall not charge a fee or require reimbursement of expenses for considering a charter application, for approving a charter application or for providing oversight of a charter school.

9. The total number of charters issued pursuant to this article statewide shall not exceed four hundred sixty. (a) All charters issued on or after July first, two thousand fifteen and counted toward the numerical limits established by this subdivision shall be issued by the board of regents upon application directly to the board of regents or on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section. Fifty of such charters issued on or after July first, two thousand fifteen, and no more, shall be granted to a charter for a school to be located in a city having a population of one million or more. The failure of any body to issue the regulations authorized pursuant to this article shall not affect the authority of a charter entity to propose a charter to the board of regents or the board

of regents' authority to grant such charter. A conversion of an existing public school to a charter school, or the renewal or extension of a charter approved by any charter entity, shall not be counted toward the numerical limits established by this subdivision.

(b) A charter that has been surrendered, revoked or terminated on or before July first, two thousand fifteen, including a charter that has not been renewed by action of its charter entity, may be reissued pursuant to paragraph (a) of this subdivision by the board of regents either upon application directly to the board of regents or on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section. Provided that such reissuance shall not be counted toward the statewide numerical limit established by this subdivision, and provided further that no more than twenty-two charters may be reissued pursuant to this paragraph.

(b-1) A charter that has been surrendered, revoked or terminated after January first, two thousand fifteen, but before July first, two thousand twenty-two, including a charter that has not been renewed by action of its charter entity, may be reissued once pursuant to paragraph (a) of this subdivision by the board of regents either upon application directly to the board of regents or on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section. Provided that such reissuance shall not be counted toward the numerical limits established by this subdivision, and provided further that no more than twenty-two charters may be reissued pursuant to this paragraph, provided that fourteen of such reissued charters shall be allocated for, and shall not be counted toward the numerical limit in, a city having a population of one million or more established in paragraph (a) of this subdivision. Nothing herein shall be construed to allow more than fourteen such charters to be reissued in a city having a population of one million or more.

(c) For purposes of determining the total number of charters issued within the numerical limits established by this subdivision, the approval date of the charter entity shall be the determining factor.

(d) Notwithstanding any provision of this article to the contrary, any charter authorized to be issued by chapter fifty-seven of the laws of

two thousand seven effective July first, two thousand seven, and that remains unissued as of July first, two thousand fifteen, may be issued pursuant to the provisions of law applicable to a charter authorized to be issued by such chapter in effect as of June fifteenth, two thousand fifteen; provided however that nothing in this paragraph shall be construed to increase the numerical limit applicable to a city having a population of one million or more as provided in paragraph (a) of this subdivision, as amended by a chapter of the laws of two thousand fifteen which added this paragraph.

9-a. (a) The board of regents is hereby authorized and directed to issue four hundred sixty charters statewide upon either applications submitted directly to the board of regents or upon the recommendation of the board of trustees of the state university of New York pursuant to a competitive request for proposals process.

The board of regents shall make a determination to issue a charter pursuant to a request for proposals no later than December thirty-first of each year.

(b) The board of regents and the board of trustees of the state university of New York shall each develop such request for proposals in a manner that facilitates a thoughtful review of charter school applications, considers the demand for charter schools by the community, and seeks to locate charter schools in a region or regions where there may be a lack of alternatives and access to charter schools would provide new alternatives within the local public education system that would offer the greatest educational benefit to students. Applications shall be evaluated in accordance with the criteria and objectives contained within a request for proposals. The board of regents and the board of trustees of the state university of New York shall not consider any applications which do not rigorously demonstrate that they have met the following criteria:

(i) that the proposed charter school would meet or exceed enrollment and retention targets, as prescribed by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program.

When developing such targets, the board of regents and the board of trustees of the state university of New York, shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located; and

(ii) that the applicant has conducted public outreach, in conformity with a thorough and meaningful public review process prescribed by the board of regents and the board of trustees of the state university of New York, to solicit community input regarding the proposed charter school and to address comments received from the impacted community concerning the educational and programmatic needs of students.

(c) The board of regents and the board of trustees of the state university of New York shall grant priority based on a scoring rubric to those applications that best demonstrate how they will achieve the following objectives, and any additional objectives the board of regents and the board of trustees of the state university of New York, may prescribe:

(i) increasing student achievement and decreasing student achievement gaps in reading/language arts and mathematics;

(ii) increasing high school graduation rates and focusing on serving specific high school student populations including, but not limited to, students at risk of not obtaining a high school diploma, re-enrolled high school drop-outs, and students with academic skills below grade level;

(iii) focusing on the academic achievement of middle school students and preparing them for a successful transition to high school;

(iv) utilizing high-quality assessments designed to measure a student's knowledge, understanding of, and ability to apply, critical concepts through the use of a variety of item types and formats;

(v) increasing the acquisition, adoption, and use of local

instructional improvement systems that provide teachers, principals, and administrators with the information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness;

(vi) partnering with low performing public schools in the area to share best educational practices and innovations;

(vii) demonstrating the management and leadership techniques necessary to overcome initial start-up problems to establish a thriving, financially viable charter school;

(viii) demonstrating the support of the school district in which the proposed charter school will be located and the intent to establish an ongoing relationship with such school district.

(d) No later than November first, two thousand ten, and of each succeeding year, after a thorough review of applications received, the board of trustees of the state university of New York shall recommend for approval to the board of regents the qualified applications that it has determined rigorously demonstrate the criteria and best satisfy the objectives contained within a request for proposals, along with supporting documentation outlining such determination.

(e) Upon receipt of a proposed charter to be issued pursuant to this subdivision submitted by a charter entity, the board of regents or the board of trustees of the state university of New York, shall review, recommend and issue, as applicable, such charters in accordance with the standards established in this subdivision.

(f) The board of regents shall be the only entity authorized to issue a charter pursuant to this article. The board of regents shall consider applications submitted directly to the board of regents and applications recommended by the board of trustees of the state university of New York. Provided, however, that all such recommended applications shall be deemed approved and issued pursuant to the provisions of subdivisions five, five-a and five-b of this section.

(g) Each application submitted in response to a request for proposals pursuant to this subdivision shall also meet the application requirements set out in this article and any other applicable laws, rules and regulations.

(h) During the development of a request for proposals pursuant to this subdivision the board of regents and the board of trustees of the state

university of New York shall each afford the public an opportunity to submit comments and shall review and consider the comments raised by all interested parties.

10. Except in the case of a charter school formed by a school district as a charter entity pursuant to paragraph (a) of subdivision three of section twenty-eight hundred fifty-one of this article, a charter school formed by approval of the regents or by operation of law on or after March fifteenth in any school year shall not commence instruction until July of the second school year next following.

§ 2853. Charter school organization; oversight; facilities. 1. Organization and legal status. (a) Upon the approval of a charter by the board of regents, the board of regents shall incorporate the charter school as an education corporation for a term not to exceed five years, provided however in the case of charters issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article the board of regents shall incorporate the charter school as an education corporation for a term not to exceed five years in which instruction is provided to pupils plus the period commencing with the effective date of the charter and ending with the opening of the school for instruction. Such certificate of incorporation shall not modify or limit any terms of the charter approved by the board of regents. Upon approval of an application to renew a charter, the board of regents shall extend the certificate of incorporation for a term not to exceed five years. Upon termination or nonrenewal of the charter of a charter school pursuant to section twenty-eight hundred fifty-five of this article, the certificate of incorporation of the charter school shall be revoked by the board of regents pursuant to section two hundred nineteen of this chapter, provided that compliance with the notice and hearing requirements of such section twenty-eight hundred fifty-five of this article shall be deemed to satisfy the notice and hearing requirements of such section two hundred nineteen. It shall be the duty of the trustees of the charter school to obtain federal tax-exempt status no later than one year following approval of a charter school by the board of regents. For purposes of this article, "certificate of incorporation" shall mean the

provisional charter issued by the board of regents to form the charter school as an educational corporation pursuant to sections two hundred sixteen and two hundred seventeen of this chapter.

(b) An education corporation organized to operate a charter school shall have all corporate powers necessary and desirable for carrying out a charter school program in accordance with the provisions of this article, other applicable laws and regulations and the terms of the charter, including all of the powers of an education corporation formed to operate an elementary or secondary school and those powers granted under the provisions of the not-for-profit corporation law that are made applicable to charter schools by section two hundred sixteen-a of this chapter. The powers of the trustees of the charter school shall include those powers specified in section two hundred twenty-six of this chapter.

(b-1) An education corporation operating a charter school shall be authorized to operate more than one school or house any grade at more than one site, provided that a charter must be issued for each such additional school or site in accordance with the requirements for the issuance of a charter pursuant to this article and that each such additional school or site shall count as a charter issued pursuant to subdivision nine of section twenty eight hundred fifty-two of this article; and provided further that:

(A) a charter school may operate in more than one building at a single site; and

(B) a charter school which provides instruction to its students at different locations for a portion of their school day shall be deemed to be operating at a single site.

(c) A charter school shall be deemed an independent and autonomous public school, except as otherwise provided in this article, and a political subdivision having boundaries coterminous with the school district or community school district in which the charter school is located. The charter entity and the board of regents shall be deemed to be the public agents authorized to supervise and oversee the charter school.

(d) The powers granted to a charter school under this article constitute the performance of essential public purposes and governmental purposes of this state. A charter school shall be exempt to the same

extent as other public schools from all taxation, fees, assessments or special ad valorem levies on its earnings and its property, including property leased by the charter school. Instruments of conveyance to or from a charter school and any bonds or notes issued by a charter school, together with the income therefrom, shall at all times be exempt from taxation.

(e) A charter school shall not have the power to levy taxes or to acquire property by eminent domain.

(f) The board of trustees of the charter school shall have final authority for policy and operational decisions of the school. Nothing herein shall prohibit the board of trustees of a charter school from delegating decision-making authority to officers and employees of the school in accordance with the provisions of the charter.

(g) Notwithstanding any provision of law to the contrary, no civil liability shall attach to any charter entity, the board of regents, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. Neither the local school district, the charter entity nor the state shall be liable for the debts or financial obligations of a charter school or any person or corporate entity who operates a charter school.

2. The board of regents and charter entity shall oversee each school approved by such entity, and may visit, examine into and inspect any charter school, including the records of such school, under its oversight. Oversight by a charter entity and the board of regents shall be sufficient to ensure that the charter school is in compliance with all applicable laws, regulations and charter provisions.

2-a. For schools approved by an entity described in paragraph (b) or (c) of subdivision three of section twenty-eight hundred fifty-one of this article, the school district in which the charter school is located shall have the right to visit, examine into, and inspect the charter school for the purpose of ensuring that the school is in compliance with all applicable laws, regulations and charter provisions. Any evidence of non-compliance may be forwarded by such school district to the board of regents and the charter entity for action pursuant to section twenty-eight hundred fifty-five of this article.

3. Facilities. (a) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building or in any other suitable location. Provided, however, before a charter school may be located in part of an existing public school building, the charter entity shall provide notice to the parents or guardians of the students then enrolled in the existing school building and shall hold a public hearing for purposes of discussing the location of the charter school. A charter school may own, lease or rent its space.

(a-1) (i) For charters issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article located outside a city school district in a city having a population of one million or more inhabitants, the department shall approve plans and specifications and issue certificates of occupancy for such charter schools. Such charter schools shall comply with all department health, sanitary, and safety requirements applicable to facilities and shall be treated the same as other public schools for purposes of local zoning, land use regulation and building code compliance. Provided however, that the department shall be authorized to grant specific exemptions from the requirements of this paragraph to charter schools upon a showing that compliance with such requirements creates an undue economic hardship or that some other good cause exists that makes compliance with this paragraph extremely impractical. A demonstrated effort to overcome the stated obstacles must be provided.

(ii) In a city school district in a city with a population of one million or more, all charters authorized to be issued by the chapter of the laws of two thousand ten which amended this subdivision shall be obligated to comply with the department's health, safety and sanitary requirements applicable to facilities to the same extent as non-charter public schools in such a city school district.

(a-2) A charter school shall be deemed a nonpublic school for purposes of local zoning, land use regulation and building code compliance if it has been granted an exemption by the department pursuant to paragraph (a-1) of this subdivision or if its charter was not issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article.

(a-3)(1) Before a charter school may be located or co-located in an existing public school building in a city school district in a city having a population of one million or more inhabitants, the chancellor shall identify which public school buildings may be subject to location or co-location, provide the rationale as to why such public school building is identified for location or co-location and shall make all such information publicly available, including via the city board's official internet website. In addition, the chancellor shall provide widespread notice of such information including to the community superintendent, community district education council and the school-based management team. After a public school building has been selected for a proposed location or co-location, the chancellor shall develop a building usage plan in accordance with this paragraph.

(2) The building usage plan shall be developed by the chancellor for each school that has been definitively identified for a location or co-location. The building usage plan shall include, but need not be limited to, the following information:

(A) the actual allocation and sharing of classroom and administrative space between the charter and non-charter schools;

(B) a proposal for the collaborative usage of shared resources and spaces between the charter school and the non-charter schools, including but not limited to, cafeterias, libraries, gymnasiums and recreational spaces, including playgrounds which assures equitable access to such facilities in a similar manner and at reasonable times to non-charter school students as provided to charter school students;

(C) justification of the feasibility of the proposed allocations and schedules set forth in clauses (A) and (B) of this subparagraph and how such proposed allocations and shared usage would result in an equitable and comparable use of such public school building;

(D) building safety and security;

(E) communication strategies to be used by the co-located schools; and

(F) collaborative decision-making strategies to be used by the co-located schools including the establishment of a shared space committee pursuant to paragraph (a-four) of this subdivision.

(3) A building usage plan developed by the chancellor in accordance with this paragraph shall be included within the educational impact statement required by paragraph (b) of subdivision two-a of section

twenty-five hundred ninety-h of this title and be subject to the requirements of subdivision two-a of such section prior to approval by the board of education pursuant to paragraph h of subdivision one of section twenty-five hundred ninety-g of this title.

(4) A building usage plan developed by the chancellor in accordance with this paragraph may be revised and such revision shall require board of education approval consistent with the requirements pursuant to subdivision seven of section twenty-five hundred ninety-g of this title.

(5) The building usage plan shall be made publicly available by the chancellor, including via the city board's official internet website, and a copy shall also be filed with the city board, the impacted community district education council, community boards, community superintendent, and school based management team.

(a-4) In a city school district in a city having a population of one million or more inhabitants, a shared space committee shall be established in each public school building in which one or more charter schools are located or co-located within a public school building with non-charter public schools. The shared space committee shall be comprised of the principal, a teacher, and a parent of each co-located school. Such committee shall conduct regular meetings, at least four times per school year, to review implementation of the building usage plan developed pursuant to paragraph (a-three) of this subdivision.

(a-5) Notwithstanding any provision to the contrary, in a city school district in a city having a population of one million or more inhabitants, the determination to locate or co-locate a charter school within a public school building and the implementation of and compliance with the building usage plan developed pursuant to paragraph (a-three) of this subdivision that has been approved by the board of education of such city school district pursuant to paragraph (h) of subdivision one of section twenty-five hundred ninety-g of this title and after satisfying the requirements of subdivision two-a of section twenty-five hundred ninety-h of this title may be appealed to the commissioner pursuant to section three hundred ten of this chapter. Provided further, the revision of a building usage plan approved by the board of education consistent with the requirements pursuant to subdivision seven of section twenty-five hundred ninety-g of this title may also be appealed to the commissioner on the grounds that such revision fails to meet the

standards set forth in clause (B) of subparagraph two of paragraph (a-3) of this subdivision. Following a petition for such appeal pursuant to this paragraph, such city school district shall have ten days to respond. The petition must be dismissed, adjudicated or disposed of by the commissioner within ten days of the receipt of the city school district's response.

(b) A charter school may pledge, assign or encumber its assets to be used as collateral for loans or extensions of credit; provided, however, that a charter school shall not pledge or assign monies provided, or to be provided, pursuant to subdivision one of section twenty-eight hundred fifty-six of this article in connection with the purchase or construction, acquisition, reconstruction, rehabilitation or improvement of a school facility.

(c) The office of general services shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and that may be suitable for the operation of a charter school. Such list shall be provided to applicants for charter schools and to existing charter schools. At the request of a charter school or a prospective applicant, a school district shall make available a list of vacant and unused school buildings and vacant and unused portions of school buildings, including private school buildings, within the school district that may be suitable for the operation of a charter school.

(d) Notwithstanding any other provision to the contrary, in a city school district in a city having a population of one million or more inhabitants, the chancellor must first authorize in writing any proposed capital improvements or facility upgrades in excess of five thousand dollars, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building. For any capital improvements or facility upgrades in excess of five thousand dollars that have been approved by the chancellor, regardless of the source of funding, made in a charter school that is already co-located within a public school building, matching capital improvements or facility

upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.

(e) In a city school district in a city having a population of one million or more inhabitants, charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to this article, approved by their charter entity for the two thousand fourteen--two thousand fifteen school year or thereafter and request co-location in a public school building shall be provided access to facilities pursuant to this paragraph for such charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to this article, approved by their charter entity for those grades newly provided.

(1) Notwithstanding any other provision of law to the contrary, within the later of (i) five months after a charter school's written request for co-location and (ii) thirty days after the charter school's charter is approved by its charter entity, the city school district shall either: (A) offer at no cost to the charter school a co-location site in a public school building approved by the board of education as provided by law, or (B) offer the charter school space in a privately owned or other publicly owned facility at the expense of the city school district and at no cost to the charter school. The space must be reasonable, appropriate and comparable and in the community school district to be served by the charter school and otherwise in reasonable proximity.

(2) No later than thirty days after approval by the board of education or expiration of the offer period prescribed in subparagraph one of this paragraph, the charter school shall either accept the city school district's offer or appeal in accordance with subparagraph three of this paragraph. If no appeal is taken, the city's offer or refusal to make an offer shall be final and non-reviewable. The charter school may appeal as early as issuance of an educational impact statement for the proposed co-location.

(3) The charter school shall have the option of appealing the city school district's offer or failure to offer a co-location site through binding arbitration in accordance with subparagraph seven of this paragraph, an expedited appeal to the commissioner pursuant to section

three hundred ten of this chapter and the procedures prescribed in paragraph (a-5) of this subdivision, or a special proceeding pursuant to article seventy-eight of the civil practice law and rules. In any such appeal, the standard of review shall be the standard prescribed in section seventy-eight hundred three of the civil practice law and rules.

(4) If the appeal results in a determination in favor of the city school district, the city's offer shall be final and the charter school may either accept such offer and move into the space offered by the city school district at the city school district's expense, or locate in another site at the charter school's expense.

(5) For a new charter school whose charter is granted or for an existing charter school whose expansion of grade level, pursuant to this article, is approved by their charter entity, if the appeal results in a determination in favor of the charter school, the city school district shall pay the charter school an amount attributable to the grade level expansion or the formation of the new charter school that is equal to the lesser of:

(A) the actual rental cost of an alternative privately owned site selected by the charter school or

(B) thirty percent of the product of the charter school's basic tuition for the current school year and (i) for a new charter school that first commences instruction on or after July first, two thousand fourteen, the charter school's current year enrollment; or (ii) for a charter school which expands its grade level, pursuant to this article, the positive difference of the charter school's enrollment in the current school year minus the charter school's enrollment in the school year prior to the first year of the expansion.

(6) An arbitration in an appeal pursuant to this paragraph shall be conducted by a single arbitrator selected in accordance with this subparagraph from a list of arbitrators from the American arbitration association's panel of labor arbitrators, with relevant biographical information, submitted by such association to the commissioner pursuant to paragraph a of subdivision three of section three thousand twenty-a of this chapter. Upon request by the charter school, the commissioner shall forthwith send a copy of such list and biographical information simultaneously to the charter school and city school district. The parties shall, by mutual agreement, select an arbitrator from the list

within fifteen days from receipt of the list, and if the parties fail to agree on an arbitrator within such fifteen day period or fail within such fifteen day period to notify the commissioner that an arbitrator has been selected, the commissioner shall appoint an arbitrator from the list to serve as the arbitrator. The arbitration shall be conducted in accordance with the American arbitration association's rules for labor arbitration, except that the arbitrator shall conduct a pre-hearing conference within ten to fifteen days of agreeing to serve and the arbitration shall be completed and a decision rendered within the time frames prescribed for hearings pursuant to section three thousand twenty-a of this chapter. The arbitrator's fee shall not exceed the rate established by the commissioner for hearings conducted pursuant to section three thousand twenty-a of this chapter, and the cost of such fee, the arbitrator's necessary travel and other reasonable expenses, and all other hearing expenses shall be borne equally by the parties to the arbitration.

4. Public and private assistance to charter schools. * (a) For purposes of sections seven hundred one, seven hundred eleven, seven hundred fifty-one and nine hundred twelve of this chapter, a charter school shall be deemed a nonpublic school in the school district within which the charter school is located. Special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or subcommittee on special education of the student's school district of residence. The charter school may arrange to have such services provided by such school district of residence or by the charter school directly or by contract with another provider. Where the charter school arranges to have the school district of residence provide such special education programs or services, such school district shall provide services in the same manner as it serves students with disabilities in other public schools in the school district, including the provision of supplementary and related services on site to the same extent to which it has a policy or practice of providing such services on the site of such other public schools.

* NB Effective until June 30, 2027

* (a) For purposes of sections seven hundred one, seven hundred

eleven, seven hundred fifty-one and nine hundred twelve of this chapter, a charter school shall be deemed a nonpublic school in the school district within which the charter school is located. Special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or subcommittee on special education of the student's school district of residence. The charter school may arrange to have such services provided by such school district of residence or by the charter school directly or by contract with another provider.

* NB Effective June 30, 2027

(b) For purposes of section thirty-six hundred thirty-five of this chapter, a charter school shall be deemed a nonpublic school. The charter and application therefor shall set forth the manner in which students ineligible for transportation pursuant to section thirty-six hundred thirty-five of this chapter shall be transported to and from school. Any supplemental transportation provided by a charter school shall comply with all transportation safety laws and regulations applicable to other public schools. A school district may enter into a contract for the provision of supplemental transportation services to a charter school, and any such services shall be provided by the school district at cost.

(c) A charter school may contract with the governing body of a public college or university for the use of a school building and grounds, the operation and maintenance thereof. Any such contract shall provide such services or facilities at cost. A school district shall permit any charter school granted approval to co-locate, to use such services and facilities without cost.

(d) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(e) The school district of residence of children attending a charter school may, but is not required to, allow such children to participate in athletic and extra-curricular activities of the district's schools.

§ 2854. General requirements. 1. Applicability of other laws. (a)

Notwithstanding any provision of law to the contrary, to the extent that any provision of this article is inconsistent with any other state or local law, rule or regulation, the provisions of this article shall govern and be controlling.

(b) A charter school shall meet the same health and safety, civil rights, and student assessment requirements applicable to other public schools, except as otherwise specifically provided in this article. A charter school shall be exempt from all other state and local laws, rules, regulations or policies governing public or private schools, boards of education, school districts and political subdivisions, including those relating to school personnel and students, except as specifically provided in the school's charter or in this article. Nothing in this subdivision shall affect the requirements of compulsory education of minors established by part one of article sixty-five of this chapter.

(c) A charter school shall be subject to the financial audits, the audit procedures, and the audit requirements set forth in the charter, and shall be subject to audits of the comptroller of the city school district of the city of New York for charter schools located in New York city, and to the audits of the comptroller of the state of New York for charter schools located in the rest of the state, at his or her discretion, with respect to the school's financial operations. Such procedures and standards shall be consistent with generally accepted accounting and audit standards. Independent fiscal audits shall be required at least once annually.

(d) A charter school shall design its educational programs to meet or exceed the student performance standards adopted by the board of regents and the student performance standards contained in the charter. Students attending charter school shall be required to take regents examinations to the same extent such examinations are required of other public school students. A charter school offering instruction in the high school grades may grant regents diplomas and local diplomas to the same extent as other public schools, and such other certificates and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates, honors and diplomas under its seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for

similar diplomas of corresponding grade granted by any other public school.

(e) A charter school shall be subject to the provisions of articles six and seven of the public officers law.

(f) A charter school shall be subject to the provisions of sections eight hundred, eight hundred one, eight hundred two, eight hundred three, eight hundred four, eight hundred four-a, eight hundred five, eight hundred five-a, eight hundred five-b and eight hundred six of the general municipal law to the same extent such sections apply to school districts.

2. Admissions; enrollment; students. (a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in this article shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure or students with disabilities and English language learners; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

(b) Any child who is qualified under the laws of this state for

admission to a public school is qualified for admission to a charter school. Applications for admission to a charter school shall be submitted on a uniform application form created by the department and shall be made available by a charter school in languages predominately spoken in the community in which such charter school is located. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school. Preference may also be provided to children of employees of the charter school or charter management organization, provided that such children of employees may constitute no more than fifteen percent of the charter school's total enrollment. The commissioner shall establish regulations to require that the random selection process conducted pursuant to this paragraph be performed in a transparent and equitable manner and to require that the time and place of the random selection process be publicized in a manner consistent with the requirements of section one hundred four of the public officers law and be open to the public. For the purposes of this paragraph and paragraph (a) of this subdivision, the school district in which the charter school is located shall mean, for the city school district of the city of New York, the community district in which the charter school is located.

(c) A charter school shall serve one or more of the grades one through twelve, and shall limit admission to pupils within the grade levels served. Nothing herein shall prohibit a charter school from establishing a kindergarten program.

(d) A student may withdraw from a charter school at any time and enroll in a public school. A charter school may refuse admission to any student who has been expelled or suspended from a public school until the period of suspension or expulsion from the public school has expired, consistent with the requirements of due process.

3. School personnel. (a) An employee of a charter school shall be an employee of the education corporation formed to operate the charter school and not an employee of the local school district in which the charter school is located. An employee of a charter school shall be deemed to be a public employee solely for purposes of article fourteen of the civil service law, except for section two hundred twelve of such law, and for no other purposes unless otherwise specified in this article, the board of trustees of the charter school shall constitute a board of education solely for purposes of article fourteen of the civil service law, except for section two hundred twelve of such law, and for no other purposes unless otherwise specified in this article, a charter school shall be deemed to be a public employer solely for purposes of article fourteen of the civil service law, except for section two hundred twelve of such law, and for no other purposes unless otherwise specified in this article, and the chief executive officer of the charter school shall be the person designated as such by the board of trustees of the charter school.

(a-1) The board of trustees of a charter school shall employ and contract with necessary teachers, administrators and other school personnel. Such teachers shall be certified in accordance with the requirements applicable to other public schools; provided, however, that a charter school may employ as teachers (i) uncertified teachers with at least three years of elementary, middle or secondary classroom teaching experience; (ii) tenured or tenure track college faculty; (iii) individuals with two years of satisfactory experience through the Teach for America program; and (iv) individuals who possess exceptional business, professional, artistic, athletic, or military experience, provided, however, that such teachers described in clauses (i), (ii), (iii), and (iv) of this paragraph shall not in total comprise more than the sum of: (A) thirty per centum of the teaching staff of a charter school, or five teachers, whichever is less; plus (B) five teachers of mathematics, science, computer science, technology, or career and technical education; plus (C) five additional teachers. A teacher certified or otherwise approved by the commissioner shall not be included in the numerical limits established by the preceding sentence.

(a-2) (i) The board of trustees of a charter school shall require, for purposes of a criminal history record check, the fingerprinting of all

prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the commissioner for purposes of clearance for employment.

(ii) Upon the recommendation of the chief executive officer of the charter school, the board of trustees of a charter school may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by subparagraph (i) of this paragraph. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate forty-five days after such notification of conditional clearance or when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, whichever occurs earlier, and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such period, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

(iii) Upon the recommendation of the chief executive officer of the charter school, the board of trustees of a charter school may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to subparagraph (ii) of this paragraph must also be initiated. Emergency conditional appointment may commence prior to

notification from the commissioner on conditional clearance but shall terminate twenty business days from the date such appointment commences or when the prospective employer is notified by the commissioner regarding conditional clearance, whichever occurs earlier, provided that if conditional clearance is granted, the appointment shall continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An unforeseen emergency vacancy shall be defined as: (1) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (2) when no other qualified person is available to fill the vacancy temporarily; and (3) when emergency conditional appointment is necessary to maintain services which the charter school is legally required to provide or services necessary to protect the health, education or safety of students or staff. The provisions of clause one of this subparagraph shall not apply if the board finds that the charter school has been unable to fill the vacancy despite good faith efforts to fill such vacancy in a manner which would have allowed sufficient time for clearance or conditional clearance.

(iv) Shall develop a policy for the safety of the children who have contact with an employee holding conditional appointment or emergency conditional appointment.

(a-3) The board of trustees of a charter school shall upon commencement and termination of employment of an employee by the charter school district, provide the commissioner with the name of and position held by such employee.

(b) The school employees of a charter school that has been converted from an existing public school who are eligible for representation under article fourteen of the civil service law shall be deemed to be included within the negotiating unit containing like titles or positions, if any, for the school district in which such charter school is located and shall be subject to the collective bargaining agreement covering that school district negotiating unit; provided, however, that a majority of

the members of a negotiating unit within a charter school may modify, in writing, a collective bargaining agreement for the purposes of employment in the charter school with the approval of the board of trustees of the charter school.

(b-1) The employees of a charter school that is not a conversion from an existing public school shall not be deemed members of any existing collective bargaining unit representing employees of the school district in which the charter school is located, and the charter school and its employees shall not be subject to any existing collective bargaining agreement between the school district and its employees. Provided, however, that (i) if the student enrollment of the charter school on the first day on which the charter school commences student instruction exceeds two hundred fifty or if the average daily student enrollment of such school exceeds two hundred fifty students at any point during the first two years after the charter school commences student instruction, all employees of the school who are eligible for representation under article fourteen of the civil service law shall be deemed to be represented in a separate negotiating unit at the charter school by the same employee organization, if any, that represents like employees in the school district in which such charter school is located; (ii) the provisions of subparagraph (i) of this paragraph may be waived in up to ten charters issued on the recommendation of the charter entity set forth in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article; (iii) the provisions of subparagraph (i) of this paragraph shall not be applicable to the renewal or extension of a charter; and (iv) nothing in this sentence shall be construed to subject a charter school subject to the provisions of this paragraph or its employees to any collective bargaining agreement between any public school district and its employees or to make the employees of such charter school part of any negotiating unit at such school district. The charter school may, in its sole discretion, choose whether or not to offer the terms of any existing collective bargaining to school employees.

(c) The employees of the charter school may be deemed employees of the local school district for the purpose of providing retirement benefits, including membership in the teachers' retirement system and other retirement systems open to employees of public schools. The financial

contributions for such benefits shall be the responsibility of the charter school and the school's employees. The commissioner, in consultation with the comptroller, shall develop regulations to implement the provisions of this paragraph in a manner that allows charter schools to provide retirement benefits to its employees in the same manner as other public school employees.

(c-1) Reasonable access. (i) If employees of the charter school are not represented, any charter school chartered pursuant to this article must afford reasonable access to any employee organization during the reasonable proximate period before any representation question is raised; or

(ii) If the employee organization is a challenging organization, reasonable access must be provided to any organization seeking to represent employees beginning with a date reasonably proximate to a challenge period. Reasonableness is defined, at a minimum, as access equal to that provided to the incumbent organization.

(c-2) Employer neutrality. It shall be an improper practice for a charter school board of directors, chief administrative officer and their agents to commit any of the acts set forth in subdivision one of section two hundred nine-a of the civil service law and could in accordance with section twenty-eight hundred fifty-five of this article, result in the revocation of the charter.

(d) A teacher employed by a school district may make a written request to the board of education for an extended leave of absence to teach at a charter school. Approval for such a leave of absence for a period of three years or less shall not be unreasonably withheld. If such approval is granted to a teacher by the school district, the teacher may return to teach in the school district during such period of leave without the loss of any right of certification, retirement, seniority, salary status or any other benefit provided by law or by collective bargaining agreement. If an appropriate position is unavailable, the teacher's name shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position similar to the one such teacher filled in such school district immediately prior to the leave of service.

(d-1) In a school district of a city having a population of one million or more, a principal employed by such school district may make a

written request to the board of education for an extended leave of absence to serve as a principal of a charter school. Approval for such a leave of absence for a period of three years or less shall not be unreasonably withheld. If such approval is granted to a principal by the school district, the principal may return to serve as a principal in the school district during such period of leave without the loss of any right of certification, retirement, seniority, salary status or any other benefit provided by law or by collective bargaining agreement. If an appropriate position is unavailable, the principal's name shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position similar to the one such principal filled in such school district immediately prior to the leave of service.

§ 2855. Causes for revocation or termination. 1. The charter entity, or the board of regents, may terminate a charter upon any of the following grounds:

(a) When a charter school's outcome on student assessment measures adopted by the board of regents falls below the level that would allow the commissioner to revoke the registration of another public school, and student achievement on such measures has not shown improvement over the preceding three school years;

(b) Serious violations of law;

(c) Material and substantial violation of the charter, including fiscal mismanagement;

(d) When the public employment relations board makes a determination that the charter school demonstrates a practice and pattern of egregious and intentional violations of subdivision one of section two hundred nine-a of the civil service law involving interference with or discrimination against employee rights under article fourteen of the civil service law; or

(e) Repeated failure to comply with the requirement to meet or exceed enrollment and retention targets of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program pursuant to targets established by the board of regents or the board of trustees of the state university of New

York, as applicable. Provided, however, if no grounds for terminating a charter are established pursuant to this section other than pursuant to this paragraph, and the charter school demonstrates that it has made extensive efforts to recruit and retain such students, including outreach to parents and families in the surrounding communities, widely publicizing the lottery for such school, and efforts to academically support such students in such charter school, then the charter entity or board of regents may retain such charter.

2. Notice of intent to revoke a charter shall be provided to the board of trustees of a charter school at least thirty days prior to the effective date of the proposed revocation. Such notice shall include a statement of reasons for the proposed revocation. The charter school shall be allowed at least thirty days to correct the problems associated with the proposed revocation. Prior to revocation of the charter, a charter school shall be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school shall proceed with dissolution pursuant to the procedures of the charter and direction of the charter entity and the board of regents.

3. In addition to the provisions of subdivision two of this section, the charter entity or the board of regents may place a charter school falling within the provisions of subdivision one of this section on probationary status to allow the implementation of a remedial action plan. The failure of a charter school to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's charter.

4. Any individual or group may bring a complaint to the board of trustees of a charter school alleging a violation of the provisions of this article, the charter, or any other provision of law relating to the management or operation of the charter school. If, after presentation of the complaint to the board of trustees of a charter school, the individual or group determines that such board has not adequately addressed the complaint, they may present that complaint to the charter entity, which shall investigate and respond. If, after presentation of

the complaint to the charter entity, the individual or group determines that the charter entity has not adequately addressed the complaint, they may present that complaint to the board of regents, which shall investigate and respond. The charter entity and the board of regents shall have the power and the duty to issue appropriate remedial orders to charter schools under their jurisdiction to effectuate the provisions of this section.

5. The regulatory power of the board of regents and the commissioner shall not extend to charter schools except as otherwise specifically provided in this article.

§ 2856. Financing of charter schools. * 1. (a) The enrollment of students attending charter schools shall be included in the enrollment, attendance, membership and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the charter school basic tuition, which shall be:

(i) for school years prior to the two thousand nine--two thousand ten school year, an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty-six hundred two of this chapter for the school district for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter from two years prior to the base year to the base year;

(ii) for the two thousand nine--two thousand ten school year, the charter school basic tuition shall be the amount payable by such district as charter school basic tuition for the two thousand eight--two thousand nine school year;

(iii) for the two thousand ten--two thousand eleven through two

thousand thirteen--two thousand fourteen school years, the charter school basic tuition shall be the basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph;

(iv) for the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen and two thousand sixteen--two thousand seventeen school years, the charter school basic tuition shall be the sum of the lesser of the charter school basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph or the charter school basic tuition computed for the current year pursuant to the provisions of subparagraph (i) of this paragraph plus the supplemental basic tuition;

(v) for the two thousand seventeen--two thousand eighteen school year, the charter school basic tuition shall be the sum of (A) the charter school basic tuition for the two thousand sixteen--two thousand seventeen school year plus (B) five hundred dollars;

(vi) for the two thousand eighteen--two thousand nineteen school year, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year five years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year, provided that the highest and lowest annual quotients shall be excluded from the calculation of such average or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(vii) for the two thousand nineteen--two thousand twenty school year the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year provided that the highest annual quotient calculated pursuant to this subparagraph shall be replaced by the average quotient calculated pursuant to subparagraph (vi) of this paragraph or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(viii) for the two thousand twenty--two thousand twenty-one and two thousand twenty-one--two thousand twenty-two school years, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year multiplied by, for the two thousand twenty--two thousand twenty-one school year only, (iii) nine hundred forty-five one-thousandths (0.945) or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section

three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(ix) for the two thousand twenty-two--two thousand twenty-three through two thousand twenty-four--two thousand twenty-five school years the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year four years prior to the base year and finishing with the year prior to the base year, excluding the two thousand twenty--two thousand twenty-one school year, of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(x) for the two thousand twenty-five--two thousand twenty-six school year and thereafter the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an

electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

For the purposes of this subdivision, the "supplemental basic tuition" shall be (A) for a school district for which the charter school basic tuition computed for the current year is greater than or equal to the charter school basic tuition for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph, (1) for the two thousand fourteen--two thousand fifteen school year two hundred and fifty dollars, and (2) for the two thousand fifteen--two thousand sixteen school year three hundred and fifty dollars, and (3) for the two thousand sixteen--two thousand seventeen school year five hundred dollars, and (4) for the two thousand seventeen--two thousand eighteen school year and thereafter, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars, and (B) for school years prior to the two thousand seventeen--two thousand eighteen school year, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the charter school basic tuition for the two thousand ten--two thousand eleven school year minus the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph and (C) for school years following the two thousand sixteen--two thousand seventeen school years, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars.

(b) The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Notwithstanding anything in this section to the contrary, amounts payable pursuant to this subdivision from state or local funds may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this subdivision shall be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this subdivision shall be determined by the commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter until actual enrollment data is reported to the school district by the charter school. Such projections shall be reconciled with the actual enrollment as actual enrollment data is so reported and at the end of the school's first year of operation and each subsequent year based on a final report of actual enrollment by the charter school, and any necessary adjustments resulting from such final report shall be made to payments during the school's following year of operation.

(c) Notwithstanding any other provision of this subdivision to the contrary, payment of the federal aid attributable to a student with a disability attending a charter school shall be made in accordance with the requirements of section 8065-a of title twenty of the United States code and sections 76.785-76.799 and 300.209 of title thirty-four of the code of federal regulations.

(d) School districts shall be eligible for an annual apportionment equal to the amount of the supplemental basic tuition for the charter school in the base year for the expenses incurred in the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen, two thousand sixteen--two thousand seventeen school years and thereafter. Provided that for expenses incurred in the two thousand twenty--two thousand twenty-one school year, for a city school district in a city having a population of one million or more, the annual apportionment shall be reduced by thirty-five million dollars ($35,000,000) upon certification by the director of the budget of the

availability of a grant in the same amount from the elementary and secondary school emergency relief funds provided through the American rescue plan act of 2021 (P.L. 117-2). Provided further that for expenses incurred in the two thousand twenty-three--two thousand twenty-four school year, for a city school district in a city having a population of one million or more, the annual apportionment shall be reduced by thirty-five million dollars ($35,000,000) upon certification by the director of the budget of the availability of a grant in the same amount from the elementary and secondary school emergency relief funds provided through the American rescue plan act of 2021 (P.L. 117-2).

* NB Effective until June 30, 2027

* 1. (a) The enrollment of students attending charter schools shall be included in the enrollment, attendance and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the charter school basic tuition which shall be:

(i) for school years prior to the two thousand nine--two thousand ten school year, an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty-six hundred two of this chapter for the school district for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter from two years prior to the base year to the base year;

(ii) for the two thousand nine--two thousand ten school year, the charter school basic tuition shall be the amount payable by such district as charter school basic tuition for the two thousand eight--two thousand nine school year;

(iii) for the two thousand ten--two thousand eleven through two thousand thirteen--two thousand fourteen school years, the charter school basic tuition shall be the basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions

of subparagraph (i) of this paragraph;

(iv) for the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen and two thousand sixteen--two thousand seventeen school years, the charter school basic tuition shall be the sum of the lesser of the charter school basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph or the charter school basic tuition computed for the current year pursuant to the provisions of subparagraph (i) of this paragraph plus the supplemental basic tuition;

(v) for the two thousand seventeen--two thousand eighteen school year, the charter school basic tuition shall be the sum of (A) the charter school basic tuition for the two thousand sixteen--two thousand seventeen school year plus (B) five hundred dollars;

(vi) for the two thousand eighteen--two thousand nineteen school year, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year five years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year, provided that the highest and lowest annual quotients shall be excluded from the calculation of such average or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(vii) for the two thousand nineteen--two thousand twenty school year the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year

multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year provided that the highest annual quotient calculated pursuant to this subparagraph shall be replaced by the average quotient calculated pursuant to subparagraph (vi) of this paragraph or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(viii) for the two thousand twenty--two thousand twenty-one and two thousand twenty-one--two thousand twenty-two school years, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year multiplied by, for the two thousand twenty--two thousand twenty-one school year only, (iii) nine hundred forty-five one-thousandths (0.945) or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of

subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(ix) for the two thousand twenty-two--two thousand twenty-three through two thousand twenty-four--two thousand twenty-five school years the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year four years prior to the base year and finishing with the year prior to the base year, excluding the two thousand twenty--two thousand twenty-one school year, of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(x) for the two thousand twenty-five--two thousand twenty-six school year and thereafter the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to

the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

For the purposes of this subdivision, the "supplemental basic tuition" shall be (A) for a school district for which the charter school basic tuition computed for the current year is greater than or equal to the charter school basic tuition for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph, (1) for the two thousand fourteen--two thousand fifteen school year two hundred and fifty dollars, and (2) for the two thousand fifteen--two thousand sixteen school year three hundred and fifty dollars, and (3) for the two thousand sixteen--two thousand seventeen school year five hundred dollars, and (4) for the two thousand seventeen--two thousand eighteen school year and thereafter, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars, and (B) for school years prior to the two thousand seventeen--two thousand eighteen school year, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the charter school basic tuition for the two thousand ten--two thousand eleven school year minus the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph and (C) for school years following the two thousand sixteen--two thousand seventeen school years, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars.

(b) The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such

student with a disability that the charter school provides directly or indirectly. Notwithstanding anything in this section to the contrary, amounts payable pursuant to this subdivision may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this subdivision shall be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this subdivision shall be determined by the commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(c) School districts shall be eligible for an annual apportionment equal to the amount of the supplemental basic tuition for the charter school in the base year for the expenses incurred in the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen, two thousand sixteen--two thousand seventeen school years and thereafter. Provided that for expenses incurred in the two thousand twenty--two thousand twenty-one school year, for a city school district in a city having a population of one million or more, the annual apportionment shall be reduced by thirty-five million dollars ($35,000,000) upon certification by the director of the budget of the availability of a grant in the same amount from the elementary and secondary school emergency relief funds provided through the American rescue plan act of 2021 (P.L. 117-2). Provided further that for expenses incurred in the two thousand twenty-three--two thousand twenty-four school year, for a city school district in a city having a population of one million or more, the annual apportionment shall be reduced by thirty-five million dollars ($35,000,000) upon certification by the director of the budget of the availability of a grant in the same amount from the elementary and secondary school emergency relief funds provided through the American rescue plan act of 2021 (P.L. 117-2).

* NB Effective June 30, 2027

2. In the event of the failure of the school district to make payments

required by this section, the state comptroller shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The comptroller shall pay over such sum to the charter school upon certification of the commissioner. The commissioner shall promulgate regulations to implement the provisions of this subdivision.

3. Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter school. The board of trustees of a charter school is authorized to accept gifts, donations or grants of any kind made to the charter school and to expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter.

§ 2857. Notice; review and assessment. 1. The board of regents shall distribute information announcing the availability of the charter school process described in this article to each local school district and public postsecondary educational institution. At each significant stage of the chartering process, the charter entity and the board of regents shall provide appropriate notification to the school district in which the charter school is located and to public and nonpublic schools in the same geographic area as the proposed charter school. Such notification shall be provided by each charter entity within thirty days of its receipt of an application for formation of a new charter school or for renewal of an existing charter school, and at least forty-five days prior to initial approval of the charter application by the charter entity. Prior to the issuance, revision, or renewal of a charter, the school district in which the charter school is located shall hold a public hearing to solicit comments from the community in connection with the foregoing. Such hearing shall be held within the community potentially impacted by the proposed charter school. When a revision involves the relocation of a charter school to a different school district, the proposed new school district shall also hold such hearing.

In addition, such school districts shall be given an opportunity to comment on the proposed charter to the charter entity and such charter entity shall consider any comments raised and submit any such comments to the board of regents with the application for issuance, revision, or renewal of a charter.

1-a. In the event the school district fails to conduct a public hearing, the board of regents shall conduct a public hearing to solicit comments from the community in connection with the issuance, revision, or renewal of a charter.

2. Each charter school shall submit to the charter entity and to the board of regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year and shall be made publicly available by such date and shall be posted on the charter school's website. The annual report shall be in such form as shall be prescribed by the commissioner and shall include at least the following components:

(a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community including making it publicly available by transmitting it to local newspapers of general circulation and making it available for distribution at board of trustee meetings.

(b) discussion of the progress made towards achievement of the goals set forth in the charter.

(c) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school and any audit conducted by the comptroller of the state of New York.

(d) efforts taken by the charter school in the existing school year, and a plan for efforts to be taken in the succeeding school year, to meet or exceed enrollment and retention targets set by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program established pursuant to paragraph (e) of subdivision four of section twenty-eight hundred fifty-one of this article.

3. The board of regents shall report annually to the governor, the temporary president of the senate, and the speaker of the assembly the following information:

(a) The number, distribution, and a brief description of new charter schools established during the preceding year;

(a-1) A list including the number of charter schools closed during the preceding year, and a brief description of the reasons therefor including, but not limited to, non-renewal of the charter or revocation of the charter;

(b) The department's assessment of the current and projected programmatic and fiscal impact of charter schools on the delivery of services by school districts;

(c) The academic progress of students attending charter schools, as measured against comparable public and nonpublic schools with similar student population characteristics wherever practicable;

(d) A list of all actions taken by a charter entity on charter application and the rationale for the renewal or revocation of any charters; and

(e) Any other information regarding charter schools that the board of regents deems necessary.

The format for this annual report shall be developed in consultation with representatives of school districts and charter school officials.

4. The board of regents shall review the educational effectiveness of the charter school approach authorized by this article and the effect of charter schools on the public and nonpublic school systems. Not later than December thirty-first, two thousand three, the board of regents

shall report to the governor, the temporary president of the senate, the speaker of the assembly and the board of regents with recommendations to modify, expand, or terminate that approach. Such report shall include, for each charter school, a copy of the school's mission statement, attendance statistics and dropout rates, student performance on standardized assessment tests, projections of financial stability, and, wherever practicable, comparisons to other public schools.

5. The board of regents shall on an annual basis review and make available to school districts best educational practices employed by charter schools.

TITLE IV

TEACHERS AND PUPILS

Article 61 Teachers and supervisory and administrative staff (§§ 3001-3036).

63 Salaries of teachers and supervisors (§§ 3101--3109-A).

65 Compulsory education and school census (§§ 3201-3243).

Part I--Compulsory education (§§ 3201-3234).

Part II--School census (§§ 3240-3243).

66 Interstate compact on educational opportunity for military children (§§ 3300-3318).

ARTICLE 61

TEACHERS AND SUPERVISORY AND ADMINISTRATIVE STAFF

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over a program formerly operated by a board of cooperative educational services.

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3015. Teacher's salary when payable.

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3022. Elimination of subversive persons from the public school system.

3023. Liability of a board of education, trustee, trustees or board of cooperative educational services.

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3025. Verification of school register.

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3037. Grants for hiring teachers.
3038. (Enacted without section heading).

§ 3001. Qualifications of teachers. No person shall be employed or authorized to teach in the public schools of the state who is:

1. Under the age of eighteen years.

2. Not in possession of a teacher's certificate issued under the authority of this chapter or a diploma issued on the completion of a course in state college for teachers or state teachers college of this state.

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class without the

presence of the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher. The number of certified teachers shall not be diminished by reason of the presence of cadet teachers.

3. Not a citizen. The provisions of this subdivision shall not apply, however, to a noncitizen teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen. The provisions of this subdivision shall not apply, after July first, nineteen hundred sixty-seven, to a noncitizen teacher employed pursuant to regulations adopted by the commissioner of education permitting such employment. The citizenship requirements of this subdivision shall not apply to a noncitizen teacher now or hereafter employed whose immigration status is that of a lawful permanent resident of the United States and who would otherwise be eligible to serve as a teacher, or to apply for or receive permanent certification as a teacher, but for the foregoing requirements of this subdivision.

§ 3001-a. Temporary teaching permit, person not a citizen. A person, not a citizen, who files with the department satisfactory proof that he has filed with the attorney general of the United States a first preference petition pursuant to section two hundred three (a) (1) of the immigration and nationality act and that said petition has been approved by such attorney general upon certification by the department of justice, immigration and naturalization service, that he is unable to adjust his status to that of a lawful permanent resident of the United States solely because of an over-subscribed quota to which he is chargeable may receive from the commissioner of education, notwithstanding the provisions of subdivision three of section three thousand one of this chapter, a temporary permit validating his employment in a teaching capacity in the public schools of the state. Such temporary permit shall be valid for one year from the date of issue and may, upon proper application to the commissioner, be once renewed for a further period of one year. Such application shall be in the form

required by the commissioner. Such applicant shall not be employed until he shall have taken and subscribed the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the position of.....(title of position and name or designation of school, college, university or institution to be here inserted), to which I am now assigned." The affidavit and oath required by this section shall be administered by the superintendent of schools having jurisdiction over the school district in which such person is to be employed or his duly authorized representative and shall be filed with the commissioner of education. Copies thereof shall be filed with the superintendent of schools.

§ 3001-b. First aid instruction mandatory for coaches of extra-class public school athletic activities. 1. On and after the effective date of this section, in addition to any provision of law or rule or regulation of the department related to the requirements necessary for teachers within the public school systems, whether certified in physical education or not, to coach any extra-class athletic activity, it shall be required of such teachers, except as provided in subdivision two or three of this section, to hold a valid certificate of completion of a course of study in first aid knowledge and skills offered by a nationally recognized organization, as defined in paragraph (d) of subdivision one of section three thousand-b of the public health law and approved by the commissioner, or to meet equivalent requirements as certified by the commissioner. Any such course of study or equivalent requirements must include instruction in recognizing signs and symptoms of cardiac arrest and sudden cardiac arrest and the administration of adult cardiopulmonary resuscitation. Prior to the start of each sports season, coaches must provide valid evidence to their chief school officer that their first aid and adult cardiopulmonary resuscitation knowledge and skills are current pursuant to the requirements established by a nationally recognized organization, as defined in paragraph (d) of subdivision one of section three thousand-b of the

public health law and approved by the commissioner, or that they meet equivalent requirements as certified by the commissioner.

2. Except as provided in subdivision three of this section, persons who have been employed as coaches of extra-class athletic activities in a public school system on the effective date of this section who do not hold a valid certificate of completion of a course of study in first aid knowledge and skills pursuant to subdivision one of this section may continue to coach such sports, provided, however, that such coaches do receive such certification required in subdivision one of this section as soon as practicable after the effective date of this section but not later than twelve months thereafter, provided, however, that the commissioner shall have the authority to establish by rule or regulation an additional time schedule for compliance with this section.

3. A teacher or person who is unable to hold a valid certificate of completion of a course of study in first aid knowledge and skills pursuant to subdivision one of this section due to a physical disability may coach any extra-class athletic activity if there is another teacher or person employed by the public school system who holds a valid certificate of completion pursuant to subdivision one of this section and is present with such teacher or person who is unable to hold such certificate of completion at all times during the extra-class athletic activities including but not limited to practices, scrimmages and during competition.

§ 3001-c. First aid instruction mandatory for coaches of high school extra-class nonpublic school athletic activities. 1. On and after the effective date of this section, it shall be required of coaches of high school extra-class athletic activities in a nonpublic school system, except as provided in subdivision two or three of this section, to hold a valid certificate of completion of a course of study in first aid knowledge and skills offered by a nationally recognized organization, as defined in paragraph (d) of subdivision one of section three thousand-b of the public health law and approved by the commissioner, or to meet equivalent requirements as certified by the commissioner. Any such

course of study or equivalent requirements must include instruction in recognizing signs and symptoms of cardiac arrest and sudden cardiac arrest and the administration of adult cardiopulmonary resuscitation. Prior to the start of each sports season, coaches must provide valid evidence to their chief school officer that their first aid and adult cardiopulmonary resuscitation knowledge and skills are current pursuant to the requirements established by a nationally recognized organization, as defined in paragraph (d) of subdivision one of section three thousand-b of the public health law and approved by the commissioner, or that they meet equivalent requirements as certified by the commissioner.

2. Except as provided in subdivision three of this section, persons who have been employed as coaches of high school extra-class athletic activities in a nonpublic school system on the effective date of this section who do not hold a valid certificate of completion of a course of study in first aid knowledge and skills pursuant to subdivision one of this section may continue to coach such sports, provided, however, that such coaches do receive such certification required in subdivision one of this section as soon as practicable after the effective date of this section but not later than twelve months thereafter, provided, however, that the commissioner shall have the authority to establish by rule or regulation an additional time schedule for compliance with this section.

3. A teacher or person who is unable to hold a valid certificate of completion of a course of study in first aid knowledge and skills pursuant to subdivision one of this section due to a physical disability may coach any high school extra-class athletic activities if there is another teacher or person employed by the nonpublic school system who holds a valid certificate of completion pursuant to subdivision one of this section and is present with such teacher or person who is unable to hold such certificate of completion at all times during the high school extra-class athletic activities including but not limited to practices, scrimmages and during competition.

§ 3001-d. Criminal history record checks and conditional appointments; nonpublic and private schools. 1. a. "Employee" shall mean any

prospective employee of a nonpublic or private elementary or secondary school which requires the fingerprinting of prospective employees pursuant to this section, or employee of a contracted service provider or worker placed within such school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, and consistent with the provisions of such title for the provision of services to such school, its students or employees, directly or through contract, whereby such services performed by such person involve direct student contact. Any nonpublic or private elementary or secondary school which elects to submit for review criminal history information concerning prospective employees must do so with respect to each such prospective employee, as defined in this paragraph, in accordance with this section.

b. "Volunteer" shall mean any person, other than an employee, who provides services to a nonpublic or private elementary or secondary school which elects to require the fingerprinting of prospective employees pursuant to this section, which involve direct student contact.

2. Any nonpublic or private elementary or secondary school may require, for the purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this article, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this article or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history record search. Every set of fingerprints taken pursuant to this section shall be promptly submitted to the commissioner for the purposes of clearance for employment.

3. (a) Any nonpublic or private elementary or secondary school may conditionally appoint a prospective employee. A request for conditional clearance may be forwarded to the commissioner along with the

prospective employee's fingerprints. Such appointment may be delayed until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

(b) Any nonpublic or private elementary or secondary school may make an emergency conditional appointment when an unforeseen emergency vacancy has occurred. When such appointment is made, the process for conditional appointment pursuant to paragraph (a) of this subdivision may also be initiated. Emergency conditional appointment may commence prior to notification from the commissioner on conditional clearance and shall terminate when the prospective employer is notified by the commissioner regarding conditional clearance, provided that if conditional clearance is granted, the appointment may continue as a conditional appointment. Prior to the commencement of such appointment, the prospective employer must obtain a signed statement for emergency conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction. An "unforeseen emergency vacancy" shall be defined as: (i) a vacancy that occurred less than ten business days before the start of any school session, including summer school, or during any school session, including summer school, without sufficient notice to allow for clearance or conditional clearance; (ii) when no other qualified person is available to fill the vacancy temporarily; and (iii) when emergency conditional appointment is necessary to maintain services which the school is legally required to provide or services necessary to protect the health, education or safety of students or staff.

(c) Each nonpublic or private elementary or secondary school, which elects to fingerprint prospective employees pursuant to subdivision two of this section, shall develop a policy for the safety of the children

who have contact with an employee holding conditional appointment or emergency conditional appointment.

4. Fees. Notwithstanding any other provision of law to the contrary, the commissioner is authorized to charge additional fees to applicants for certificates pursuant to this section in an amount equal to the fees established pursuant to law by the division of criminal justice services and the federal bureau of investigation for the searches authorized by this section.

§ 3002. Oath to support federal and state constitutions. It shall be unlawful for any citizen of the United States to serve as teacher, instructor or professor in any school or institution in the public school system of the state or in any school, college, university or other educational institution in this state, whose real property, in whole or in part, is exempt from taxation under section four of the tax law unless and until he or she shall have taken and subscribed the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the position of .....(title of position and name or designation of school, college, university or institution to be here inserted), to which I am now assigned."

The oath required by this section shall be administered by the president or other head of such school, college, university or institution, or by the officer or person, or in the case of a board or body by a member of the board or body, having authority to employ such person as a teacher, instructor or professor in such school, college, university or institution, and each is hereby authorized to administer it. The officer, person or member administering such oath shall cause a record or notation of the fact to be made in the books or records of the school, college, university or institution. In lieu of the oath administered by an officer, person or member, an employee may comply with the requirements of this section by subscribing and filing the

following statement: "I do hereby pledge and declare that I will support the constitution of the United States and the constitution of the State of New York, and that I will faithfully discharge the duties of the position of .....according to the best of my ability." Such oath or statement shall be filed with the clerk of a school district or with such officer or employee of any such college, university or other educational institution that shall be designated for such purpose. Such oaths or statements shall be available for public inspection and for transmittal to the commissioner of education upon his request. It shall be unlawful for an officer, person or board having control of the employment, dismissal or suspension of teachers, instructors or professors in such a school, college, university or institution, to permit a person to serve in any such capacity therein in violation of the provisions of this section. This section shall not be construed to require a person to take such oath or to execute such statement more than once during the time he or she is employed in the same school, college, university or institution, though there be a change in the title or duties of the position.

The provisions of section sixty-two of the civil service law shall not apply to a person who is required to take the oath or execute the statement prescribed by this section.

An enrolled member of an Indian nation or an Indian individual having an affiliation with an Indian nation recognized by the United States or the state of New York may elect to comply with the requirements of this section by instead subscribing and filing the following statement:

"I do solemnly affirm that I will faithfully discharge the duties of the position of according to the best of my ability, and perform my duties in a manner consistent with the constitution of the United States and the constitution of the state of New York."

§ 3003. Qualifications of superintendents. 1. No person except one in possession of a valid superintendent's certificate prior to July first, nineteen hundred seventy-one shall hereafter be eligible to the position

of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools or member of a board of examiners in a city school district or as a superintendent of schools in a union free or central school district having a population of more than forty-five hundred, or eligible to appointment to the office of district superintendent of schools in this state, who is not eligible for a superintendent's certificate issued by the commissioner in accordance with the following requirements:

a. He shall be a graduate of a college or university approved by the commissioner and in addition shall have completed sixty semester hours in graduate courses approved by the commissioner; and

b. At the time of his appointment each shall have completed three years of teaching experience satisfactory to the commissioner in public or non-public schools.

2. The commissioner of education shall issue a superintendent's permanent certificate to any person who on March twenty-fifth, nineteen hundred thirty-seven, held or was appointed to, a position of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools or member of a board of examiners in a city or as a superintendent of schools in a village having a population of more than forty-five hundred, or district superintendent of schools.

3. The commissioner, at the request of a board of education or board of cooperative educational services, may provide for the issuance of a certificate as superintendent of schools to exceptionally qualified persons who do not meet all of the graduate course or teaching requirements of subdivision one of this section, but whose exceptional training and experience are the substantial equivalent of such requirements and qualify such persons for the duties of a superintendent of schools.

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

require that any person applying, on or after January first, nineteen hundred ninety-one, for a superintendent's certificate shall, in addition to all the other requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

5. The commissioner may provide for the issuance of a certificate as deputy, associate or assistant superintendent for business to any qualified person who meets all of the requirements of subdivision one of this section, except those contained in paragraph b of subdivision one of this section.

§ 3004. Regulations governing certification of teachers. 1. The commissioner shall prescribe, subject to approval by the regents, regulations governing the examination and certification of teachers employed in all public schools of the state, except that no such regulation affecting the examination, certification, license, probationary periods, appointment, and tenure of position of persons employed in the teaching, and supervising service in a city having a population of four hundred thousand or more shall be prescribed which may cause the discontinuance of the service of such persons who have satisfactorily completed their probationary periods, or the removal of such persons from their positions in a manner other than that provided by section twenty-five hundred seventy-three of this chapter, but no such regulations established by the commissioner or by any school

district, or pursuant to the provisions of section twenty-five hundred fifty-four, twenty-five hundred sixty-six, twenty-five hundred sixty-nine, twenty-five hundred seventy-three or three thousand eight of this chapter or otherwise, shall hereafter prohibit, prevent or disqualify any person, who is otherwise qualified, from competing, participating and registering for such examination or from obtaining a teacher's certificate or from qualifying for a position as a teacher solely by reason of a disability provided such disability does not interfere with such person's ability to perform teaching duties, nor shall any person who is otherwise qualified be denied enrollment in any teacher training, which provides for certification as a teacher in a school or facility which conducts classes for children with disabilities solely by reason of a disability.

1-a. The commissioner shall waive fees paid by applicants for the renewal of a temporary teaching certificate or license, as defined by the commissioner, if such certificate or license lapsed while such applicant was deployed by the United States armed forces and any of its reserve components in a combat theater or combat zone of operations at any time on or after the second day of August, nineteen hundred ninety.

2. Notwithstanding any other provision of law, the commissioner shall prescribe regulations requiring that all persons applying, on or after January first, nineteen hundred ninety-one, for a certificate or license to be a teacher shall, in addition to all the other certification or licensure requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the

department with documentation showing that he or she has completed the required training.

3. The commissioner shall prescribe regulations requiring that all persons applying on or after February second, two thousand one for a teaching certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, teaching assistant, pupil personnel service professional, school administrator or supervisor or superintendent of schools, shall, in addition to all the other certification or licensing requirements, have completed two hours of course work or training in school violence prevention and intervention. The course work or training shall be obtained from an institution or provider which has been approved by the department to provide such course work or training. Such regulations shall also require that school districts and boards of cooperative educational services include training for teachers and other certified or licensed employees in school violence prevention and intervention in their required professional development plans.

4. a. The commissioner shall prescribe regulations requiring that all persons applying on or after September second, two thousand nine for a teaching certificate or license as a special education teacher for the purposes pursuant to article eighty-nine of this chapter shall, in addition to all the other certification or licensing requirements, have completed enhanced course work or training in area of children with autism. In addition, such regulations shall require that enhanced training in the needs of autistic children be provided to each certified school administrator or supervisor assigned on or after September second, two thousand nine to serve as a special education administrator. Such training shall be provided prior to, or as soon as practicable following, assignment as a special education administrator. Individuals serving as special education administrators as of September second, two thousand nine shall complete such training by such date. The enhanced course work or training shall be obtained from an institution or provider which has been approved by the department to provide such course work or training in the needs of autistic children, provided that enhanced training for certified school administrators or supervisors

that meets standards prescribed by the commissioner may be included in the professional development provided by the school district or board of cooperative educational services to such administrators or supervisors.

b. The commissioner shall assure that teacher preparation institutions, in the two thousand eight--two thousand nine academic year, include instruction in the needs of autistic children in all programs leading to certification as a special education teacher.

5. Notwithstanding any other provision of law, the commissioner is authorized and empowered to certify or require training of teachers, administrators and instructors in the area of autistic needs. The commissioner shall have the power to prescribe the necessary regulations and establish such programs and training related to the needs of autistic children. Such programs and training shall be obtained from an institution or provider which has been approved by the department to provide such programs and training, except that a school district or board of cooperative educational services may provide such training as part of its professional development program.

6. The regents and the commissioner shall review the alternative teacher preparation programs available to candidates for teaching certificates under the regulations of the commissioner in the two thousand seven--two thousand eight school year and shall consider means of expanding the availability of such preparation in the future, while maintaining teacher quality. The regents and the commissioner shall develop programs to assist in the expansion of alternative teacher preparation programs.

§ 3004-a. National board for professional teaching standards certification grant program. 1. Notwithstanding any inconsistent provision of law, the commissioner shall establish the Albert Shanker national board for professional teaching standards certification grant program, to be used by the department to defray any costs incurred by an eligible teacher, as that term is described in subdivision two of this section and his or her sponsoring school district, where such eligible

teacher seeks national board certification from the national board for professional teacher standards.

2. As used in this section, "eligible teacher" shall mean a New York state tenured public school teacher who:

(a) is currently teaching in New York state;

(b) has graduated from an accredited college or university; and

(c) holds a valid New York state teaching certificate.

3. Under the provisions of this section and subject to the filing requirement described in subdivision four of this section, a grant in an amount of up to two thousand five hundred dollars ($2,500) shall be made available from the Albert Shanker national board for professional teaching standards certification grant program to each eligible teacher to defray the expenses of certification by the national board for professional teaching standards. Such sum may include the direct reimbursement by the department to the eligible teacher's sponsoring school district from the total grant award to cover the cost of hiring a substitute teacher for up to three days or the duration of such eligible teacher's approved leave, whichever is less.

4. The commissioner shall be responsible for promulgating any regulations necessary to effectuate the provisions of this section, including:

(a) establishing within the department an application form and filing deadline requirements to be utilized by eligible teachers applying for the Albert Shanker national board for professional teaching standards grant program;

(b) establishing a mechanism for processing and approving applications within the department;

(c) establishing a mechanism to allocate grant awards to approved eligible teachers; and

(d) establishing a mechanism to reimburse sponsoring school districts for up to three days of approved leave as described in subdivision three of this section.

5. An eligible teacher for whom the state pays a participation fee

shall be liable for repayment of the grant to the department if such eligible teacher:

(a) does not complete the process; or

(b) completes the process, but does not teach in a New York state public school for at least one full year after achieving national board for professional teaching standards certification.

6. Repayment of the grant is not required:

(a) if the certification process is not completed or if the eligible teacher fails to teach for one full year after completion due to his or her death or disability or some other extenuating circumstances as may be recognized by the board of regents; or

(b) if the eligible teacher completes the process but does not achieve certification.

§ 3004-b. Special procedures for certification. 1. Criminal history records search. Upon receipt of an application for certification as a superintendent of schools, teacher, administrator or supervisor, teaching assistant or school personnel required to hold a teaching or administrative license or certificate, the commissioner shall, subject to the rules and regulations of the division of criminal justice services, initiate a criminal history records search of the person making application, except that nothing in this section shall be construed to require a criminal history record check of an individual who holds a valid provisional certificate on the effective date of this section and applies for permanent certification in the same certificate title, or of an individual who applies for a temporary license to serve in the city school district of the city of New York and has been cleared for licensure and/or employment by such city school district pursuant to subdivision twenty of section twenty-five hundred ninety-h of this chapter. Prior to initiating the fingerprinting process, the commissioner shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. The commissioner shall obtain from each applicant two sets of fingerprints and the division of criminal justice

services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The commissioner shall promptly transmit such fingerprints and fees to the division of criminal justice services for its full search and retain processing. The division of criminal justice services is authorized to submit the fingerprints and the appropriate fee to the federal bureau of investigation for a national criminal history record check. The division of criminal justice services and the federal bureau of investigation shall forward such criminal history record to the commissioner in a timely manner. For the purposes of this section the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. In addition, upon request from an applicant who has applied for employment with the city school district of the city of New York, the commissioner shall have the authority to forward a copy of such criminal history record to the city school district of the city of New York by the most expeditious means available. Furthermore, upon notification that such applicant is employed by the city school district of the city of New York, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the city school district of the city of New York. Upon request from an applicant who has already been cleared for licensure and/or employment by the city school district of the city of New York, such school district shall have the authority to forward a copy of the applicant's criminal history record to the commissioner, by the most expeditious means available, for the purposes of this section. Furthermore, upon notification that such applicant has been certified, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the commissioner. All such criminal history records processed and sent pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the commissioner, unless otherwise authorized by law. No cause of action against the department or the division of criminal justice services for damages related to the dissemination of criminal

history records pursuant to this subdivision shall exist when the department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such criminal history record by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The commissioner shall consider such criminal history record pursuant to article twenty-three-A of the correction law.

2. Fees. Notwithstanding any other provision of law to the contrary, the commissioner is authorized to charge additional fees to applicants for teaching or administrative licenses or certificates in an amount equal to the fees established pursuant to law by the division of criminal justice services and the federal bureau of investigation for the searches mandated by this section.

§ 3004-c. Denial of application for certification. When the commissioner determines that a certification should be denied, the applicant shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commissioner.

§ 3005. Leave of absence to teachers for teaching in foreign countries, other states and territories and other school districts. The trustee, trustees or board of education of any school district may permit any teacher having had at least five years service in the school or schools of said district to apply for and receive a leave of absence for a period not to exceed two years for teaching in the schools of a foreign country, other states of the United States or any of its territories or in any other school district within this state provided such foreign country, other state or territory or other school district shall have agreed to furnish a teacher of corresponding rank or school level to fulfill the duties of the said teacher on leave of absence. During the period of said leave of absence the said teacher shall

receive from the school district the same compensation that he would have received had he been present and teaching in a school of the district. Such leave of absence shall not in any way affect the retirement rights of said teacher as a member of a retirement system and the period of the aforesaid leave of absence shall be credited to the total years of service of said member in the same manner and for all purposes as if he had not been granted said leave of absence and had been present within the district engaged in actual teaching service. Notwithstanding any of the provisions of this chapter, when the qualifications of the teacher from the foreign country, other state or territory or other school district have been approved by the commissioner of education, he shall be legally entitled to render instructional service in any public school in this state and a permit for a period not to exceed two years for such service shall be issued by the commissioner of education without the payment of fee. Any school district employing a teacher under this section may supplement the salary received from the foreign country, other state or territory or other school district by said teacher.

§ 3005-a. Leave of absence for teaching purposes. In a city of one million or more, a board of education may permit any teacher to apply for and receive a leave of absence for a period not to exceed two years for teaching in a college or university, certificated and accredited by the commissioner of education, provided such college or university shall have agreed to furnish an educator of professorial rank to fulfill the duties of the said teacher on leave of absence or any other duties assigned by the superintendent of schools. During the period of said leave of absence for teaching in a college or university, the said teacher shall receive from the school district in said city the same compensation that he would have received had he been present and teaching in a school of the district and the college educator if he is a member of a publicly operated college or system shall likewise receive the same compensation as he would have received had he remained in the college or university. Such leave of absence shall not in any way affect the retirement rights of the said teacher or college educator as a member of a retirement system and the period of the aforesaid leave of

absence shall be credited to the total years of service of the said member in the same manner and for all purposes as if he had continued in his position. Notwithstanding any of the provisions of this chapter, nor any other local law or provision, the chancellor of the city board shall have authority to issue to such college or university educator a special certificate of competency which shall be valid for a period not to exceed two years and not renewable and under which such college or university educator shall be permitted to fulfill the duties and assignments as herein provided.

§ 3005-b. Leave of absence for personal illness. The school authorities of each school district outside of a city having a population in excess of one million shall allow each teacher employed by the district sick leave without loss of salary for at least ten working days in any year on account of personal sickness or physical disability; and provided, further, that if any employee does not use the full amount of sick leave allowed in any school year, the amount not used shall be accumulated from year to year and used, if needed, up to a total of not less than one hundred fifty working days. Any accumulation of unused sick leave heretofore granted by such school authorities shall be counted toward the accumulated leave herein provided. Nothing contained in this section shall be construed to authorize a reduction in the amount of accumulated leave granted to a teacher prior to July first, nineteen hundred sixty-five.

§ 3006. Commissioner of education to issue certificates. Types of certificates. The commissioner of education may issue:

1. a. A life state certificate upon examinations only which shall entitle its holder to teach for life in the public schools of the state without further examination.

b. Such other certificates as regents general rules shall prescribe.

c. A temporary license limited to a school district, supervisory

district or city for a period not to exceed one year.

d. A temporary certificate to a school district upon the request of the school authorities of the school district, and under such rules as the regents shall establish, which shall authorize such school authorities temporarily to employ persons having unusual qualifications in specific subjects, as visiting lecturers, provided they have been licensed pursuant to paragraph e of this subdivision, so as to supplement the regular programs of teaching of such specific subjects.

e. A temporary license to a person having unusual qualifications in specific subjects, authorizing him to teach as a visiting lecturer in accordance with the provisions of paragraph d of this subdivision.

2. Fees. The commissioner shall charge the following fees for certificates issued pursuant to this section.

a. Effective September first, nineteen hundred ninety-two and thereafter, the fees charged for each application for the following types of certificates shall be:

(i) For a certificate issued under this section based upon completion of a teacher education program registered by the department, fifty dollars;

(ii) For a certificate issued under this section based upon education or experience completed in other than a teacher education program registered by the department, one hundred dollars;

(iii) For a temporary license or a temporary coaching license, fifty dollars;

(iv) For a continuing certificate for a teaching assistant, thirty-five dollars;

(v) For a duplicate certificate, twenty-five dollars.

b. Notwithstanding the provisions of paragraph a of this subdivision, in a case where an individual applies for a certificate of qualification, provisional and/or permanent certificate within twelve months of having been issued a temporary license in the same certification area, the fee for such additional certificate or

certificates shall be fifty dollars.

3. Registration. a. Commencing with the two thousand sixteen--two thousand seventeen school year, any holder of a teaching certificate in the classroom teaching service, teaching assistant certificate, or educational leadership certificate that is valid for life as prescribed by the commissioner in regulations shall be required to register with the department every five years in accordance with regulations of the commissioner. Such regulations shall prescribe the date or dates by which applications for initial registration must be submitted and may provide for staggered initial registration and/or rolling re-registration so that re-registrations are distributed as equally as possible throughout the year and across multiple years.

b. The department shall post an application for registration on its website. An application shall be submitted for a registration certificate. Except as otherwise provided in this section, the department shall renew the registration of each certificate holder upon receipt of a proper application on a form prescribed by the department. Any certificate holder who fails to register by the beginning of the appropriate registration period may be subject to late filing penalties as prescribed by the commissioner. No certificate holder resuming practice after a lapse of registration shall be permitted to practice without verification of re-registration.

c. Any certificate holder who is not engaging in the practice of his or her profession in this state and does not desire to register shall so advise the department. Such certificate holder shall not be subject to penalties as prescribed by the commissioner for failure to register at the beginning of the registration period.

d. Certificate holders shall notify the department of any change of name or mailing address within thirty days of such change. Willful failure to register or provide such notice within one hundred eighty days of such change may constitute grounds for moral character review under subdivision seven of section three hundred five of this chapter.

§ 3006-a. Registration and continuing teacher and leader education requirements for holders of professional certificates in the classroom teaching service, holders of level III teaching assistant certificates, holders of professional certificates in the educational leadership service. 1. a. Commencing with the two thousand sixteen--two thousand seventeen school year, each holder of a professional certificate in the classroom teaching service, holder of a level III teaching assistant certificate and holder of a professional certificate in the educational leadership service shall be required to register every five years with the department to practice in the state and shall comply with the provisions of the continuing teacher and leader education requirements set forth in this section.

b. Any of the certified individuals described in paragraph a of this subdivision who do not satisfy the continuing teacher and leader education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

c. In accordance with the intent of this section, adjustments to the continuing teacher and leader education requirement may be granted by the department for reasons of health certified by a health care provider, for extended active duty with armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

d. Any certificate holder who is not practicing as a teacher, teaching assistant or educational leader in a school district, board of cooperative educational services, or nonpublic school that is providing instruction pursuant to subdivision two of section thirty-two hundred four of this title in this state shall be exempt from the continuing teacher and leader education requirement upon the filing of a written statement with the department declaring such status. Any holder of a professional certificate in the classroom teaching service, holder of a level III teaching assistant certificate and holder of a professional certificate in the educational leadership service who resumes practice

during the five-year registration period shall notify the department prior to resuming practice and shall meet such continuing teacher and leader education requirements as prescribed in regulations of the commissioner.

2. a. During each five-year registration period beginning on or after July first, two thousand sixteen, an applicant for registration shall successfully complete a minimum of one hundred hours of continuing teacher and leader education, as defined by the commissioner. The department shall issue rigorous standards for courses, programs, and activities, that shall qualify as continuing teacher and leader education pursuant to this section. For purposes of this section, a peer review teacher, or a principal acting as an independent trained evaluator, conducting a classroom observation as part of the teacher evaluation system pursuant to section three thousand twelve-d of this article may credit such time towards his or her continuing teacher and leader effectiveness requirements.

b. Nothing in this section shall limit the ability of local school districts to agree pursuant to collective bargaining to additional hours of professional development or continuing teacher or leader education above the minimum requirements set forth in this section.

c. A certified individual who has not satisfied the continuing teacher and leader education requirements shall not be issued a five-year registration certificate by the department and shall not practice unless and until a registration or conditional registration certificate is issued as provided in subdivision three of this section. For purposes of this subdivision, "continuing teacher and leader education requirements" shall mean activities designed to improve the teacher or leader's pedagogical and/or leadership skills, targeted at improving student performance, including but not limited to formal continuing teacher and leader education activities. Such activities shall promote the professionalization of teaching and be closely aligned to district goals for student performance which meet the standards prescribed by regulations of the commissioner. To fulfill the continuing teacher and leader education requirement, programs must be taken from sponsors

approved by the department, which shall include but not be limited to school districts, pursuant to the regulations of the commissioner.

3. The department, in its discretion, may issue a conditional registration to a teacher, teaching assistant or educational leader in a school district, board of cooperative educational services, or nonpublic school that is providing instruction pursuant to subdivision two of section thirty-two hundred four of this title in this state who fails to meet the continuing teacher and leader education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional continuing teacher and leader education which the department may require. The duration of such conditional registration shall be determined by the department. Any holder of a professional certificate in the classroom teaching service, holder of a level III teaching assistant certificate or holder of a professional certificate in the educational leadership service and any other certified individual required by the commissioner to register every five years who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing teacher and leader education and who practices without such registration, shall be subject to moral character review under subdivision seven of section three hundred five of this chapter.

§ 3007. Endorsement of foreign certificates and diplomas. The commissioner of education may in his discretion endorse:

1. A diploma issued by a normal school or teachers college of another state.

2. A certificate issued by the chief educational officer or state board of another state.

Such endorsement confers on the holder of such diploma or certificate the privileges conferred by law on the holder of the diploma of a state teachers college or state college for teachers or state certificate issued in this state. Notwithstanding any other provision of law, the

commissioner shall require that any person seeking endorsement of a foreign certificate or diploma, on or after January first, nineteen hundred ninety-one, shall have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such course work or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

§ 3008. Certification of teachers by local authorities. A district superintendent, a city superintendent of schools or such other authority of a city school district as may be designated by law may issue such certificate as may be authorized by law or by the regents general rules.

§ 3009. Unqualified teachers shall not be paid from school moneys. 1. No part of the school moneys apportioned to a district shall be applied to the payment of the salary of an unqualified teacher, nor shall his salary, or any part thereof, be collected by a district tax except as provided in this chapter.

2. a. Notwithstanding any other provision of law to the contrary, the school authorities of any school district shall have the power, in their discretion, to employ persons as teacher aides who shall assist the regular teacher or teachers of the district in the performance of their teaching functions by performing those nonteaching duties otherwise performed by such regular teacher or teachers.

b. Notwithstanding any other provision of law to the contrary, the school authorities of any school district shall have the power, in their discretion, to employ persons as teaching assistants. Such persons, if so employed, shall be authorized to act only under the general supervision of a licensed or certified teacher.

§ 3010. Penalty for payment of unqualified teacher. Any trustee or member of a board of education who applies, or directs, or consents to the application of, any district money to the payment of an unqualified teacher's salary, thereby commits a misdemeanor; and any fine imposed upon him therefor shall be for the benefit of the common schools of the district.

§ 3011. Contract with teacher. 1. Except as otherwise provided in sections twenty-five hundred twenty-three, three thousand twelve and three thousand thirteen, all trustees of school districts or boards of education who shall employ any teacher to teach shall, at the time of such employment, make and deliver to such teacher, or cause to be made and delivered, a contract in writing, signed by them, or by some person duly authorized to represent them in the premises, in which the details of the agreement between the parties, and particularly the length of the term of employment, the amount of compensation and the time when such compensation shall be due and payable shall be clearly and definitely set forth.

1-a. Notwithstanding any other provision of law, in a city with a population of one million or more, all teachers, as that term is defined in section 13-501 of the administrative code of the city of New York, and all board of education employees serving as regular substitutes or full term per diem substitutes shall be paid the amount of compensation due them pursuant to collective bargaining agreements or to other contracts on the precise date such compensation is due. If such payments are not made on the dates so required, interest shall be recovered beginning thirty days, following the later of the effective date of this act or the required payment date through the day that payment is in fact

tendered. In the case of a salary differential, the date compensation is due shall be defined as thirty days following the date an employee's application is filed by the employee with the board of education of the city of New York. Interest shall be computed at the rate set forth in paragraph one of subdivision (e) of section one thousand ninety-six of the tax law and shall be added to any compensation amounts referred to above that have not been paid when owed.

2. No contract for the employment of a teacher in a district having three trustees or a board of education shall be made for more than one year in advance or for a shorter time than ten weeks unless for the purpose of filling an unexpired term of school; except that a contract may be made in such a district for not more than five years with any teacher who has been employed in such district for at least three consecutive years immediately prior to the execution of the contract.

3. No contract for the employment of a teacher in a district having a sole trustee shall be made to extend beyond the date of the expiration of the term of office of such trustee. A sole trustee of a school district shall have full power and authority to contract with teachers for the term for which he has been elected any time after the date of the annual meeting at which such trustee was elected.

4. No trustee shall contract with any teacher whose certificate of qualifications shall not cover a period at least as long as that covered by the contract of service.

§ 3012. Tenure: certain school districts. 1. (a) i. Teachers and all other members of the teaching staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, who are appointed prior to July first, two thousand fifteen, shall be appointed by the board of education, or the trustees of common school districts, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of

two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools, on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this article, the probationary period shall not exceed two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

ii. Teachers and all other members of the teaching staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, who are appointed on or after July first, two thousand fifteen, shall be appointed by the board of education, or the trustees of common school districts, upon the recommendation of the superintendent of schools, for a probationary period of four years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of up to two years or such teacher has rendered satisfactory service as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of up to two years and has been appointed to teach the same subject in day schools, on an annual salary, the teacher shall be appointed for a probationary period of a minimum of two years, depending upon the length of the regular substitute service that shall shorten the length of the probationary period; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this article, the teacher

shall be appointed for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

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

ii. Principals, administrators, supervisors and all other members of the supervising staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, who are appointed on or after July first, two thousand fifteen, shall be appointed by the board of education, or the trustees of a common school district, upon the recommendation of the superintendent of schools for a probationary period of four years; provided, however, that in the case of a principal, administrator, supervisor, or other member of the supervising staff who has been appointed on tenure pursuant to this chapter as an administrator within an authorized administrative tenure area in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this article, the principal, administrator, supervisor or other member of the supervising staff shall be appointed for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of

the board of education or the trustees of a common school district.

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

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

(b) At the expiration of the probationary term of a person appointed for such term on or after July first, two thousand fifteen, subject to the conditions of this section, the superintendent of schools shall make a written report to the board of education or the trustees of a common school district recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory. Any person who has acquired tenure shall, upon such person's effective tenure date, hold their position during good behavior and efficient and competent service, and shall not be removable except for cause after a hearing as

provided by section three thousand twenty and section three thousand twenty-a of this article. Failure to maintain certification as required by this chapter and the regulations of the commissioner shall constitute cause for removal.

3. Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

§ 3012-a. Elementary tenure area. Notwithstanding any other provision of law to the contrary, and except in cities having a population of one million or more, elementary tenure area shall mean kindergarten through grade six for teachers employed in such grade levels after the effective date of this section. All teachers holding tenure as of the effective date of this section in the kindergarten tenure area or grades one through six tenure area shall be deemed to hold tenure in the elementary tenure area as defined by this section.

§ 3012-c. Annual professional performance review of classroom teachers and building principals. 1. Notwithstanding any other provision of law, rule or regulation to the contrary, the annual professional performance reviews of all classroom teachers and building principals employed by school districts or boards of cooperative educational services shall be conducted in accordance with the provisions of this section. Such performance reviews which are conducted on or after July first, two thousand eleven, or on or after the date specified in paragraph c of subdivision two of this section where applicable, shall include measures of student achievement and be conducted in accordance with this section. Such annual professional performance reviews shall be a significant factor for employment decisions including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation, which decisions are to be made in accordance with locally developed procedures negotiated pursuant to the requirements of article

fourteen of the civil service law where applicable. Provided, however, that nothing in this section shall be construed to affect the unfettered statutory right of a school district or board of cooperative educational services to terminate a probationary teacher or principal for any statutorily and constitutionally permissible reasons, including but not limited to misconduct and until a tenure decision is made, the performance of the teacher or principal in the classroom. Such performance reviews shall also be a significant factor in teacher and principal development, including but not limited to, coaching, induction support and differentiated professional development, which are to be locally established in accordance with procedures negotiated pursuant to the requirements of article fourteen of the civil service law.

2. a. (1) The annual professional performance reviews conducted pursuant to this section for classroom teachers and building principals shall differentiate teacher and principal effectiveness using the following quality rating categories: highly effective, effective, developing and ineffective, with explicit minimum and maximum scoring ranges for each category, for the state assessments and other comparable measures subcomponent of the evaluation and for the locally selected measures of student achievement subcomponent of the evaluation, as prescribed in the regulations of the commissioner. There shall be: (i) a state assessments and other comparable measures subcomponent which shall comprise twenty or twenty-five percent of the evaluation; (ii) a locally selected measures of student achievement subcomponent which shall comprise twenty or fifteen percent of the evaluation; and (iii) an other measures of teacher or principal effectiveness subcomponent which shall comprise the remaining sixty percent of the evaluation, which in sum shall constitute the composite teacher or principal effectiveness score. Such annual professional performance reviews shall result in a single composite teacher or principal effectiveness score, which incorporates multiple measures of effectiveness related to the criteria included in the regulations of the commissioner.

(2) For annual professional performance reviews conducted in accordance with paragraph b of this subdivision for the two thousand eleven--two thousand twelve school year and for annual professional performance reviews conducted in accordance with paragraphs f and g of

this subdivision for the two thousand twelve--two thousand thirteen school year, the overall composite scoring ranges shall be in accordance with this subparagraph. A classroom teacher and building principal shall be deemed to be:

(A) Highly Effective if they achieve a composite effectiveness score of 91-100.

(B) Effective if they achieve a composite effectiveness score of 75-90.

(C) Developing if they achieve a composite effectiveness score of 65-74.

(D) Ineffective if they achieve a composite effectiveness score of 0-64.

(3) For annual professional performance reviews conducted in accordance with paragraph b of this subdivision for the two thousand eleven--two thousand twelve school year and for annual professional performance reviews conducted in accordance with paragraph f of this subdivision for the two thousand twelve--two thousand thirteen school year for classroom teachers in subjects and grades for which the board of regents has not approved a value-added model and for building principals employed in schools or programs for which there is no approved principal value-added model, the scoring ranges for the student growth on state assessments or other comparable measures subcomponent shall be in accordance with this subparagraph. A classroom teacher and building principal shall receive:

(A) a highly effective rating in this subcomponent if the teacher's or principal's results are well-above the state average for similar students and they achieve a subcomponent score of 18-20;

(B) an effective rating in this subcomponent if the teacher's or principal's results meet the state average for similar students and they achieve a subcomponent score of 9-17; or

(C) a developing rating in this subcomponent if the teacher's or principal's results are below the state average for similar students and they achieve a subcomponent score of 3-8; or

(D) an ineffective rating in this subcomponent, if the teacher's or principal's results are well-below the state average for similar students and they achieve a subcomponent score of 0-2.

(4) For annual professional performance reviews conducted in

accordance with paragraph g of this subdivision for the two thousand twelve--two thousand thirteen school year for classroom teachers in subjects and grades for which the board of regents has approved a value-added model and for building principals employed in schools or programs for which there is an approved principal value-added model, the scoring ranges for the student growth on state assessments or other comparable measures subcomponent shall be in accordance with this subparagraph. A classroom teacher and building principal shall receive:

(A) a highly effective rating in this subcomponent if the teacher's or principal's results are well-above the state average for similar students and they achieve a subcomponent score of 22-25;

(B) an effective rating in this subcomponent if the teacher's or principal's results meet the state average for similar students and they achieve a subcomponent score of 10-21; or

(C) a developing rating in this subcomponent if the teacher's or principal's results are below the state average for similar students and they achieve a subcomponent score of 3-9; or

(D) an ineffective rating in this subcomponent, if the teacher's or principal's results are well-below the state average for similar students and they achieve a subcomponent score of 0-2.

(5) For annual professional performance reviews conducted in accordance with paragraph b of this subdivision for the two thousand eleven--two thousand twelve school year and for annual professional performance reviews conducted in accordance with paragraph f of this subdivision for the two thousand twelve--two thousand thirteen school year for classroom teachers in subjects and grades for which the board of regents has not approved a value-added model and for building principals employed in schools or programs for which there is no approved principal value-added model, the scoring ranges for the locally selected measures of student achievement subcomponent shall be in accordance with this subparagraph. A classroom teacher and building principal shall receive:

(A) a highly effective rating in this subcomponent if the results are well-above district-adopted expectations for student growth or achievement and they achieve a subcomponent score of 18-20; or

(B) an effective rating in this subcomponent if the results meet district-adopted expectations for growth or achievement and they achieve

a subcomponent score of 9-17; or

(C) a developing rating in this subcomponent if the results are below district-adopted expectations for growth or achievement and they achieve a subcomponent score of 3-8; or

(D) an ineffective rating in this subcomponent if the results are well-below district-adopted expectations for growth or achievement and they achieve a subcomponent score of 0-2.

(6) For annual professional performance reviews conducted in accordance with paragraph b of this subdivision for the two thousand eleven--two thousand twelve school year and for annual professional performance reviews conducted in accordance with paragraph g of this subdivision for the two thousand twelve--two thousand thirteen school year for classroom teachers in subjects and grades for which the board of regents has approved a value-added model and for building principals employed in schools or programs for which there is an approved principal value-added model, the scoring ranges for the locally selected measures of student achievement subcomponent shall be in accordance with this subparagraph. A classroom teacher and building principal shall receive:

(A) a highly effective rating in this subcomponent if the results are well-above district-adopted expectations for student growth or achievement and they achieve a subcomponent score of 14-15; or

(B) an effective rating in this subcomponent if the results meet district-adopted expectations for growth or achievement and they achieve a subcomponent score of 8-13; or

(C) a developing rating in this subcomponent if the results are below district-adopted expectations for growth or achievement and they achieve a subcomponent score of 3-7; or

(D) an ineffective rating in this subcomponent if the results are well-below district-adopted expectations for growth or achievement and they achieve a subcomponent score of 0-2.

(7) For the two thousand thirteen--two thousand fourteen school year and thereafter, the commissioner shall review the specific scoring ranges for each of the rating categories annually before the start of each school year and shall recommend any changes to the board of regents for consideration.

(8) Except for the student growth measures on the state assessments or other comparable measures of student growth prescribed in paragraphs e,

f and g of this subdivision, the elements comprising the composite effectiveness score and the process by which points are assigned to subcomponents shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner and the requirements of this section, through negotiations conducted, pursuant to the requirements of article fourteen of the civil service law.

b. (1) Annual professional performance reviews conducted by school districts or boards of cooperative educational services for the two thousand eleven--two thousand twelve school year of classroom teachers of common branch subjects or English language arts or mathematics in grades four to eight and all building principals of schools in which such teachers are employed shall be conducted pursuant to this subdivision and shall use two thousand ten--two thousand eleven school year student data as the baseline for the initial computation of the composite teacher or principal effectiveness score for such classroom teachers and principals.

(2) Subject to paragraph k of this subdivision the entire annual professional performance review shall be completed and provided to the teacher or principal as soon as practicable but in no case later than September first, two thousand twelve. The provisions of subparagraphs two and three of paragraph c of this subdivision shall apply to such reviews.

c. (1) Annual professional performance reviews conducted by school districts or boards of cooperative educational services for the two thousand twelve--two thousand thirteen school year and thereafter of all classroom teachers and all building principals shall be conducted pursuant to this subdivision and shall use two thousand eleven--two thousand twelve school year student data as the baseline for the initial computation of the composite teacher or principal effectiveness score for such classroom teachers and principals. For purposes of this section, an administrator in charge of an instructional program of a board of cooperative educational services shall be deemed to be a building principal.

(2) Subject to paragraph k of this subdivision the entire annual professional performance review shall be completed and provided to the

teacher or principal as soon as practicable but in no case later than September first of the school year next following the school year for which the classroom teacher or building principal's performance is being measured. The teacher's and principal's score and rating on the locally selected measures subcomponent, if available, and on the other measures of teacher and principal effectiveness subcomponent for a teacher's or principal's annual professional performance review shall be computed and provided to the teacher or principal, in writing, by no later than the last day of the school year for which the teacher or principal is being measured. Nothing in this subdivision shall be construed to authorize a teacher or principal to trigger the appeal process prior to receipt of his or her composite effectiveness score and rating.

(3) Each such annual professional performance review shall be based on the state assessments or other comparable measures subcomponent, the locally selected measures of student achievement subcomponent and the other measures of teacher and principal effectiveness subcomponent, determined in accordance with the applicable provisions of this section and the regulations of the commissioner, for the school year for which the teacher's or principal's performance is measured.

d. Prior to any evaluation being conducted in accordance with this section, each individual who is responsible for conducting an evaluation of a teacher or building principal shall receive appropriate training in accordance with the regulations of the commissioner of education.

e. (1) For annual professional performance reviews conducted in accordance with paragraph b of this subdivision for the two thousand eleven--two thousand twelve school year, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) twenty percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are developed locally in a manner consistent with procedures negotiated pursuant to the requirements of

article fourteen of the civil service law.

(2) Such locally selected measures may include measures of student achievement or growth on state assessments, regents examinations and/or department approved equivalent, provided that such measures are different from those prescribed by the commissioner pursuant to clause (i) of subparagraph one of this paragraph. The regulations of the commissioner shall describe the types of measures of student growth or achievement that may be locally selected. The selection of the local measure(s) as described in this paragraph to be used by the school district or board of cooperative educational services shall be determined through collective bargaining.

f. (1) For annual professional performance reviews conducted in accordance with paragraph c of this subdivision for the two thousand twelve--two thousand thirteen school year and thereafter for classroom teachers in subjects and grades for which the board of regents has not approved a value-added model and for building principals employed in schools or programs for which there is no approved principal value-added model, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) twenty percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are developed locally in a manner consistent with procedures negotiated pursuant to the requirements of article fourteen of the civil service law.

(2) One or more of the following types of locally selected measures of student achievement or growth may be used for the evaluation of classroom teachers:

(i) student achievement or growth on state assessments, regents examinations and/or department approved alternative examinations as described in the regulations of the commissioner including, but not limited to, advanced placement examinations, international baccalaureate examinations, and SAT II, using a measure that is different from the

growth score prescribed by the department for student growth on such assessments or examinations for purposes of the state assessment or other comparable measures subcomponent that is either:

(A) the change in percentage of a teacher's students who achieve a specific level of performance as determined locally, on such assessments/examinations compared to those students' level of performance on such assessments/examinations in the previous school year such as a three percentage point increase in students earning the proficient level (three) or better performance level on the seventh grade math state assessment compared to those same students' performance levels on the sixth grade math state assessment, or an increase in the percentage of a teacher's students earning the advanced performance level (four) on the fourth grade English language arts or math state assessments compared to those students' performance levels on the third grade English language arts or math state assessments; or

(B) a teacher specific growth score computed by the department based on the percent of the teacher's students earning a department determined level of growth. The methodology to translate such growth into the state-established subcomponent scoring ranges shall be determined locally; or

(C) a teacher-specific achievement or growth score computed in a manner determined locally based on a measure of student performance on the state assessments, regents examinations and/or department approved alternative examinations other than the measure described in item (A) or (B) of this subparagraph;

(ii) student growth or achievement computed in a manner determined locally based on a student assessment approved by the department pursuant to a request for qualification process established in the regulations of the commissioner;

(iii) student growth or achievement computed in a manner determined locally based on a district, regional or BOCES-developed assessment that is rigorous and comparable across classrooms;

(iv) a school-wide measure of either student growth or achievement based on either:

(A) a state-provided student growth score covering all students in the school that took the state assessment in English language arts or mathematics in grades four through eight;

(B) a school-wide measure of student growth or achievement computed in a manner determined locally based on a district, regional or board of cooperative educational services developed assessment that is rigorous and comparable across classrooms or a department approved student assessment or based on a state assessment; or

(v) where applicable, for teachers in any grade or subject where there is no growth or value-added growth model approved by the board of regents at that grade level or in that subject, a structured district-wide student growth goal-setting process to be used with any state assessment or an approved student assessment or a district, regional or BOCES-developed assessment that is rigorous and comparable across classrooms.

(3) One or more of the following types of locally selected measures of student achievement or growth may be used for the evaluation of principals, provided that each measure is rigorous and comparable across classrooms and that any such measure shall be different from that used for the state assessment or other comparable measures subcomponent:

(i) student achievement levels on state assessments in English language arts and/or mathematics in grades four to eight such as percentage of students in the school whose performance levels on state assessments are proficient or advanced, as defined in the regulations of the commissioner;

(ii) student growth or achievement on state or other assessments in English language arts and/or mathematics in grades four to eight for students in each of the performance levels described in the regulations of the commissioner;

(iii) student growth or achievement on state assessments in English language arts and/or mathematics in grades four to eight for students with disabilities and English language learners in grades four to eight;

(iv) student performance on any or all of the district-wide locally selected measures approved for use in teacher evaluations;

(v) for principals employed in a school with high school grades, four, five and/or six-year high school graduation and/or dropout rates;

(vi) percentage of students who earn a regents diploma with advanced designation and/or honors as defined in the regulations of the commissioner, for principals employed in a school with high school grades;

(vii) percentage of a cohort of students that achieve specified scores on regents examinations and/or department approved alternative examinations including, but not limited to, advanced placement examinations, international baccalaureate examinations and SAT II, for principals employed in a school with high school grades such as the percentage of students in the two thousand nine cohort that scored at least a three on an advanced placement examination since entry into the ninth grade; and/or

(viii) students' progress toward graduation in the school using strong predictive indicators, including but not limited to ninth and/or tenth grade credit accumulation and/or the percentage of students that pass ninth and/or tenth grade subjects most commonly associated with graduation and/or students' progress in passing the number of required regents examinations for graduation, for principals employed in a school with high school grades.

(ix) For school districts or boards of cooperative educational services that choose to use more than one set of locally selected measures described in this paragraph for principals in the same or similar grade configuration or program such as one set of locally selected measures is used to evaluate principals in some K-5 schools and another set of locally selected measures is used to evaluate principals in the other K-5 schools in the district, the superintendent or district superintendent shall, in their professional performance review plan, certify that the sets of measures are comparable, in accordance with the testing standards as defined in regulations of the commissioner.

(x) For building principals employed in schools or programs for which there is no approved principal value-added model, the types of locally selected measures of student achievement or growth specified in subparagraph three of paragraph g of this subdivision may be used. In addition, a structured district-wide student growth goal-setting process to be used with any state assessment or an approved student assessment or a district, regional of BOCES-developed assessment that is rigorous and comparable across classrooms may be a locally selected measure.

(4) The selection of the local measure or measures as described in subparagraphs two and three of this paragraph to be used by the school district or board of cooperative educational services shall be determined through collective bargaining.

g. (1) For annual professional performance reviews conducted in accordance with paragraph c of this subdivision for the two thousand twelve--two thousand thirteen school year and thereafter for classroom teachers in subjects and grades in which there is a value-added growth model approved by the board of regents and for building principals employed in schools or programs for which there is an approved principal value-added model, forty percent of the composite score of effectiveness shall be based on student achievement measures as follows: (i) twenty-five percent of the evaluation shall be based upon student growth data on state assessments as prescribed by the commissioner or a comparable measure of student growth if such growth data is not available; and (ii) fifteen percent shall be based on other locally selected measures of student achievement that are determined to be rigorous and comparable across classrooms in accordance with the regulations of the commissioner and as are locally developed in a manner consistent with procedures negotiated pursuant to the requirements of article fourteen of the civil service law. The department shall develop the value-added growth model and shall consult with the advisory committee established pursuant to subdivision seven of this section prior to recommending that the board of regents approve its use in evaluations.

(2) One or more of the following types of locally selected measures of student achievement or growth may be used for the evaluation of classroom teachers:

(i) student achievement or growth on state assessments, regents examinations and/or department approved alternative examinations as described in the regulations of the commissioner including, but not limited to, advanced placement examinations, international baccalaureate examinations and SAT II, using a measure that is different from the growth score prescribed by the department for student growth on such assessments or examinations for purposes of the state assessment or other comparable measures subcomponent that is either:

(A) the change in percentage of a teacher's students who achieve a specific level of performance as determined locally, on such assessments/examinations compared to those students' level of performance on such assessments/examinations in the previous school year

such as a three percentage point increase in students earning the proficient level (three) or better performance level on the seventh grade math state assessment compared to those same students' performance levels on the sixth grade math state assessment, or an increase in the percentage of a teacher's students earning the advanced performance level (four) on the fourth grade English language arts or math state assessments compared to those students' performance levels on the third grade English language arts or math state assessments; or

(B) a teacher specific growth score computed by the state based on the percent of the teacher's students earning a state determined level of growth. The methodology to translate such growth into the state-established subcomponent scoring ranges shall be determined locally; or

(C) a teacher-specific achievement or growth score computed in a manner determined locally based on a measure of student performance on the state assessments, regents examinations and/or department approved alternative examinations other than the measure described in item (A) or (B) of this subparagraph;

(ii) student growth or achievement computed in a manner determined locally based on a student assessment approved by the department pursuant to a request for qualification process established in the regulations of the commissioner;

(iii) student growth or achievement computed in a manner determined locally based on a district, regional or BOCES-developed assessment that is rigorous and comparable across classrooms;

(iv) a school-wide measure of either student growth or achievement based on either:

(A) a state-provided student growth score covering all students in the school that took the state assessment in English language arts or mathematics in grades four through eight; or

(B) a school-wide measure of student growth or achievement computed in a manner determined locally based on a district, regional or board of cooperative educational services developed assessment that is rigorous and comparable across classrooms or a department approved student assessment or based on a state assessment.

(3) One or more of the following types of locally selected measures of student achievement or growth may be used for the evaluation of

principals, provided that each measure is rigorous and comparable across classrooms and that any such measure shall be different from that used for the state assessment or other comparable measures subcomponent:

(i) student achievement levels on state assessments in English language arts and/or mathematics in grades four to eight such as percentage of students in the school whose performance levels on state assessments are proficient or advanced, as defined in the regulations of the commissioner;

(ii) student growth or achievement on state or other assessments in English language arts and/or mathematics in grades four to eight for students in each of the performance levels described in the regulations of the commissioner;

(iii) student growth or achievement on state assessments in English language arts and/or mathematics in grades four to eight for students with disabilities and English language learners in grades four to eight;

(iv) student performance on any or all of the district-wide locally selected measures approved for use in teacher evaluations;

(v) for principals employed in a school with high school grades, four, five and/or six-year high school graduation and/or dropout rates;

(vi) percentage of students who earn a regents diploma with advanced designation and/or honors as defined in the regulations of the commissioner, for principals employed in a school with high school grades;

(vii) percentage of a cohort of students that achieve specified scores on regents examinations and/or department approved alternative examinations including, but not limited to, advanced placement examinations, international baccalaureate examinations and SAT II, for principals employed in a school with high school grades such as the percentage of students in the two thousand nine cohort that scored at least a three on an advanced placement examination since entry into the ninth grade; and/or

(viii) students' progress toward graduation in the school using strong predictive indicators, including but not limited to ninth and/or tenth grade credit accumulation and/or the percentage of students that pass ninth and/or tenth grade subjects most commonly associated with graduation and/or students' progress in passing the number of required regents examinations for graduation, for principals employed in a school

with high school grades.

(ix) For school districts or boards of cooperative educational services that choose to use more than one set of locally selected measures described in this paragraph for principals in the same or similar grade configuration or program, the superintendent or district superintendent shall, in their professional performance review plan, certify that the sets of measures are comparable, in accordance with the testing standards as defined in regulations of the commissioner.

(4) The selection of the local measure or measures as described in subparagraphs two and three of this paragraph to be used by the school district or board of cooperative educational services shall be determined through collective bargaining.

h. The remaining sixty percent of the evaluations, ratings and effectiveness scores shall be locally developed, consistent with the standards prescribed in the regulations of the commissioner, through negotiations conducted pursuant to article fourteen of the civil service law.

(1) A majority of the sixty points for classroom teachers shall be based on multiple classroom observations conducted by a principal or other trained administrator, which may be performed in-person or by video. For evaluations for the two thousand twelve--two thousand thirteen school year and thereafter, at least one such observation shall be an unannounced visit.

(2) For the remaining portion of these sixty points for evaluations for the two thousand eleven--two thousand twelve school year, the commissioner's regulation shall prescribe the other forms of evidence of teacher and principal effectiveness that may be used.

(3) For evaluations of classroom teachers for the two thousand twelve--two thousand thirteen school year and thereafter, the remaining portion of these sixty points shall be based on one or more of the following:

(i) one or more classroom observations by independent trained evaluators selected by the school district or board of cooperative educational services who are teachers or former teachers with a demonstrated record of effectiveness and have no prior affiliation with the school in which they are conducting the evaluation and no other

relationship with the teachers being evaluated that would affect their impartiality;

(ii) classroom observations by trained in-school peer teachers; and/or

(iii) use of a state-approved instrument for parent or student feedback; and/or

(iv) evidence of student development and performance through lesson plans, student portfolios and other artifacts of teacher practices through a structured review process.

(4) A majority of these sixty points for building principals shall be based on a broad assessment of the principal's leadership and management actions based on the principal practice rubric by the building principal's supervisor, a trained administrator or a trained independent evaluator, with one or more visits conducted by the supervisor, and, for evaluations for the two thousand twelve--two thousand thirteen school year and thereafter, that such assessment must incorporate multiple school visits by a supervisor, a trained administrator or other trained evaluator, with at least one visit conducted by the supervisor and at least one unannounced visit. For the remaining portion of these sixty points for evaluations for the two thousand eleven--two thousand twelve school year, such regulations shall also prescribe the other forms of evidence of principal effectiveness that may be used consistent with the standards prescribed by the commissioner.

(5) For evaluations of building principals for the two thousand twelve--two thousand thirteen school year and thereafter, the remaining portion of these sixty points shall include, in addition to the requirements of subparagraph three of this paragraph, at least two other sources of evidence from the following options: feedback from teachers, students, and/or families using state-approved instruments; school visits by other trained evaluators; and/or review of school documents, records, and/or state accountability processes. Any such remaining points shall be assigned based on the results of one or more ambitious and measurable goals set collaboratively with principals and their superintendents or district superintendents as follows:

(i) at least one goal must address the principal's contribution to improving teacher effectiveness, which shall include one or more of the following: improved retention of high performing teachers, the correlation between student growth scores of teachers granted tenure as

opposed to those denied tenure; or improvements in the proficiency rating of the principal on specific teacher effectiveness standards in the principal practice rubric.

(ii) any other goals shall address quantifiable and verifiable improvements in academic results or the school's learning environmental such as student or teacher attendance.

(6) The district or board of cooperative educational services shall establish specific minimum and maximum scoring ranges for each performance level within this subcomponent before the start of each school year and shall assign points to a teacher or principal for this subcomponent based on the standards prescribed in the regulations of the commissioner, all in accordance with, and subject to, the requirements of paragraph j of this subdivision.

i. For purposes of this section, student growth means the change in student achievement for an individual student between two or more points in time.

j. (1) The process by which points are assigned in subcomponents and the scoring ranges for the subcomponents must be transparent and available to those being rated before the beginning of each school year. The process by which points are assigned in the respective subcomponents are to be determined as follows:

(i) For the state assessment or other comparable measures subcomponent, that process shall be formulated by the commissioner with the approval of the board of regents.

(ii) For the locally selected measures of the student achievement subcomponent, that process shall be established locally through negotiations conducted under article fourteen of the civil service law.

(iii) For the other measures of teacher and principal effectiveness subcomponent, that process shall be established locally through negotiations conducted under article fourteen of the civil services law.

(2) Such process must ensure that it is possible for a teacher or principal to obtain each point in the applicable scoring ranges, including zero, for the state assessment or other comparable measures subcomponent, the locally selected measures of student achievement subcomponent and the overall rating categories. The process must also

ensure that it is possible for a teacher or principal to obtain each point in the scoring ranges prescribed by the district or board of cooperative educational services for the other measures of teacher and principal effectiveness subcomponent.

(3) The superintendent, district superintendent or chancellor and the president of the collective bargaining representative (where one exists) shall certify in its plan that the process will use the narrative descriptions of the standards for the scoring ranges provided in the regulations of the commissioner to effectively differentiate a teacher or principal's performance in each of the subcomponents and in their overall ratings to improve student learning and instruction.

(4) The scoring ranges for the other measures of teacher and principal effectiveness subcomponent shall be established locally through negotiations conducted under article fourteen of the civil service law.

k. Notwithstanding any other provision of law, rule or regulation to the contrary, by July first, two thousand twelve, the governing body of each school district and board of cooperative educational services shall adopt a plan, on a form prescribed by the commissioner, for the annual professional performance review of all of its classroom teachers and building principals in accordance with the requirements of this section and the regulations of the commissioner, and shall submit such plan to the commissioner for approval. The plan may be an annual or multi-year plan, for the annual professional performance review of all of its classroom teachers and building principals. The commissioner shall approve or reject the plan by September first, two thousand twelve, or as soon as practicable thereafter. The commissioner may reject a plan that does not rigorously adhere to the provisions of this section and the regulations of the commissioner. Should any plan be rejected, the commissioner shall describe each deficiency in the submitted plan and direct that each such deficiency be resolved through collective bargaining to the extent required under article fourteen of the civil service law. If any material changes are made to the plan, the school district or board of cooperative educational services must submit the material changes, on a form prescribed by the commissioner, to the commissioner for approval. To the extent that by July first, two thousand twelve, or by July first of any subsequent year, if all the

terms of the plan have not been finalized as a result of unresolved collective bargaining negotiations, the entire plan shall be submitted to the commissioner upon resolution of all of its terms, consistent with article fourteen of the civil service law.

k-1. If material changes are submitted pursuant to paragraph k of this subdivision for an approved plan that solely relates to the elimination of student assessments that are not required by state or federal law, the commissioner shall expedite his or her review of such material changes and solely review those sections of the plan that relate to the eliminated student assessments to ensure compliance with this section and the regulations of the commissioner, provided that the governing body of such school district or board of cooperative educational services provide a written explanation of the material changes submitted for approval, on a form prescribed by the commissioner, and certify that no other material changes have been made to any other sections of the currently approved plan, and provided further that the commissioner shall complete such review of material changes properly and completely submitted under this paragraph within ten business days of submission.

k-2. The commissioner shall take actions to reduce time spent on field tests for students taking the state administered standardized English language arts and mathematics assessments for grades three through eight to the extent federal funds are allowable for such purpose under the state stabilization fund of the American Recovery and Reinvestment Act of 2009 or are otherwise available.

l. In the event a school district does not have an annual professional performance review plan approved by the commissioner for the applicable school year as of September first of that year, the collectively bargained plan most recently approved or the plan determined by the commissioner shall remain in effect until a subsequent plan is agreed to by the parties in accordance with this section and is approved by the commissioner.

3. Nothing in this section shall be construed to excuse school districts or boards of cooperative educational services from complying

with the standards set forth in the regulations of the commissioner for conducting annual professional performance reviews of classroom teachers or principals, including but not limited to required quality rating categories, in conducting evaluations prior to July first, two thousand eleven, or, for classroom teachers or principals subject to paragraph c of subdivision two of this section, prior to July first, two thousand twelve.

4. Notwithstanding any other law, rule or regulation to the contrary, upon rating a teacher or a principal as developing or ineffective through an annual professional performance review conducted pursuant to subdivision two of this section, the school district or board of cooperative educational services shall formulate and commence implementation of a teacher or principal improvement plan for such teacher or principal as soon as practicable but in no case later than ten school days after the opening of classes for the school year. Such improvement plan shall be consistent with the regulations of the commissioner and developed locally through negotiations conducted pursuant to article fourteen of the civil service law. Such improvement plan shall include, but need not be limited to, identification of needed areas of improvement, a timeline for achieving improvement, the manner in which improvement will be assessed, and, where appropriate, differentiated activities to support a teacher's or principal's improvement in those areas.

5. a. An appeals procedure shall be locally established in each school district and in each board of cooperative educational services by which the evaluated teacher or principal may only challenge the substance of the annual professional performance review, the school district's or board of cooperative educational services' adherence to the standards and methodologies required for such reviews, pursuant to this section, the adherence to the regulations of the commissioner and compliance with any applicable locally negotiated procedures, as well as the school district's or board of cooperative educational services' issuance and/or implementation of the terms of the teacher or principal improvement plan, as required under this section. Appeal procedures shall provide for the timely and expeditious resolution of any appeal under this

subdivision. The specifics of the appeal procedure shall be locally established through negotiations conducted pursuant to article fourteen of the civil service law. An evaluation which is the subject of an appeal shall not be sought to be offered in evidence or placed in evidence in any proceeding conducted pursuant to either section three thousand twenty-a of this article or any locally negotiated alternate disciplinary procedure, until the appeal process is concluded.

b. Nothing in this section shall be construed to alter or diminish the authority of the governing body of a school district or board of cooperative educational services to grant or deny tenure to or terminate probationary teachers or probationary building principals during the pendency of an appeal pursuant to this section for statutorily and constitutionally permissible reasons including the teacher's or principal's performance that is the subject of the appeal.

c. Nothing in this section shall be construed to authorize a teacher or principal to trigger the appeal process prior to receipt of their composite effectiveness score and rating from the district or board of cooperative educational services.

5-a. In the city school district of the city of New York, notwithstanding any provision of law to the contrary, the following shall apply to classroom teachers:

a. A teacher who did not receive an ineffective rating in the annual professional performance review for the prior school year is in "year one status".

b. A teacher who received an ineffective rating in the previous school year is in "year two status", until and unless that rating is either changed by the principal or reversed on appeal in accordance with the provisions of this subdivision, or until and unless the teacher reverts to year one status in accordance with the provisions of this subdivision.

c. A teacher who is rated ineffective for a school year in which the

teacher has year one status shall have a right to appeal that rating to the chancellor of the city school district, who shall make a final determination, unless an appeal is initiated to a three-member panel subject to the following requirements. The united federation of teachers (UFT) may appeal to a three-member panel the ineffective ratings of up to thirteen percent of teachers who received such ineffective ratings for a school year. Any such appeal may only be made on the ground that the ineffective rating was given due to harassment or reasons not related to job performance. These appeals shall be known as a "panel appeals". The three-member panel shall consist of a person selected by the UFT, a person selected by the chancellor of the city school district and an independent person, not affiliated with the UFT or the district and selected by the state education department, who shall be the chair of the panel and conduct the appeal hearing. If the panel sustains the appeal, the principal must submit to the panel a different rating, which must be approved by the panel. Any ineffective rating that is appealed to the panel may not be appealed to the chancellor of the city school district.

d. The chancellor of the city school district shall notify the UFT of all ineffective ratings. Each school year, if the UFT is notified of an ineffective rating prior to October first, a panel appeal of that rating must be initiated by the UFT by November first, provided that more than thirteen percent of these ratings may be appealed to the panel. The UFT and the board of education shall negotiate, pursuant to article fourteen of the civil service law, a procedure for ensuring that each school year, not more than thirteen percent of the ratings received by the UFT after October first are appealed to the panel. The board of education shall make all reasonable efforts to issue ratings and notify the UFT of ineffective ratings by October first. Any rating not appealed to the panel may be appealed by the individual teacher to the chancellor of the city school district. Appeals made to the chancellor of the city school district must be filed within ten school days after the UFT would otherwise be required to notify the board of education of a panel appeal.

e. For all teachers in year two status, unless and until the

ineffective rating they received in the prior year is changed by a principal or otherwise changed in accordance with the provisions of this subdivision, an independent validator shall be appointed to evaluate the teacher on each component of the annual professional performance review in which the scoring of the component is at the discretion of the principal. These components shall not necessarily be limited to teacher performance, but shall not include any components in which the scoring of the component is outside the discretion of the principal, even if the principal has discretion in a related goal-setting process prior to scoring. The independent validator shall perform three observations during the course of the school year. The terms and conditions of the observations shall be negotiated pursuant to the requirements of article fourteen of the civil service law.

f. The UFT and the board of education shall jointly select an organization or organizations that employ certified educators, including teachers, to perform the work as independent validators. Independent validators shall not be employed simultaneously by the board of education or simultaneously have an individual contract with the board of education. Should either the board of education or the UFT notify the department that after a good faith effort the board of education and the UFT are unable to jointly select organizations, the commissioner shall name organizations subject to the following requirements. The board of education shall set forth a required number of validators, and the commissioner shall name organizations that can provide at least this number of validators whom the commissioner deems qualified. The commissioner shall name organizations based on the criteria set forth in this subdivision that apply to the mutual selection process for the board of education and the UFT and shall also consider potential conflicts of interest.

g. In an instance in which the independent validator does not complete the review process due to circumstances beyond the control of the board of education, the teacher shall remain in year two status the following school year. Should the independent validator not complete the review process for a second consecutive school year and for any reason in the second year for other than a leave of absence or chronic absence on the

part of the teacher, the teacher shall return to year one status the following school year.

h. An independent validator shall be deemed to have agreed with the principal when an independent validator's scoring, in conjunction with the scoring of components not reviewed by the independent validator in accordance with this subdivision, would result in a rating in the same category on the annual professional performance review than would result from the principal's rating.

i. For purposes of this subdivision, an independent validator shall be deemed to have disagreed with the principal when an independent validator's scoring, in conjunction with the scoring of components not reviewed by the independent validator in accordance with this subdivision, would result in a rating in a different category on the annual professional performance review than would result from the principal's rating.

j. If a teacher receives an ineffective rating for a school year in which the teacher is in year two status and the independent validator agrees, the district may bring a proceeding pursuant to sections three thousand twenty and three thousand twenty-a of this article based on a pattern of ineffective teaching or performance. In such proceeding, the charges shall allege that the employing board has developed and substantially implemented a teacher improvement plan in accordance with subdivision four of this section for the employee following the evaluation made for the year in which the employee was in year one status and was rated ineffective. The pattern of ineffective teaching or performance shall give rise to a rebuttable presumption of incompetence and if the presumption is not successfully rebutted, the finding, absent extraordinary circumstances, shall be just cause for removal. In these hearings, the teacher shall have up to three days to present his or her case for every one day used by the district to present its case. The hearing officer shall render a written decision within ten days of the last day of the hearing.

k. If the teacher receives an ineffective rating by the principal in a

school year in which they are in year two status and the independent validator disagrees, the ineffective rating remains but the district may not bring proceeding based on a pattern of ineffective teaching or performance, as defined in this section, provided however that nothing in this section shall prevent the board of education from charging a teacher based on incompetence and entering the principal's evaluations into evidence.

l. If upon the completion of a hearing pursuant to sections three thousand twenty and three thousand twenty-a of this article, based either on a pattern of ineffective teaching or performance or charges of incompetence in which year one or year two evaluations were entered into evidence, and a hearing officer finds the teacher incompetent, but decides not to terminate, the teacher remains in year two status for the school year in progress or the following school year if the finding is made in between school years. If upon the completion of the hearing, the hearing officer exonerates the teacher of charges of incompetence the teacher shall revert to year one status if in the middle of the school year or at the beginning of the following school year if the finding is made in between school years.

m. If the teacher receives an ineffective rating in year two by the principal and the validator agrees, and the district does not bring an expedited proceeding pursuant to sections three thousand twenty and three thousand twenty-a of this article, the teacher may appeal the year two ineffective rating to the chancellor of the city school district, who shall make a final determination. If the rating is upheld, the teacher shall remain in year two status for the subsequent school year, but if following that year the teacher is not charged, the teacher reverts to year one status for the next school year.

n. A process shall be established to evaluate the effectiveness of the specific procedures established in this subdivision after two years from the effective date of this subdivision, provided however that a failure or delay in establishing that process shall not invalidate any provisions of this subdivision.

o. Notwithstanding any other provision of law to the contrary, the board of education and the UFT may alter any provisions of this subdivision through collective bargaining.

6. For purposes of disciplinary proceedings pursuant to sections three thousand twenty and three thousand twenty-a of this article, a pattern of ineffective teaching or performance shall be defined to mean two consecutive annual ineffective ratings received by a classroom teacher or building principal pursuant to annual professional performance reviews conducted in accordance with the provisions of this section.

7. The regulations adopted pursuant to this section shall be developed in consultation with an advisory committee consisting of representatives of teachers, principals, superintendents of schools, school boards, school district and board of cooperative educational services officials and other interested parties. The regulations shall also take into account any (i) professional teaching standards; (ii) standards for professional contexts; and (iii) standards for a continuum of system support for teachers and principals developed in consultation with the advisory committee. Regulations promulgated pursuant to this section shall be effective no later than July first, two thousand eleven, for implementation in the two thousand eleven--two thousand twelve school year.

8. Notwithstanding any other provision of law, rule or regulation to the contrary, all collective bargaining agreements applicable to classroom teachers or building principals entered into after July first, two thousand ten shall be consistent with requirements of this section. Nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on July first, two thousand ten during the term of such agreement and until the entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this section shall apply. Furthermore, nothing in this section or in any rule or regulation promulgated hereunder shall in any way, alter, impair or diminish the

rights of a local collective bargaining representative to negotiate evaluation procedures in accordance with article fourteen of the civil service law with the school district or board of cooperative educational services.

9. a. The department shall annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify school districts, boards of cooperative educational services and/or schools where evidence suggests that a more rigorous evaluation system is needed to improve educator effectiveness and student learning outcomes. The criteria for identifying school districts, boards of cooperative educational services and/or schools shall be prescribed in the regulations of the commissioner.

b. A school, school district or board of cooperative educational services identified by the department in one of the categories enumerated in paragraph a of this subdivision may be highlighted in public reports and/or the commissioner may order a corrective action plan, which may include, but not be limited to, requirements that the district or board of cooperative educational services arrange for additional professional development, provide additional in-service training and/or utilize independent trained evaluators to review the efficacy of the evaluation system, provided that the plan shall be consistent with law and not in conflict with any applicable collective bargaining agreement.

10. Each school district and board of cooperative educational services shall fully disclose and release to the public and the department the final quality ratings and composite effectiveness scores from the annual professional performance reviews of its teachers and principals as provided in this subdivision.

a. The commissioner shall fully disclose professional performance review data for teachers and principals in each school district and board of cooperative educational services on the department website and in any other manner to make such data widely available to the public. Such data shall be suitable for research, analysis and comparison of

professional performance review data for teachers and principals. Such public disclosure shall include but not be limited to the final quality ratings and composite effectiveness scores by school district for principal evaluation data, by school building for teacher evaluation data and, within each district and school building, by class, subject and grade; final quality ratings and composite effectiveness scores by region, district wealth, district need category, student enrollment, type of school (i.e. elementary, middle and high school), student need (e.g., poverty level), and district spending; final quality ratings and composite effectiveness scores by the percentage or number of teachers and principals in each final quality rating category, moving to a higher rating category than the previous year, moving to a lower rating category than the previous year, and retained in each rating category; and data on tenure granting and denial based on the final quality rating categories.

b. Each school district and board of cooperative educational services shall fully disclose and release to the parents and legal guardians of a student the final quality rating and composite effectiveness score for each of the teachers and for the principal of the school building to which the student is assigned for the current school year upon the request of such parents and legal guardians. The governing body of each school district and board of cooperative educational services shall provide conspicuous notice to parents and legal guardians of the right to obtain such information. Parents and legal guardians may review and receive such data in any manner, including by phone or in person; shall receive an oral or written explanation of the composite effectiveness scoring ranges for final quality ratings; and be offered opportunities to understand such scores in the context of teacher evaluation and student performance. Reasonable efforts shall be made to verify that any such request is a bona fide request by a parent or guardian entitled to review and receive such data pursuant to this paragraph.

c. The department and each school district and board of cooperative educational services shall ensure that any release to the public of annual professional performance review data, or any other data that is used as a component of annual professional performance reviews, does not

include personally identifying information for any teacher or principal, provided, however, that nothing shall impair the right of parents and legal guardians to review and receive the final quality rating and composite effectiveness score of individual teachers and principals as provided in paragraph b of this subdivision. Annual professional performance reviews of individual teachers and principals shall not be subject to disclosure pursuant to article six of the public officers law.

d. Nothing in this subdivision shall prohibit the department from collecting such data and materials from school districts and boards of cooperative educational services as is necessary to carry out its functions and duties, including its responsibilities related to the federal Race to the Top program.

§ 3012-d. Annual teacher and principal evaluations. 1. General provisions. Notwithstanding any other provision of law, rule or regulation to the contrary, the annual teacher and principal evaluations (hereinafter, evaluations) implemented by districts shall be conducted in accordance with the provisions of this section. Such annual evaluations shall be a significant factor for employment decisions including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation. Such evaluations shall also be a significant factor in teacher and principal development including but not limited to coaching, induction support, and differentiated professional development. Provided, however, that for the two thousand twenty-four--two thousand twenty-five school year and thereafter, school districts and boards of cooperative educational services may conduct annual professional performance reviews pursuant to section three thousand twelve-e of this article. In such case, the provisions of this section shall not be applicable. Provided, however, annual teacher and principal evaluation plans adopted pursuant to this section shall not be applicable after the two thousand thirty-one--two thousand thirty-two school year.

2. Definitions.

a. "District" shall mean school district and/or board of cooperative educational services, except that for purposes of subdivision eleven of this section it shall only mean a school district;

b. "Principal" shall mean a building principal or an administrator in charge of an instructional program of a board of cooperative educational services;

c. "Student growth" shall mean the change in student achievement for an individual student between two or more points in time.

d. "State-designed supplemental assessment" shall mean a selection of state tests or assessments developed or designed by the state education department, or that the state education department purchased or acquired from (i) another state; (ii) an institution of higher education; or (iii) a commercial or not-for-profit entity, provided that such entity must be objective and may not have a conflict of interest or appearance of a conflict of interest; such definition may include tests or assessments that have been previously designed or acquired by local districts, but only if the state education department significantly modifies growth targets or scoring bands for such tests or assessments or otherwise adapts the test or assessment to the state education department's requirements.

3. Ratings. The annual evaluations conducted pursuant to this section shall rate teacher and principal effectiveness using the following categories: highly effective or "H", effective or "E", developing or "D" and ineffective or "I".

4. Categories. The annual evaluation system shall consist of multiple measures in two categories: student performance and teacher observations.

a. Student performance category. Such category shall have at least one subcomponent and an optional second subcomponent as follows:

(1) For the first subcomponent, a teacher shall have a student

learning objective (SLO) consistent with a goal-setting process determined or developed by the commissioner, that results in a student growth score; provided that, for any teacher whose course ends in a state-created or administered assessment, such assessment may be used as the underlying assessment for such SLO;

(2) For the optional second subcomponent, a district may locally select a second measure in accordance with this subparagraph. Such second measure shall apply in a consistent manner, to the extent practicable, across the district and be either: (A) based on a state-created or administered test, or (B) based on a state-designed supplemental assessment. The optional second subcomponent shall provide options for multiple assessment measures that are aligned to existing classroom and school best practices and take into consideration the recommendations in the testing reduction report as required by section one of subpart F of part EE of chapter fifty-six of the laws of two thousand fifteen which added this section regarding the reduction of unnecessary additional testing.

The commissioner shall determine the weights and scoring ranges for the subcomponent or subcomponents of the student performance category that shall result in a combined category rating. The commissioner shall also set parameters for appropriate targets for student growth for both subcomponents, and the department must affirmatively approve and shall have the authority to disapprove or require modifications of district plans that do not set appropriate growth targets, including after initial approval. The commissioner shall set such weights and parameters consistent with the terms contained herein.

b. Teacher observations category. The observations category for teachers shall be based on a state-approved rubric and shall include up to three subcomponents. Such category must include: (1) a subcomponent based on classroom observations conducted by a principal or other trained administrator and must also include (2) a subcomponent based on classroom observations by an impartial independent trained evaluator or evaluators selected by the district. An independent trained evaluator may be employed within the school district, but not the same school building, as the teacher being evaluated. Such category may also include

a subcomponent based on classroom observations conducted by a trained peer teacher rated effective or highly effective from the same school or from another school in the district.

The commissioner shall determine the weights, and/or weighting options and scoring ranges for the subcomponents of the observations category that result in a combined category rating. The commissioner shall also determine the minimum number of observations to be conducted annually, including frequency and duration, and any parameters therefor. The commissioner shall set such weights and scores consistent with the terms contained herein.

5. Rating determination. The overall rating determination shall be determined as follows:

a. If a teacher receives an H in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be H;

b. If a teacher receives an H in the teacher observation category, and an E in the student performance category, the teacher's composite score shall be H;

c. If a teacher receives an H in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be E;

d. If a teacher receives an H in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be D;

e. If a teacher receives an E in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be H;

f. If a teacher receives an E in the teacher observation category, and an E in the student performance category, the teacher's composite score

shall be E;

g. If a teacher receives an E in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be E;

h. If a teacher receives an E in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be D;

i. If a teacher receives a D in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be E;

j. If a teacher receives a D in the teacher observation category, and an E in the student performance category, the teacher's composite score shall be E;

k. If a teacher receives a D in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be D;

l. If a teacher receives a D in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be I;

m. If a teacher receives an I in the teacher observation category, and an H in the student performance category, the teacher's composite score shall be D;

n. If a teacher receives an I in the teacher observation category, and an E in the student performance category, the teacher's composite score shall be D;

o. If a teacher receives an I in the teacher observation category, and a D in the student performance category, the teacher's composite score shall be I;

p. If a teacher receives an I in the teacher observation category, and an I in the student performance category, the teacher's composite score shall be I.

6. Prohibited elements. The following elements shall no longer be eligible to be used in any evaluation subcomponent pursuant to this section:

a. evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, except for student portfolios measured by a state-approved rubric where permitted by the department;

b. use of an instrument for parent or student feedback;

c. use of professional goal-setting as evidence of teacher or principal effectiveness;

d. any district or regionally-developed assessment that has not been approved by the department; and

e. any growth or achievement target that does not meet the minimum standards as set forth in regulations of the commissioner adopted hereunder.

7. The commissioner shall ensure that the process by which weights and scoring ranges are assigned to subcomponents and categories is transparent and available to those being rated before the beginning of each school year. Such process must ensure that it is possible for a teacher or principal to obtain any number of points in the applicable scoring ranges, including zero, in each subcomponent. The superintendent, district superintendent or chancellor and the representative of the collective bargaining unit (where one exists) shall certify in the district's plan that the evaluation process shall use the standards for the scoring ranges provided by the commissioner.

8. A student may not be instructed, for two consecutive school years, by any two teachers in the same district, each of whom received a rating of ineffective under an evaluation conducted pursuant to this section in the school year immediately prior to the school year in which the student is placed in the teacher's classroom; provided, that if a district deems it impracticable to comply with this subdivision, the district shall seek a waiver from the department from such requirement.

9. Nothing in this section shall be construed to affect the unfettered statutory right of a district to terminate a probationary (non-tenured) teacher or principal for any statutorily and constitutionally permissible reasons.

10. The local collective bargaining representative shall negotiate with the district:

a. whether to use a second measure, and, in the event that a second measure is used, which measure to use, pursuant to subparagraph two of paragraph a of subdivision four of this section;

b. how to implement the provisions of paragraph b of subdivision four of this section, and associated regulations as established by the commissioner, in accordance with article fourteen of the civil service law; and

c. the selection and use of an assessment in a teacher or principal's evaluation pursuant to subdivision four of this section and paragraphs a and b of subdivision sixteen of this section.

11. Each school district or board of cooperative educational services, as applicable, shall certify by September first of each year that their school district or board of cooperative educational services has a teacher and principal evaluation plan that is in compliance with the requirements of this section or a performance review plan that is in compliance with the requirements of section three thousand twelve-e of this article, as applicable, and that the district or board of cooperative educational services conducted evaluations in accordance

with their most recently approved plan during the preceding school year. Provided, however, that a school district or board of cooperative educational services may only have an approved teacher and principal evaluation plan pursuant to this section until June thirtieth, two thousand thirty-two.

12. Notwithstanding any other provision of law, rule or regulation to the contrary, all collective bargaining agreements entered into after April first, two thousand fifteen shall be consistent with the requirements of this section, unless the agreement relates to the two thousand fourteen--two thousand fifteen school year only. Nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on April first, two thousand fifteen during the term of such agreement and until the entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this section shall apply.

13. Any reference in law to "annual professional performance review" shall be deemed to refer to an annual professional performance review pursuant to section three thousand twelve-c of this article or annual teacher and principal evaluations pursuant to this section and any references to section three thousand twelve-c of this article shall be deemed to refer to section three thousand twelve-c of this article and/or this section, as applicable.

14. The commissioner shall adopt regulations to align the principal evaluation system as set forth in section three thousand twelve-c of this article with the new teacher evaluation system set forth herein.

15. The provisions of paragraphs d, k, k-1, k-2 and l of subdivision two and subdivisions four, five, five-a, nine, and ten of section three thousand twelve-c of this article, as amended, shall apply to this section to the extent determined by the commissioner.

16. a. Notwithstanding any other provision of law, rule or regulation

to the contrary, the grades three through eight English language arts and mathematics state assessments and all other state-created or administered tests shall not be required to be utilized in any manner to determine a teacher or principal evaluation required by this section.

b. The commissioner shall promulgate rules and regulations providing alternative assessments that may be used in grades three through eight instead of all other state-created or administered tests, which shall include all of the assessments that have been approved by the commissioner for use in determining transition scores and ratings.

c. The selection and use of an assessment in a teacher or principal's evaluation pursuant to paragraphs a and b of this subdivision and subdivision four of this section shall be subject to collective bargaining pursuant to article fourteen of the civil service law.

d. Notwithstanding any provision of subdivision twelve of this section to the contrary, nothing in this section shall be construed to abrogate any conflicting provisions of any collective bargaining agreement in effect on the date this subdivision takes effect and until the entry into a successor collective bargaining agreement, provided that notwithstanding any other provision of law to the contrary, upon expiration of such term and the entry into a successor collective bargaining agreement the provisions of this subdivision shall apply; and, provided further, however, that any assessments used in determining transition scores and ratings shall be used in determining scores and ratings pursuant to this section instead of the grades three through eight English language arts and mathematics state assessments until the entry into a successor collective bargaining agreement.

17. Notwithstanding any other provision of this section, for the two thousand twenty--two thousand twenty-one and the two thousand twenty-one--two thousand twenty-two school years, no school district or board of cooperative educational services shall be required to complete an annual teacher and principal evaluation required by this section for any classroom teacher or building principal.

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

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

3. The performance reviews conducted pursuant to this section shall be

a significant factor in teacher and principal development, including but not limited to coaching, induction support, and differentiated professional development for all teachers and principals.

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

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

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

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

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

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

(ii) address each state teaching and educational leadership standard,

as developed or adopted by the commissioner;

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

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

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

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

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

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

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

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

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

process.

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

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

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

6. The school district or board of cooperative educational services, as applicable, shall ensure that all classroom teachers and building principals as well as any individual who conducts all or part of a performance review receive appropriate training consistent with the regulations of the commissioner and shall ensure that each teacher and principal who is reviewed in accordance with this section has the opportunity to provide written comment on their performance review in addition to any collectively bargained teacher and principal performance review grievance or appeal procedures.

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

8. Performance review plans developed pursuant to this section shall

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

§ 3013. Abolition of office or position. 1. If a trustee, board of trustees, board of education or board of cooperative educational services abolishes an office or position and creates another office or position for the performance of duties similar to those performed in the office or position abolished, the person filling such office or position at the time of its abolishment shall be appointed to the office or position thus created without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled.

2. Whenever a trustee, board of trustee, board of education or board of cooperative educational services abolishes a position under this chapter, the services of the teacher having the least seniority in the system within the tenure of the position abolished shall be discontinued.

3. (a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur

in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions in the order of their length of service in the system at any time within seven years from the date of abolition or consolidation of such office or position.

(b) The persons on such preferred list shall be reinstated, in accordance with the terms of paragraph (a) of this subdivision, to such substitute positions of five months or more in duration, as may from time to time occur without losing their preferred status on such list. Declination of such reinstatement shall not adversely affect the persons' preferred eligibility status.

* 4. (a) The use of artificial intelligence systems as defined by section one hundred three-e of the state technology law shall not affect (i) the existing rights of employees pursuant to an existing collective bargaining agreement, or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or (ii) transfer of existing duties and functions currently performed by employees of the school district, board of cooperative educational services or county vocational education and extension board to an artificial intelligence system.

(c) The use of such artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment and civil service status. The collective bargaining unit membership status of all existing employees of the board of education, board of cooperative educational services, or board of trustees thereof shall be preserved and protected.

* NB Repealed July 1, 2028

§ 3014. Tenure: boards of cooperative educational services. 1. (a) Administrative assistants, supervisors, teachers and all other members of the teaching and supervising staff of the board of cooperative educational services appointed prior to July first, two thousand fifteen, shall be appointed by a majority vote of the board of cooperative educational services upon the recommendation of the district superintendent of schools for a probationary period of not to exceed three years; provided, however, that in the case of a teacher who has been appointed on tenure in a school district within the state, the board of cooperative educational services where currently employed, or another board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this article, the probationary period shall not exceed two years. Services of a person so appointed to any such positions may be discontinued at any time during such probationary period, upon the recommendation of the district superintendent, by a majority vote of the board of cooperative educational services.

(b) Administrative assistants, supervisors, teachers and all other members of the teaching and supervising staff of the board of cooperative educational services appointed on or after July first, two thousand fifteen, shall be appointed by a majority vote of the board of cooperative educational services upon the recommendation of the district superintendent of schools for a probationary period of not to exceed four years; provided, however, that in the case of a teacher who has been appointed on tenure in a school district within the state, the board of cooperative educational services where currently employed, or another board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to section three thousand twenty-a of this article, the teacher shall be appointed for a probationary period of three years; and provided further that in the case of a principal, administrator, supervisor, or other member of the supervising staff who has been appointed on tenure pursuant to this chapter as an administrator within an authorized administrative tenure area in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed

from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this article, the principal, administrator, supervisor, or other member of the supervising staff shall be appointed for a probationary period of three years. Services of a person so appointed to any such positions to which this paragraph applies may be discontinued at any time during the probationary period, upon the recommendation of the district superintendent, by a majority vote of the board of cooperative educational services.

2. (a) On or before the expiration of the probationary term of a person appointed for such term prior to July first, two thousand fifteen, the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of this article: (i) Insubordination, immoral character or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or neglect of duty; (iii) Failure to maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of such person's probationary period.

(b) On or before the expiration of the probationary term of a person appointed for such term on or after July first, two thousand fifteen, the district superintendent of schools shall make a written report to the board of cooperative educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of this article: (i) Insubordination, immoral character or conduct unbecoming a teacher; (ii) Inefficiency, incompetency, or neglect of duty; (iii) Failure to

maintain certification as required by this chapter and by the regulations of the commissioner. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of such person's probationary period.

§ 3014-a. Teachers' rights as a result of a board or boards of cooperative educational services taking over a program formerly operated by a school district or districts or by a county vocational education and extension board. 1. In any case in which a board or boards of cooperative educational services duly take over the operation of a program formerly provided by a school district or school districts or by a county vocational education and extension board, each teacher, teaching assistant and teacher aide employed in such a program by such a school district or such a county vocational education and extension board at the time of such takeover by the board or boards of cooperative educational services, shall be considered an employee of such board or boards of cooperative educational services with the same tenure or civil service status he maintained in such school district or in such county vocational education and extension board.

2. If the number of teaching positions needed to provide the services required by such program by the board or boards of cooperative educational services is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such board or boards of cooperative educational services as provided by subdivision one of this section, the services of the teachers, teaching assistants and teacher aides having the least seniority in the school district or school districts or county vocational education and extension board whose programs are taken over by the board or boards of cooperative educational services within the tenure area or civil service title of the position shall be discontinued. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the board or boards of cooperative educational services similar to the one such

teacher, teaching assistant and teacher aide filled in such school district or school districts or such county vocational education and extension board. The teachers, teaching assistants and teacher aides on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the board or boards of cooperative educational services in the order of their length of service in such school district or school districts or in such county vocational education and extension board, within seven years from the date of the abolition of such office or position.

3. For any such teacher, teaching assistant and teacher aide as set forth in subdivision one of this section for salary, sick leave and any other purposes, the length of service credited in such school district or in such county vocational education and extension board shall be credited as employment time with such board or boards of cooperative educational services.

4. This section shall in no way be construed to limit the rights of any of such employees set forth in this section granted by any other provision of law.

5. Program takeovers pursuant to this section shall be considered a transfer pursuant to section seventy of the civil service law.

§ 3014-b. Teachers' rights as a result of a school district taking over a program formerly operated by a board of cooperative educational services. 1. In any case in which a school district duly takes over the operation of a program formerly provided by a board of cooperative educational services, each teacher, teaching assistant and teacher aide employed in such a program by such a board of cooperative educational services at the time of such takeover by the school district shall be considered an employee of such school district, with the same tenure or civil service status he maintained in such board of cooperative educational services.

2. If the number of teaching positions needed to provide the services

required by such program by the school district is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such school district as provided by subdivision one of this section, the services of the teachers, teaching assistants and teacher aides having the least seniority in the board of cooperative educational services whose programs are taken over by the school district within the tenure area or civil service title of the position shall be discontinued. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the school district similar to the one such teacher, teaching assistant and teacher aide filled in such board of cooperative educational services. The teachers, teaching assistants and teacher aides on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the school district in the order of their length of service in such board of cooperative educational services, within seven years from the date of the abolition of such office or position.

3. For any such teacher, teaching assistant and teacher aide as set forth in subdivision one of this section for salary, sick leave and any other purposes, the length of service credited in such board of cooperative educational services shall be credited as employment time with such school district.

4. In the event that more than one school district duly takes over the operation of a program formerly provided by a board of cooperative educational services, then each teacher, teaching assistant and teacher aide employed in such program by such board of cooperative educational services at the time of such takeover by more than one school district, shall select the particular school district in which he shall be considered an employee, with all of the rights and privileges provided by the other provisions of this section. Such selection of the particular school district by such teacher, teaching assistant and teacher aide is to be based upon the seniority of each teacher, teaching assistant and teacher aide in such board of cooperative educational

services, with the right of selection passing from such teachers, teaching assistants and teacher aides with the most seniority to such teachers, teaching assistants and teacher aides with least seniority. Any such teacher, teaching assistant and teacher aide who is unable to obtain a teaching position in any such school districts because the number of positions needed to provide the services required in such programs with such school districts are less than the number of teachers, teaching assistants and teachers aides eligible to be considered employees of such school districts, shall be placed on a preferred eligible list in all such school districts in the method and with all of the rights provided by the other provisions of this section.

5. This section shall in no way be construed to limit the rights of any of such employees set forth in this section granted by any other provision of law.

§ 3014-c. Teachers' rights as a result of a school district taking back tuition students. 1. As used in this section, a "sending district" shall mean a school district which previously sent students to another school district on a tuition basis pursuant to section two thousand forty of this chapter, and a "receiving district" shall mean a school district which provided the educational program for students from another district on a tuition basis pursuant to section two thousand forty of this chapter.

2. In any case in which a sending district assumes the education of students formerly provided by a receiving district, each teacher employed in the education of such students by such receiving district at the time of such take back by the sending district shall be considered an employee of such sending district, with the same tenure status he maintained in such receiving district.

3. If the number of teaching positions needed to provide the educational services required by such sending district is less than the number of teachers eligible to be considered employees of such sending district as provided by subdivision two of this section, the services of

the teachers having the least seniority in the receiving district whose students are taken back by the sending district within the tenure area of the position shall be discontinued. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such receiving district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district in the order of their length of service in such receiving district, within seven years from the date of the abolition of such office or position.

4. For any such teacher as described in subdivision two of this section for salary, sick leave and any other purposes, the length of service credited in such receiving district shall be credited as employment time with such sending district.

5. In the event that more than one sending district assumes the education of students formerly provided by a receiving district, then each teacher employed in the education of such students in such receiving district at the time of such take back by more than one sending district, shall select the particular sending district in which he shall be considered an employee, with all of the rights and privileges provided by the other provisions of this section. Such selection of the particular sending district by such teacher is to be based upon each teacher's seniority in such receiving district, with the right of selection passing from such teachers with the most seniority to such teachers with least seniority. Any such teacher who is unable to obtain a teaching position in any such sending district because the number of positions needed to provide the services required with such sending district are less than the number of teachers eligible to be considered employees of such sending districts, shall be placed on a preferred eligible list in all such sending districts in the method and with all of the rights provided by the other provisions of this section.

6. This section shall in no way be construed to limit the rights of

any of such teachers described in this section granted by any other provision of law.

§ 3014-d. Teachers' rights as a result of a school district sending students to another district on a tuition basis pursuant to section two thousand forty of this chapter. 1. As used in this section, a "sending district" shall mean a school district which sends students to another school district on a tuition basis pursuant to section two thousand forty of this chapter, and a "receiving district" shall mean a school district which receives and provides the educational program for students from another district on a tuition basis pursuant to section two thousand forty of this chapter.

2. In any case in which a sending district sends such students to a receiving district, each teacher previously employed in the education of students by such sending district prior to the time that such sending district sends its students to a receiving district shall be considered an employee of such receiving district, with the same tenure status he maintained in such sending district.

3. If the number of teaching positions needed to provide the educational services required by such receiving district is less than the number of teachers eligible to be considered employees of such receiving district as provided by subdivision two of this section, the services of the teachers having the least seniority in the sending district within the tenure area of the position shall be discontinued. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such sending district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district in the order of their length of service in such sending district, within seven years from the date of the abolition of such office or position.

4. For any such teacher as described in subdivision two of this section for salary, sick leave and any other purposes, the length of service credited in such sending district shall be credited as employment time with such receiving district.

5. This section shall in no way be construed to limit the rights of any of such teachers described in this section granted by any other provision of law.

§ 3015. Teacher's salary when payable. 1. In school districts employing fewer than eight teachers, the salary of any teacher so employed shall be due and payable at least as often as once each calendar month of the term of employment.

2. In school districts employing eight or more teachers, the salary of a teacher employed for a full school year shall be due and payable within such school year in not less than ten installments. If a teacher is employed in any such district after July first in any school year, the amount of the salary that the school authorities agree at the time of employment to pay such teacher for the balance of that school year shall be due and payable within the school year at least as often as once each calendar month that he is so employed. Nothing contained in this subdivision shall be construed to alter the provisions of sections twenty-five hundred nine, twenty-five hundred seventy-three, three thousand twelve, and three thousand thirteen of this chapter.

3. Nothing contained in this section shall be construed to authorize payment in advance of rendering service to the school district.

§ 3016. Contract when teacher is related to trustee or member of board of education. 1. No person who is related to any trustee of a common school district by blood or marriage shall be employed in such district as a teacher, except with the approval of two-thirds of the voters of such district present and voting upon the question at an

annual or special meeting of the district.

2. No person who is related by blood or marriage to any member of a board of education shall be employed as a teacher by such board, except upon the consent of two-thirds of the members thereof to be determined at a board meeting and to be entered upon the proceedings of the board.

§ 3017. Individual liability of trustees. Any person employed in disregard of section three thousand eleven or of section three thousand sixteen shall have no claim for wages against the district, but may enforce the specific contract made against the trustees or board of education consenting to such employment as individuals.

§ 3018. Revocation of certificate by district superintendent. A district superintendent shall examine any charge affecting the moral character of any teacher within his district, first giving such teacher reasonable notice of the charge, and an opportunity to defend himself therefrom; and if he find the charge sustained, he shall annul the teacher's certificate, by whomsoever granted, and declare him unfit to teach; and if the teacher holds a certificate of the commissioner of education or of a former superintendent of public instruction or a diploma of a state college for teachers or state teachers college, he shall notify the commissioner of education forthwith of such annulment and declaration.

§ 3019. Penalty for teacher's failure to complete contract. Any failure on the part of a teacher to complete an agreement to teach a term of school without good reason therefor shall be deemed sufficient ground for the revocation of the teacher's certificate.

§ 3019-a. Notice of termination of service by teachers. A teacher who desires to terminate his services to a school district at any time, shall file a written notice thereof with the school authorities of such

school district or with the board of cooperative educational services or county vocational education and extension board at least thirty days prior to the date of such termination of services. School authorities or such boards which desire to terminate the services of a teacher during the probationary period shall give a written notice thereof to such teacher at least thirty days prior to the effective date of such termination of services.

§ 3020. Discipline of teachers. 1. No person enjoying the benefits of tenure shall be disciplined or removed during a term of employment except for just cause and in accordance with the procedures specified in section three thousand twenty-a of this article or in accordance with alternate disciplinary procedures contained in a collective bargaining agreement covering such person's terms and conditions of employment that was effective on or before September first, nineteen hundred ninety-four and has been unaltered by renegotiation, or in accordance with alternative disciplinary procedures contained in a collective bargaining agreement covering such person's terms and conditions of employment that becomes effective on or after September first, nineteen hundred ninety-four; provided, however, that any such alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after September first, nineteen hundred ninety-four, must provide for the written election by the employee of either the procedures specified in such section three thousand twenty-a or the alternative disciplinary procedures contained in the collective bargaining agreement and must result in a disposition of the disciplinary charge within the amount of time allowed therefor under such section three thousand twenty-a.

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

3. Notwithstanding any inconsistent provision of law, the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this

chapter may be modified or replaced by agreements negotiated between the city school district of the city of New York and any employee organization representing employees or titles that are or were covered by any memorandum of agreement executed by such city school district and the council of supervisors and administrators of the city of New York on or after December first, nineteen hundred ninety-nine. Where such procedures are so modified or replaced: (i) compliance with such modification or replacement procedures shall satisfy any provision in this chapter that requires compliance with section three thousand twenty-a of this article, (ii) any employee against whom charges have been preferred prior to the effective date of such modification or replacement shall continue to be subject to the provisions of such section as in effect on the date such charges were preferred, (iii) the provisions of subdivisions one and two of this section shall not apply to agreements negotiated pursuant to this subdivision, and (iv) in accordance with paragraph (e) of subdivision one of section two hundred nine-a of the civil service law, such modification or replacement procedures contained in an agreement negotiated pursuant to this subdivision shall continue as terms of such agreement after its expiration until a new agreement is negotiated. Notwithstanding any inconsistent provision of law, the commissioner shall review any appeals authorized by such modification or replacement procedures within fifteen days from receipt by such commissioner of the record of prior proceedings in the matter subject to appeal. Such review shall have preference over all other appeals or proceedings pending before such commissioner.

4. a. Notwithstanding any inconsistent provision of law, the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this chapter may be modified by agreements negotiated between the city school district of the city of New York and any employee organization representing employees or titles that are or were covered by any memorandum of agreement executed by such city school district and the united federation of teachers on or after June tenth, two thousand two. Where such procedures are so modified: (i) compliance with such modified procedures shall satisfy any provision of this chapter that requires

compliance with section three thousand twenty-a of this article; (ii) any employee against whom charges have been preferred prior to the effective date of such modification shall continue to be subject to the provisions of such section as in effect on the date such charges were preferred; (iii) the provisions of subdivisions one and two of this section shall not apply to agreements negotiated pursuant to this subdivision, except that no person enjoying the benefits of tenure shall be disciplined or removed during a term of employment except for just cause; and (iv) in accordance with paragraph (e) of subdivision one of section two hundred nine-a of the civil service law, such modified procedures contained in an agreement negotiated pursuant to this subdivision shall continue as terms of such agreement after its expiration until a new agreement is negotiated.

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

§ 3020-a. Disciplinary procedures and penalties. 1. Filing of charges. All charges against a person enjoying the benefits of tenure as provided in subdivision three of section eleven hundred two, and sections twenty-five hundred nine, twenty-five hundred seventy-three, twenty-five hundred ninety-j, three thousand twelve and three thousand fourteen of this chapter shall be in writing and filed with the clerk or secretary of the school district or employing board during the period between the actual opening and closing of the school year for which the employed is normally required to serve. Except as provided in subdivision eight of section twenty-five hundred seventy-three and subdivision seven of section twenty-five hundred ninety-j of this chapter, no charges under this section shall be brought more than three years after the occurrence of the alleged incompetency or misconduct, except when the charge is of misconduct constituting a crime when committed.

2. Disposition of charges. a. Upon receipt of the charges, the clerk

or secretary of the school district or employing board shall immediately notify said board thereof. Within five days after receipt of charges, the employing board, in executive session, shall determine, by a vote of a majority of all the members of such board, whether probable cause exists to bring a disciplinary proceeding against an employee pursuant to this section. If such determination is affirmative, a written statement specifying (i) the charges in detail, (ii) the maximum penalty which will be imposed by the board if the employee does not request a hearing or that will be sought by the board if the employee is found guilty of the charges after a hearing and (iii) the employee's rights under this section, shall be immediately forwarded to the accused employee by certified or registered mail, return receipt requested or by personal delivery to the employee.

b. The employee may be suspended pending a hearing on the charges and the final determination thereof. The suspension shall be with pay, except the employee may be suspended without pay if the employee has entered a guilty plea to or has been convicted of a felony crime concerning the criminal sale or possession of a controlled substance, a precursor of a controlled substance, or drug paraphernalia as defined in article two hundred twenty or two hundred twenty-one of the penal law; or a felony crime involving the physical abuse of a minor or student.

c. Where charges of misconduct constituting physical or sexual abuse of a student are brought on or after July first, two thousand fifteen, the board of education may suspend the employee without pay pending an expedited hearing pursuant to subparagraph (i-a) of paragraph c of subdivision three of this section. Notwithstanding any other law, rule, or regulation to the contrary, the commissioner shall establish a process in regulations for a probable cause hearing before an impartial hearing officer within ten days to determine whether the decision to suspend an employee without pay pursuant to this paragraph should be continued or reversed. The process for selection of an impartial hearing officer shall be as similar as possible to the regulatory framework for the appointment of an impartial hearing officer for due process complaints pursuant to section forty-four hundred four of this chapter. The hearing officer shall determine whether probable cause supports the

charges and shall reverse the decision of the board of education to suspend the employee without pay and reinstate such pay upon a finding that probable cause does not support the charges. The hearing officer may also reinstate pay upon a written determination that a suspension without pay is grossly disproportionate in light of all surrounding circumstances. Provided, further, that such an employee shall be eligible to receive reimbursement for withheld pay and accrued interest at a rate of six percent compounded annually if the hearing officer finds in his or her favor, either at the probable cause hearing or in a final determination pursuant to the expedited hearing held pursuant to subparagraph (i-a) of paragraph c of subdivision three of this section. Any suspension without pay shall last no longer than one hundred and twenty days from the decision of the board of education to suspend the employee without pay and such suspension shall only relate to employee compensation, exclusive of other benefits and guarantees. Notwithstanding any other provision of law or regulation to the contrary, any provision of a collective bargaining agreement entered into by the city of New York as of April first, two thousand fifteen, that provides for suspension without pay for offenses as specified in this paragraph shall supersede the provisions hereof and shall continue in effect without modification and may be extended.

d. The employee shall be terminated without a hearing, as provided for in this section, upon conviction of a sex offense, as defined in subparagraph two of paragraph b of subdivision seven-a of section three hundred five of this chapter. To the extent this section applies to an employee acting as a school administrator or supervisor, as defined in subparagraph three of paragraph b of subdivision seven-b of section three hundred five of this chapter, such employee shall be terminated without a hearing, as provided for in this section, upon conviction of a felony offense defined in subparagraph two of paragraph b of subdivision seven-b of section three hundred five of this chapter.

e. (i) For hearings commenced by the filing of charges prior to July first, two thousand fifteen, within ten days of receipt of the statement of charges, the employee shall notify the clerk or secretary of the employing board in writing whether he or she desires a hearing on the

charges and when the charges concern pedagogical incompetence or issues involving pedagogical judgment, his or her choice of either a single hearing officer or a three member panel, provided that a three member panel shall not be available where the charges concern pedagogical incompetence based solely upon a teacher's or principal's pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article. All other charges shall be heard by a single hearing officer.

(ii) All hearings commenced by the filing of charges on or after July first, two thousand fifteen shall be heard by a single hearing officer.

f. The unexcused failure of the employee to notify the clerk or secretary of his or her desire for a hearing within ten days of the receipt of charges shall be deemed a waiver of the right to a hearing. Where an employee requests a hearing in the manner provided for by this section, the clerk or secretary of the board shall, within three working days of receipt of the employee's notice or request for a hearing, notify the commissioner of the need for a hearing. If the employee waives his or her right to a hearing the employing board shall proceed, within fifteen days, by a vote of a majority of all members of such board, to determine the case and fix the penalty, if any, to be imposed in accordance with subdivision four of this section.

3. Hearings. a. Notice of hearing. Upon receipt of a request for a hearing in accordance with subdivision two of this section, the commissioner shall forthwith notify the American Arbitration Association (hereinafter "association") of the need for a hearing and shall request the association to provide to the commissioner forthwith a list of names of persons chosen by the association from the association's panel of labor arbitrators to potentially serve as hearing officers together with relevant biographical information on each arbitrator. Upon receipt of said list and biographical information, the commissioner shall forthwith send a copy of both simultaneously to the employing board and the employee. The commissioner shall also simultaneously notify both the employing board and the employee of each potential hearing officer's record in the last five cases of commencing and completing hearings within the time periods prescribed in this section.

b. (i) Hearing officers. All hearings pursuant to this section shall be conducted before and by a single hearing officer selected as provided for in this section. A hearing officer shall not be eligible to serve in such position if he or she is a resident of the school district, other than the city of New York, under the jurisdiction of the employing board, an employee, agent or representative of the employing board or of any labor organization representing employees of such employing board, has served as such agent or representative within two years of the date of the scheduled hearing, or if he or she is then serving as a mediator or fact finder in the same school district.

(A) Notwithstanding any other provision of law, for hearings commenced by the filing of charges prior to April first, two thousand twelve, the hearing officer shall be compensated by the department with the customary fee paid for service as an arbitrator under the auspices of the association for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties. All other expenses of the disciplinary proceedings commenced by the filing of charges prior to April first, two thousand twelve shall be paid in accordance with rules promulgated by the commissioner. Claims for such compensation for days of actual service and reimbursement for necessary travel and other expenses for hearings commenced by the filing of charges prior to April first, two thousand twelve shall be paid from an appropriation for such purpose in the order in which they have been approved by the commissioner for payment, provided payment shall first be made for any other hearing costs payable by the commissioner, including the costs of transcribing the record, and provided further that no such claim shall be set aside for insufficiency of funds to make a complete payment, but shall be eligible for a partial payment in one year and shall retain its priority date status for appropriations designated for such purpose in future years.

(B) Notwithstanding any other provision of law, rule or regulation to the contrary, for hearings commenced by the filing of charges on or after April first, two thousand twelve, the hearing officer shall be compensated by the department for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties, provided that the commissioner shall

establish a schedule for maximum rates of compensation of hearing officers based on customary and reasonable fees for service as an arbitrator and provide for limitations on the number of study hours that may be claimed.

(ii) The commissioner shall mail to the employing board and the employee the list of potential hearing officers and biographies provided to the commissioner by the association, the employing board and the employee, individually or through their agents or representatives, shall by mutual agreement select a hearing officer from said list to conduct the hearing and shall notify the commissioner of their selection.

(iii) Within fifteen days after receiving the list of potential hearing officers as described in subparagraph (ii) of this paragraph, the employing board and the employee shall each notify the commissioner of their agreed upon hearing officer selection. If the employing board and the employee fail to agree on an arbitrator to serve as a hearing officer from the list of potential hearing officers, or fail to notify the commissioner of a selection within such fifteen day time period, the commissioner shall appoint a hearing officer from the list. The provisions of this subparagraph shall not apply in cities with a population of one million or more with alternative procedures specified in section three thousand twenty of this article.

(iv) In those cases commenced by the filing of charges prior to July first, two thousand fifteen in which the employee elects to have the charges heard by a hearing panel, the hearing panel shall consist of the hearing officer, selected in accordance with this subdivision, and two additional persons, one selected by the employee and one selected by the employing board, from a list maintained for such purpose by the commissioner. The list shall be composed of professional personnel with administrative or supervisory responsibility, professional personnel without administrative or supervisory responsibility, chief school administrators, members of employing boards and others selected from lists of nominees submitted to the commissioner by statewide organizations representing teachers, school administrators and supervisors and the employing boards. Hearing panel members other than the hearing officer shall be compensated by the department at the rate of one hundred dollars for each day of actual service plus necessary travel and subsistence expenses. The hearing officer shall be

compensated as set forth in this subdivision. The hearing officer shall be the chairperson of the hearing panel.

c. Hearing procedures. (i) (A) The commissioner shall have the power to establish necessary rules and procedures for the conduct of hearings under this section.

(B) The department shall be authorized to monitor and investigate a hearing officer's compliance with statutory timelines pursuant to this section. The commissioner shall annually inform all hearing officers who have heard cases pursuant to this section during the preceding year that the time periods prescribed in this section for conducting such hearings are to be strictly followed. A record of continued failure to commence and complete hearings within the time periods prescribed in this section shall be considered grounds for the commissioner to exclude such individual from the list of potential hearing officers sent to the employing board and the employee for such hearings.

(C) Such rules shall not require compliance with technical rules of evidence. Hearings shall be conducted by the hearing officer selected pursuant to paragraph b of this subdivision with full and fair disclosure of the nature of the case and evidence against the employee by the employing board and shall be public or private at the discretion of the employee and provided further that the hearing officer, at the pre-hearing conference, shall set a schedule and manner for full and fair disclosure of the witnesses and evidence to be offered by the employee. The employee shall have a reasonable opportunity to defend himself or herself and an opportunity to testify in his or her own behalf. The employee shall not be required to testify. Each party shall have the right to be represented by counsel, to subpoena witnesses, and to cross-examine witnesses. All testimony taken shall be under oath which the hearing officer is hereby authorized to administer. A child witness under the age of fourteen may be permitted to testify through the use of live, two-way closed-circuit television, as such term is defined in subdivision four of section 65.00 of the criminal procedure law, when the hearing officer, after providing the employee with an opportunity to be heard, determines by clear and convincing evidence that such child witness would suffer serious mental or emotional harm which would substantially impair such child's ability to communicate if

required to testify at the hearing without the use of live, two-way closed-circuit television and that the use of such live, two-way closed-circuit television will diminish the likelihood or extent of such harm. In making such determination, the hearing officer shall consider any applicable factors contained in subdivision ten of section 65.20 of the criminal procedure law. Where the hearing officer determines that such child witness will be permitted to testify through the use of live, two-way closed-circuit television, the testimony of such child witness shall be taken in a manner consistent with section 65.30 of the criminal procedure law.

(D) An accurate record of the proceedings shall be kept at the expense of the department at each such hearing in accordance with the regulations of the commissioner. A copy of the record of the hearings shall, upon request, be furnished without charge to the employee and the board of education involved. The department shall be authorized to utilize any new technology or such other appropriate means to transcribe or record such hearings in an accurate, reliable, efficient and cost-effective manner without any charge to the employee or board of education involved.

(i-a)(A) Where charges of misconduct constituting physical or sexual abuse of a student are brought, the hearing shall be conducted before and by a single hearing officer in an expedited hearing, which shall commence within seven days after the pre-hearing conference and shall be completed within sixty days after the pre-hearing conference. The hearing officer shall establish a hearing schedule at the pre-hearing conference to ensure that the expedited hearing is completed within the required timeframes and to ensure an equitable distribution of days between the employing board and the charged employee. Notwithstanding any other law, rule or regulation to the contrary, no adjournments may be granted that would extend the hearing beyond such sixty days, except as authorized in this subparagraph. A hearing officer, upon request, may grant a limited and time specific adjournment that would extend the hearing beyond such sixty days if the hearing officer determines that the delay is attributable to a circumstance or occurrence substantially beyond the control of the requesting party and an injustice would result if the adjournment were not granted.

(B) The commissioner shall annually inform all hearing officers who

have heard cases pursuant to this section during the preceding year that the time periods prescribed in this subparagraph for conducting expedited hearings are to be strictly followed and failure to do so shall be considered grounds for the commissioner to exclude such individual from the list of potential hearing officers sent to the employing board and the employee for such expedited hearings.

(ii) The hearing officer selected to conduct a hearing under this section shall, within ten to fifteen days of agreeing to serve in such position, hold a pre-hearing conference which shall be held in the school district or county seat of the county, or any county, wherein the employing school board is located. The pre-hearing conference shall be limited in length to one day except that the hearing officer, in his or her discretion, may allow one additional day for good cause shown.

(iii) At the pre-hearing conference the hearing officer shall have the power to:

(A) issue subpoenas;

(B) hear and decide all motions, including but not limited to motions to dismiss the charges;

(C) hear and decide all applications for bills of particular or requests for production of materials or information, including, but not limited to, any witness statement (or statements), investigatory statement (or statements) or note (notes), exculpatory evidence or any other evidence, including district or student records, relevant and material to the employee's defense.

(iv) Any pre-hearing motion or application relative to the sufficiency of the charges, application or amendment thereof, or any preliminary matters shall be made upon written notice to the hearing officer and the adverse party no less than five days prior to the date of the pre-hearing conference. Any pre-hearing motions or applications not made as provided for herein shall be deemed waived except for good cause as determined by the hearing officer.

(v) In the event that at the pre-hearing conference the employing board presents evidence that the professional license of the employee has been revoked and all judicial and administrative remedies have been exhausted or foreclosed, the hearing officer shall schedule the date, time and place for an expedited hearing, which hearing shall commence not more than seven days after the pre-hearing conference and which

shall be limited to one day. The expedited hearing shall be held in the local school district or county seat of the county or any county, wherein the said employing board is located. The expedited hearing shall not be postponed except upon the request of a party and then only for good cause as determined by the hearing officer. At such hearing, each party shall have equal time in which to present its case.

(vi) During the pre-hearing conference, the hearing officer shall determine the reasonable amount of time necessary for a final hearing on the charge or charges and shall schedule the location, time(s) and date(s) for the final hearing. The final hearing shall be held in the local school district or county seat of the county, or any county, wherein the said employing school board is located. In the event that the hearing officer determines that the nature of the case requires the final hearing to last more than one day, the days that are scheduled for the final hearing shall be consecutive. The day or days scheduled for the final hearing shall not be postponed except upon the request of a party and then only for good cause shown as determined by the hearing officer. In all cases, the final hearing shall be completed no later than sixty days after the pre-hearing conference unless the hearing officer determines that extraordinary circumstances warrant a limited extension.

(vii) All evidence shall be submitted by all parties within one hundred twenty-five days of the filing of charges and no additional evidence shall be accepted after such time, absent extraordinary circumstances beyond the control of the parties.

d. Limitation on claims. Notwithstanding any other provision of law, rule or regulation to the contrary, no payments shall be made by the department pursuant to this subdivision on or after April first, two thousand twelve for: (i) compensation of a hearing officer or hearing panel member, (ii) reimbursement of such hearing officers or panel members for necessary travel or other expenses incurred by them, or (iii) for other hearing expenses on a claim submitted later than one year after the final disposition of the hearing by any means, including settlement, or within ninety days after the effective date of this paragraph, whichever is later; provided that no payment shall be barred or reduced where such payment is required as a result of a court order

or judgment or a final audit.

4. Post hearing procedures. a. The hearing officer shall render a written decision within thirty days of the last day of the final hearing, or in the case of an expedited hearing within ten days of such expedited hearing, and shall forward a copy thereof to the commissioner who shall immediately forward copies of the decision to the employee and to the clerk or secretary of the employing board. The written decision shall include the hearing officer's findings of fact on each charge, his or her conclusions with regard to each charge based on said findings and shall state what penalty or other action, if any, shall be taken by the employing board. At the request of the employee, in determining what, if any, penalty or other action shall be imposed, the hearing officer may consider the extent to which the employing board made efforts towards correcting the behavior of the employee which resulted in charges being brought under this section through means including but not limited to: remediation, peer intervention or an employee assistance plan. In those cases where a penalty is imposed, such penalty may be a written reprimand, a fine, suspension for a fixed time without pay, or dismissal. In addition to or in lieu of the aforementioned penalties, the hearing officer, where he or she deems appropriate, may impose upon the employee remedial action including but not limited to leaves of absence with or without pay, continuing education and/or study, a requirement that the employee seek counseling or medical treatment or that the employee engage in any other remedial or combination of remedial actions. Provided, however, that the hearing officer, in exercising his or her discretion, shall give serious consideration to the penalty recommended by the employing board, and if the hearing officer rejects the recommended penalty such rejection must be based on reasons based upon the record as expressed in a written determination.

b. Within fifteen days of receipt of the hearing officer's decision the employing board shall implement the decision. If the employee is acquitted he or she shall be restored to his or her position with full pay for any period of suspension without pay and the charges expunged from the employment record. If an employee who was convicted of a felony crime specified in paragraph b of subdivision two of this section, has

said conviction reversed, the employee, upon application, shall be entitled to have his or her pay and other emoluments restored, for the period from the date of his or her suspension to the date of the decision.

c. The hearing officer shall indicate in the decision whether any of the charges brought by the employing board were frivolous as defined in section eighty-three hundred three-a of the civil practice law and rules. If the hearing officer finds that all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the department the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges. If the hearing officer finds that some but not all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the department a portion, in the discretion of the hearing officer, of the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee a portion, in the discretion of the hearing officer, of the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges.

5. Appeal. a. Not later than ten days after receipt of the hearing officer's decision, the employee or the employing board may make an application to the New York state supreme court to vacate or modify the decision of the hearing officer pursuant to section seventy-five hundred eleven of the civil practice law and rules. The court's review shall be limited to the grounds set forth in such section. The hearing panel's determination shall be deemed to be final for the purpose of such proceeding.

b. In no case shall the filing or the pendency of an appeal delay the implementation of the decision of the hearing officer.

§ 3021. Removal of superintendents, teachers and employees for

treasonable or seditious acts or utterances. A person employed as superintendent of schools, teacher or employee in the public schools, in any city or school district of the state, shall be removed from such position for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts while holding such position.

§ 3021-a. Notification of accusatory instrument alleging a sex offense. 1. For purposes of this section:

(a) The term "employee" means any person receiving compensation from a school district, charter school, board of cooperation educational services, private elementary or secondary school, special education schools, or employee of a contracted service provider or worker placed within the school under a public assistance employment program pursuant to title nine-B of article five of the social services law, and consistent with the provisions of such title for the provision of services to such district or school, its students or employees, directly or through contract, whereby such services performed by such person involved direct student contact.

(b) The term "sex offense" means an offense for which registration as a sex offender is required pursuant to article six-C of the correction law.

2. When an accusatory instrument has been filed alleging the commission of a sex offense by a person known to be an employee of a school district, charter school, board of cooperative educational services, private elementary or secondary school, or special education schools, it is the responsibility of the district attorney to immediately notify the superintendent of schools or school administrator that employs such employee of the accusatory instrument and the sex offense or offenses alleged therein.

3. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee contained within section three thousand twenty-a of this article, or section seventy-five of the civil service law, or under any collective bargaining agreement or employment

contract.

§ 3022. Elimination of subversive persons from the public school system. 1. The board of regents shall adopt, promulgate, and enforce rules and regulations for the disqualification or removal of superintendents of schools, teachers or employees in the public schools in any city or school district of the state and the faculty members and all other personnel and employees of any college or other institution of higher education owned and operated by the state or any subdivision thereof who violate the provisions of section three thousand twenty-one of this article or who are ineligible for appointment to or retention in any office or position in such public schools or such institutions of higher education on any of the grounds set forth in section twelve-a of the civil service law and shall provide therein appropriate methods and procedure for the enforcement of such sections of this article and the civil service law.

2. The board of regents shall, after inquiry, and after such notice and hearing as may be appropriate, make a listing of organizations which it finds to be subversive in that they advocate, advise, teach or embrace the doctrine that the government of the United States or of any state or of any political subdivision thereof shall be overthrown or overturned by force, violence or any unlawful means, or that they advocate, advise, teach or embrace the duty, necessity or propriety of adopting any such doctrine, as set forth in section twelve-a of the civil service law. Such listings may be amended and revised from time to time. The board, in making such inquiry, may utilize any similar listings or designations promulgated by any federal agency or authority authorized by federal law, regulation or executive order, and for the purposes of such inquiry, the board may request and receive from such federal agencies or authorities any supporting material or evidence that may be made available to it. The board of regents shall provide in the rules and regulations required by subdivision one hereof that membership in any such organization included in such listing made by it shall constitute prima facie evidence of disqualification for appointment to or retention in any office or position in the public schools of the

state.

3. The board of regents shall annually, on or before the fifteenth day of February, by separate report, render to the legislature, a full statement of measures taken by it for the enforcement of such provisions of law and to require compliance therewith. Such reports shall contain a description of surveys made by the board of regents, from time to time, as may be appropriate, to ascertain the extent to which such provisions of law have been enforced in the city and school districts of the state.

§ 3023. Liability of a board of education, trustee, trustees or board of cooperative educational services. Notwithstanding any inconsistent provision of law, general, special or local, or the limitation contained in the provisions of any city charter, it shall be the duty of each board of education, trustee or trustees, in any school district having a population of less than one million, and each board of cooperative educational services established pursuant to section nineteen hundred fifty of this chapter, to save harmless and protect all teachers, practice or cadet teachers, authorized participants in a school volunteer program, and members of supervisory and administrative staff or employees from financial loss arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental bodily injury to any person, or accidental damage to the property of any person within or without the school building, provided such teacher, practice or cadet teacher, authorized participant in a school volunteer program, or member of the supervisory or administrative staff or employee at the time of the accident or injury was acting in the discharge of his duties within the scope of his employment or authorized volunteer duties and/or under the direction of said board of education, trustee, trustees or board of cooperative educational services; and said board of education, trustee, trustees or board of cooperative educational services may arrange for and maintain appropriate insurance with any insurance company created by or under the laws of this state, or in any insurance company authorized by law to transact business in this state, or such board, trustee, trustees or board of cooperative educational services may elect to act as

self-insurers to maintain the aforesaid protection. A board of education, trustee, board of trustees, or board of cooperative educational services, however, shall not be subject to the duty imposed by this section, unless such teacher, practice or cadet teacher, authorized participant in a school volunteer program, or member of the supervisory and administrative staff or employee shall, within ten days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy of the same to such board of education, trustee, board of trustes, or board of cooperative educational services.

§ 3024. Teachers responsible for record books. School lists and accounts of attendance shall be kept and prepared and entries shall be made in regards thereto, in such manner, as shall be prescribed by the commissioner of education by regulation or otherwise.

§ 3025. Verification of school register. 1. Each teacher, or other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall, by his oath or affirmation verify any information submitted by such person to the school district for the purposes of use as or in the preparation of school registers in such manner as may be prescribed by the commissioner of education under section three thousand twenty-four of this chapter, and such school records shall constitute the source from which the average daily attendance shall be determined. Such oath or affirmation may be taken by the district clerk or trustee, but without charge.

2. A teacher or other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter shall not be entitled to his salary for the last month of a term until he shall have made such verification and submitted such information as is required by subdivision one of this section, and the trustees shall not draw on the county treasurer, or collector or treasurer of the district, for any portion of his salary for such month

until such verification shall have been made.

§ 3026. Discriminations based on sex prohibited. There shall be no discrimination in the determination of the amount to be paid or the payments to be made to persons employed as teachers in the public schools in any city, union free or common school district in this state, based on sex. All contracts hereafter made for the employment of public school teachers and all schedules of salaries and salary increments adopted by boards of education, as provided in this chapter, shall not discriminate between the salaries and salary increments of public school teachers to be paid under such contracts and schedules because of the sex of said public school teachers, notwithstanding the provisions of any general or special law inconsistent herewith.

§ 3027. Discrimination based on age prohibited. Notwithstanding any provision of law to the contrary, no board of education in any city, union free, common or central school district in this state shall hereafter prohibit, prevent, disqualify or discriminate against any person who is physically and mentally qualified from competing, participating, or registering for an examination for or from qualifying for, a position as teacher, or be penalized in a final rating by reason of his or her age. Any such rule, requirement, resolution, regulation or penalization of such board shall be void.

Nothing herein contained, however, shall prevent such board from adopting reasonable minimum or maximum age requirements for positions which require extraordinary physical effort, except where age limits for such positions are already prescribed by law.

§ 3028. Liability of school district for cost and attorney's fees of action against, or prosecutions of, teachers, members of supervisory and administrative staff or employees, and school volunteers. Notwithstanding any inconsistent provision of any general, special or local law, or the limitations contained in the provisions of any city

charter, each board of education, trustee or trustees in the state shall provide an attorney or attorneys for, and pay such attorney's fees and expenses necessarily incurred in the defense of a teacher, member of a supervisory or administrative staff or employee, or authorized participant in a school volunteer program in any civil or ciminal action or proceeding arising out of disciplinary action taken against any pupil of the district while in the discharge of his duties within the scope of his employment or authorized volunteer duties. For such purposes the board of education, trustee or trustees may arrange for and maintain appropriate insurance with any insurance company created by or under the laws of this state, or in any insurance company authorized by law to transact business in this state, or such board, trustee or trustees may elect to act as self-insurers to maintain the aforesaid protection. A board of education, trustee or board of trustees, however, shall not be subject to the duty imposed by this section, unless such teacher, or member of the supervisory and administrative staff or employee or authorized participant in a school volunteer program shall, within ten days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy of the same to such board of education, trustee or board of trustees.

§ 3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction. Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

§ 3028-b. Notification of teachers' duty to provide information and immunity from liability. Each school shall annually provide to each teacher and all other school officials a written explanation concerning the reporting of pupil drug abuse, child abuse, and child abuse in an educational setting including the immunity provisions of section three thousand twenty-eight-a of this article and section eleven hundred twenty-six of this chapter and sections four hundred thirteen and four hundred nineteen of the social services law. The commissioner, with the assistance and cooperation of the commissioner of children and family services and the commissioner of criminal justice services, shall furnish each school district with the required information. Such information shall be updated by the commissioner at least once each school year.

§ 3028-c. Protection of school employees who report acts of violence and weapons possession. Any school employee having reasonable cause to suspect that a person has committed an act of violence while in or on school property, or having reasonable cause to suspect that a person has committed an act of violence upon a student, school employee or volunteer either upon school grounds or elsewhere, or having reasonable cause to suspect that a person has brought a gun, knife, bomb or other instrument capable of or that appears capable of causing death or physical injury upon school grounds who in good faith reports such information to school officials, to the commissioner, or to law enforcement authorities, shall have immunity from any civil liability that may arise from the making of such report, and no school district or school district employee shall take, request or cause a retaliatory action against any such employee who makes such report.

§ 3028-d. Protection of school employees who report information regarding illegal or inappropriate financial practices. Any employee of a school district, board of cooperative educational services, or charter school having reasonable cause to suspect that the fiscal practices or actions of an employee or officer of a school district, charter school, or board of cooperative educational services, violate any local, state,

federal law or rule and regulation, relating to the financial practices of such entity and who in good faith reports such information to an official of such school district, board of cooperative educational services or charter school, or to the office of the state comptroller, the commissioner or to law enforcement authorities, shall have immunity from any civil liability that may arise from the making of such report, and no school district, or employee or officer thereof, charter school, or employee or officer thereof, or board of cooperative educational services, or employee or officer thereof, shall take, request, or cause a retaliatory action against any such employee who makes such report.

§ 3029. Hours of continuous duty for full time teachers. Except in a city having a population of one million or more persons the school authorities of any school district employing two or more teachers shall fix the hours of duty for full time teachers so that no teacher shall be assigned continuous duty for a length of time in excess of five hours. When the daily total hours of duty exceed five, duties must be assigned so as to provide a period of at least thirty minutes in length which shall be free from assigned duties and which shall be scheduled so far as practical during the hours normally allotted for pupils' lunch periods.

§ 3029-a. Silent meditation in public schools. 1. In each public school classroom, the teacher in charge may, or if so authorized or directed by the board of education by which he is employed, shall, at the opening of school upon every school day, conduct a brief period of silent meditation with the participation of all the pupils therein assembled.

2. The silent meditation authorized by subsection one of this act is not intended to be, and shall not be conducted as, a religious service or exercise, but may be considered as an opportunity for silent meditation on a religious theme by those who are so disposed, or a moment of silent reflection on the anticipated activities of the day. As used in subdivision one of this section the term "participation"

shall be construed to permit seated participation and not to require any pupil to stand.

§ 3030. Interstate agreement on qualifications of educational personnel. 1. The interstate agreement on qualifications of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE AGREEMENT ON QUALIFICATIONS OF EDUCATIONAL PERSONNEL

Article I

Purpose, Findings, and Policy

1. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this

compact can increase the availability of educational manpower.

Article II
Definitions

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the educational official of a state selected by that state to negotiate and enter into, on behalf of this state, contracts pursuant to this agreement.

3. "Accept", or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the district of Columbia; or the commonwealth of Puerto Rico.

5. "Originating state" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to article III.

6. "Receiving state" means a state (and the subdivisions thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to article III.

Article III
Interstate Educational Personnel Contracts

1. The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states

providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January first, nineteen hundred fifty-four.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or

suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV
Approved and Accepted Programs

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party State relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that State.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V
Interstate Cooperation

The party States agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI
Agreement Evaluation

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

Article VII
Other Arrangements

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII
Effect and Withdrawal

1. This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

2. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX
Construction and Severability

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this

agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

2. For the purposes of the agreement set forth in subdivision one of this section, the "designated state official" for this state shall be the commissioner of education.

3. Two copies of all contracts made on behalf of this state pursuant to the agreement set forth in subdivision one of this section shall be kept on file in the office of the commissioner of education. The department shall publish all such contracts in convenient form.

§ 3031. Procedure when tenure not to be granted at conclusion of probationary period or when services to be discontinued. Notwithstanding any other provision of this chapter: (a) boards of education, trustees of common school districts and boards of cooperative educational services shall review all recommendations not to appoint a person on tenure, and, teachers, administrators and supervisors employed on probation by any school district or by any board of cooperative educational services, as to whom a recommendation is to be made that appointment on tenure not be granted or that their services be discontinued shall, at least thirty days prior to the board meeting at which such recommendation is to be considered, be notified of such intended recommendation and the date of the board meeting at which it is to be considered. Such teacher, administrator and supervisor may, not later than twenty-one days prior to such meeting, request in writing that he be furnished with a written statement giving the reasons for such recommendation and within seven days thereafter such written statement shall be furnished. Such teacher, administrator and supervisor may file a written response to such statement with the district clerk not later than seven days prior to the date of the board meeting.

(b) Where a board of education, trustees of a common school district, or board of cooperative educational services votes to reject the recommendation of a superintendent of schools, district superintendent or district principal to grant tenure to any teacher, administrator and

supervisor employed on probation, such vote shall be considered advisory and at least thirty days prior to the board meeting at which such recommendation is to be finally considered, the board shall notify said teacher, administrator and supervisor of its intention to deny tenure and the date of the board meeting at which it will take final action. Such teacher, administrator and supervisor may, not later than twenty-one days prior to such meeting, request in writing that he be furnished with a written statement giving the board's reasons for such intended action and within seven days thereafter such written statement should be furnished. Such teacher, administrator and supervisor may file a written response to such statement with the district clerk not later than seven days prior to the date of the board meeting.

(c) This section shall not be construed as modifying existing law with respect to the rights of probationary teachers or the powers and duties of boards of education, trustees of common school districts or boards of cooperative educational services, with respect to the discontinuance of services of teachers, administrators and supervisors or appointments on tenure of teachers, administrators and supervisors.

§ 3032. Teacher summer business training and employment program; and employer specific skill training grant program. 1. Definitions. (a) "Regions" for the purposes of this section means regions as established by the commissioner pursuant to the provisions of the vocational education act.

(b) "Local education agencies" for the purposes of this section means school districts, boards of cooperative educational services, community colleges, agricultural and technical colleges, state university of New York college of technology and centers for advanced technology designated pursuant to section three thousand one hundred two-a of the public authorities law, and other postsecondary providers of career education as set forth annually by the commissioner as eligible recipients under the federal vocational education act of nineteen hundred eighty-four.

(c) "Total employment cost" means salary or wages paid directly to each teacher participating and associated fringe benefits which accrue to each teacher in the teacher summer business training and employment

program.

2. Allocations. The commissioner shall allocate the lesser of forty thousand dollars or one percent of the total appropriation for the purposes of this section to each region for administering and conducting employer specific skill training and employment programs and the remainder of such appropriation shall be allocated to each region for the administration and support of teacher summer business training and employment programs based on the proportion of the base year full time teachers in the public schools of all school districts and boards of cooperative educational services within the region to the total of such teachers in the state, provided however, that each region shall receive at least five percent of the allocation for such purposes and provided further that the cost due to such five percent allowance shall be proportionally borne by the regions not so affected. Use of funds for administration of the summer business training and employment programs shall not exceed six percent of the allocation to a region.

3. Teacher summer business training and employment program. (a) In any case in which a business or industry within the state shall employ during the months of July and August a teacher of mathematics, chemistry, biology, earth science, physics, computer science, career education or an elementary specialist in the area of mathematics or science or commencing July first, nineteen hundred eighty-five, a teacher of other subject areas as the commissioner may deem appropriate, the state will assist employers with costs associated with approved work experience for such teachers. Such business or industry shall request that the chief administrative officer of the school district or board of cooperative educational services employing such teacher during the same school year as such business or industry employment occurs, certify to the commissioner that the summer work experience involved will directly benefit the individual's effectiveness as a teacher of mathematics, chemistry, biology, earth science, physics, computer science, career education, or other subject areas as the commissioner may deem appropriate. If such chief administrative officer so certifies, then such officer shall also file the request with the local education agency designated by the commissioner for pre-approval for funding under this

program in the applicable region. The commissioner shall not approve any requests for approval that would result in the maximum allocation for the applicable region being exceeded. No approval shall be given except for the lesser of thirty per centum of the total employment cost or one thousand dollars per employed teacher. The remainder of such costs shall be borne by the business employer involved. Participation in this program shall be at the option of each school district or board of cooperative educational services.

(b) Such requests for pre-approval and certifications shall be on a form prescribed by the commissioner. Such form shall include but not be limited to certification of the employer regarding work to be performed by the teacher, wages, hours, and the certification of the chief administrative officer of the school district or board of cooperative educational services as the case may be, as prescribed in this subdivision.

(c) The local education agency designated by the commissioner shall be authorized to submit a claim to the commissioner for an amount of money equal to eighty percent of the anticipated expenditure, based upon the requests for pre-approval and certification received. If the commissioner approves, he shall pay that amount to such local education agency within thirty days of the receipt of such claim.

(d) Upon completion of such employment, the participating business or industry shall certify to the local education agency designated by the commissioner the identity of the employee, the wages actually paid, the hours worked and the period in which such hours were worked and shall assess such local education agency for thirty per centum of such salary and wage not to exceed one thousand dollars per employed teacher. If the commissioner approves, he shall reimburse such local education agency upon receipt of a claim pursuant to this section as provided by law the amount of money equal to the difference between the monies paid to the local education agency pursuant to paragraph (c) of this subdivision and the actual approved expenditure. If the monies paid to the local education agency pursuant to paragraph (c) of this subdivision exceeds the actual approved expenditure, the local education agency shall reimburse that difference to the commissioner.

(e) The commissioner shall monitor implementation of programs, evaluate progress, and require reports. Any funds allocated to a region

but not committed for the purposes of this subdivision by September fifteenth of the current year shall be reallocated by the commissioner for the purposes of subdivision four of this section.

4. Employer specific skill training grant programs. (a) Employer specific skill training grant programs shall be designed to support, supplement and contribute to the expansion and maintenance of the economy of the state. Local education agencies shall apply to the commissioner for grants for conducting employer specific skill training programs. Application for funds by local education agencies for training programs shall be in a manner consistent with the application process for business and industry specific training programs under the vocational education act of 1963 and the job training partnership act; the sum of such grants per region shall not exceed the total funds allocated or reallocated to the region for such purposes. Such programs shall provide retraining and upgrading to existing or potential personnel in order to improve technology, quality control, production efficiency, or to adapt to other changes in the labor market, or to provide unique training programs to meet the emerging needs and occupations of the state's business and industry or providing training to individuals to promote the successful management and/or operation of a worker owned cooperative or an employee stock ownership plan or employee-owned enterprises, as defined in subdivision five of section eighteen hundred thirty-six-b of the public authorities law, by such employees. No grant shall exceed fifty per centum of the total program cost. Eligible program cost may include employer wages paid to the employee for time spent in the training program. Applications for a grant by local education agencies shall be in a form prescribed by the commissioner.

(b) By October first, nineteen hundred eighty-six the department of education, the department of commerce, and the urban development corporation shall enter into cooperative agreements to promote more effective coordination of employer specific training programs with regional economic development strategies and other activities conducted by the department of commerce, the urban development corporation and other state, regional, and local agencies intended to promote economic development. In preparing these agreements the parties to the

cooperative agreements shall solicit comments from the regional economic development councils, regional education center for economic development coordinating committees, technology development councils, private industry councils and other appropriate entities within the regions as identified by the commissioner, the commissioner of commerce, or the chairman of the urban development corporation. Such cooperative agreements shall be reviewed and revised annually.

(c) The commissioner shall monitor implementation of programs, evaluate progress, and require reports as needed.

(d) If any funds allocated to a region are not committed for the purposes of this subdivision by November fifteenth, the commissioner may reallocate some or all of such funds to another region.

5. Additional employer specific skills training grants. The additional appropriation for the purposes of this subdivision for administering and conducting employer specific skills training programs shall be allocated as follows: (a) thirty percent shall be allocated equally among the regions; and (b) seventy percent shall be allocated among the regions based upon the proportion of unemployed persons within the region to the total number of unemployed persons in the state for the most recent calendar year as determined by the state department of labor using the civilian non-instructional population sixteen years of age or older labor series. Not less than twenty percent of the additional allocation to each region pursuant to this paragraph shall be available for training programs which will provide placements for persons who are economically disadvantaged or dislocated workers as defined pursuant to the federal job training partnership act. If any money allocated to a region pursuant to this paragraph is not committed by March first of each year or is committed prior to March first and is subsequently found to be unnecessary for expenditure to meet existing contractual obligations, the commissioner shall reallocate such funds to approved programs including but not limited to those programs which serve economically disadvantaged or dislocated workers in regions eligible pursuant to this paragraph.

6. Annual report. Annually, on or before January first of each year, the commissioner shall report to the governor, the temporary president

of the senate and speaker of the assembly and chairpersons of the appropriate committees on the impact of this program. Such report shall include but not be limited to:

(a) The allocation of funding among the regions pursuant to this section.

(b) The amount of funding that was made available by each region for reallocation pursuant to this section. Such amount shall include separately the amount made available due to the region's inability to encumber available funds and the amount made available due to the overestimation of projected program costs.

(c) The amount of funding that was expended by each region for administrative activities.

(d) The allocation of funding among the regions providing for employer specific skills training grant programs which are administered by the department and funded through other sources including, but not limited to, the federal vocational education act and the federal job training partnership act and the extent to which such funds are combined with the funds appropriated pursuant to this section to provide funding for individual projects.

(e) The participation, completion, and placement rate of individuals enrolled in employer specific skills training grant programs administered by the department and funded pursuant to this section and through other available sources of funding, with particular emphasis on the rates for individuals who are economically disadvantaged or dislocated workers.

(f) A description and evaluation of programs undertaken pursuant to the cooperative agreements required under this section.

7. The commissioner shall adopt rules and regulations to implement the provisions of this section. Rules and regulations governing the employer specific skills training program established pursuant to this section shall be promulgated by the commissioner, assisted by the commissioner of economic development and in consultation with the department of economic development. Such rules and regulations shall be consistent with the program plan required by subdivision nineteen of section one hundred of the economic development law.

§ 3033. New York state mentor teacher-internship program. 1. Boards of education and boards of cooperative educational services are hereby authorized to participate in the New York state mentor teacher-internship program in accordance with the provisions of this section.

2. Each board of education or board of cooperative educational services which applies for funds under this section shall prepare a plan for implementation of a mentor teacher-internship program consistent with article fourteen of the civil service law. The plan shall be developed in accordance with this section and regulations of the commissioner. The board of education or board of cooperative educational services shall submit an application and plan by May first of the current year for approval by the commissioner; provided however for the nineteen hundred ninety-seven--ninety-eight school year, such plan may be submitted by November first, nineteen hundred ninety-seven.

3. Each board of education and board of cooperative educational services which determines to participate in the program shall select persons eligible to serve as mentor teachers from a list of persons who have demonstrated their mastery of pedagogical and subject matter skills, given evidence of superior teaching abilities and interpersonal relationship qualities, and who have indicated their willingness to participate in such program. Such list of persons eligible to serve as mentor teachers shall be developed by a selection committee composed of certified or licensed personnel employed by the school district or the board of cooperative educational services, a majority of whom shall be classroom teachers chosen by the certified or recognized teachers employee organization. The assignment of particular mentor teachers and teacher interns to work together shall be made by the superintendent of the participating district or district superintendent of the participating board of cooperative educational services. Each person designated as a mentor teacher shall continue to provide classroom instruction for at least sixty percent of the time spent in performance of such individual's duties during the school year or such person may so serve on a full-time basis for not more than two school years out of

five consecutive school years, provided that such service as a mentor teacher shall not diminish or impair the tenure and seniority rights of the mentor teacher.

4. Each board of education and board of cooperative educational services which determines to participate in the mentor teacher-internship program shall require those first or second year eligible teachers which it chooses to include in the program to perform their duties under the guidance of a mentor teacher, and shall ensure that such teacher intern and mentor carry no more than a ninety percent classroom instruction assignment in order to allow such teacher intern time to receive special assistance from a mentor teacher. In order to participate as a teacher intern in a mentor teacher-internship program, a first or second year teacher shall hold a provisional or permanent teaching certificate, temporary emergency license, regular license, or temporary per diem certificate for a field in which no licensed person is available to teach and shall not have participated in such program in the previous year.

5. A school district or board of cooperative educational services participating in an approved mentor teacher-internship program in the current year shall be eligible for aid including but not limited to costs related to release time of the intern and mentor teacher up to ten percent of the mentor teacher's salary and up to ten percent of the teacher intern's salary respectively in accordance with the provisions of this subdivision. To receive such assistance, a school district or board of cooperative educational services must file a claim with the commissioner by October first of the current school year in a form prescribed by the commissioner which shall include the actual salary of each program participant as of September fifteenth of such year. The commissioner shall pay one-half of the amount of such assistance by January fifteenth of each year and shall pay the remaining amount based upon a final report filed by the school district by August fifteenth of each year.

6. Each board of education and board of cooperative educational services which participates in the program shall file a report with the

commissioner on or before August first of each school year concerning compliance with the requirements of the program during the preceding school year. Such report shall be in such form and in such manner as the commissioner may require. The commissioner shall evaluate such programs and file a report with the legislature on or before December first, nineteen hundred eighty-seven.

§ 3034. Teacher career recruitment clearinghouse. 1. The department, in consultation with representatives of teacher organizations, boards of education, school administrators, institutions of higher education and the armed forces of the United States, shall establish a teacher career recruitment clearinghouse to recruit qualified teachers and personnel who provide pedagogical services, as defined in regulations by the commissioner.

2. The teacher career recruitment clearinghouse shall:

(a) Collect and disseminate information to individuals, public and nonpublic schools, institutions of higher education, and state and federal military facilities on career opportunities in teaching and related education professions. Such information shall include, but not be limited to, information regarding financial assistance for students interested in careers in education, employment opportunities in education, and information about certification or licensure requirements.

(b) Promote clearinghouse activities, to the extent possible, in newspapers, state and national professional publications including state and federal military publications and at institutions of higher education which confer degrees in education.

(c) Establish to the extent possible, an applicant data base and provide access to such data base by public and nonpublic schools.

(d) Establish to the extent possible a data base of available public and nonpublic school employment opportunities for access by individuals.

§ 3035. Duties of commissioner; submission of fingerprints. 1. The commissioner shall submit to the division of criminal justice services

two sets of fingerprints of prospective employees as defined in subdivision three of section eleven hundred twenty-five of this chapter received from a school district, charter school or board of cooperative educational services and of prospective employees received from nonpublic and private elementary and secondary schools pursuant to title two of this chapter, and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The division of criminal justice services and the federal bureau of investigation shall forward such criminal history record to the commissioner in a timely manner. For the purposes of this section, the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. All such criminal history records sent to the commissioner pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the commissioner, unless otherwise authorized by law.

2. No cause of action against the commissioner, the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this section shall exist when the commissioner, department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such information by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The consideration of such criminal history record by the commissioner shall be subject to article twenty-three-A of the correction law.

3. (a) Clearance. After receipt of a criminal history record from the division of criminal justice services and the federal bureau of investigation the commissioner shall promptly notify the appropriate school district, charter school, board of cooperative educational

services, or nonpublic or private elementary or secondary school whether the prospective employee to which such report relates is cleared for employment based upon his or her criminal history. All determinations to grant or deny clearance for employment pursuant to this paragraph shall be performed in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the commissioner denies a prospective employee clearance for employment, such prospective employee shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commissioner.

(b) Conditional clearance. When the commissioner receives a request for a determination on the conditional clearance of a prospective employee, the commissioner, after receipt of a criminal history record from the division of criminal justice services, shall promptly notify the prospective employee and the appropriate school district, charter school, board of cooperative educational services, or nonpublic or private elementary or secondary school that the prospective employee to which such report relates is conditionally cleared for employment based upon his or her criminal history or that more time is needed to make the determination. If the commissioner determines that more time is needed, the notification shall include a good faith estimate of the amount of additional time needed. Such notification shall be made within fifteen business days after the commissioner receives the prospective employee's fingerprints. All determinations to grant or deny conditional clearance for employment pursuant to this paragraph shall be performed in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law.

3-a. Upon request from a prospective employee who has been cleared by the commissioner for employment and/or certification, the commissioner shall have the authority to forward a copy of such criminal history record to the city school district of the city of New York by the most expeditious means available. Furthermore, upon notification that such prospective employee is employed by the city school district of the city of New York, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the city school district of the city of New York. Upon request from a

prospective employee who has been cleared for licensure and/or employment by the city school district of the city of New York, such school district shall have the authority to forward a copy of the prospective employee's criminal history record to the commissioner, by the most expeditious means available, for the purposes of this section. Furthermore, upon notification that such prospective employee is employed by a school district outside the city of New York, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the commissioner.

4. The fee provisions of subdivision two of section three thousand four-b of this chapter shall apply to criminal history records searches conducted pursuant to this section; provided however that, notwithstanding the provisions of any other law: (a) the fees associated with an employee participating in a public assistance employment program, pursuant to title nine-B of article five of the social services law, or receiving employment services through the federal temporary assistance for needy families block grant pursuant to appropriations to the office of temporary disability assistance, shall be paid by the social services district making such employment placement or assignment and the cost of such fees, if not subject to full reimbursement under such federal block grant, shall be deemed to be an employment services administrative expense. In no event shall such a participant described herein be required to personally pay any fee imposed by the division of criminal justice services or the federal bureau of investigation or any other fee for the purpose of conducting a criminal history records search; and (b) any prospective employee, including, notwithstanding any provision of law to the contrary, a prospective employee applying for a position in a school district within a city with a population of one million or more, may submit a request to a governing body of a school district, on a form prescribed by the commissioner, that the fees imposed for conducting a criminal history records check be waived. Such governing body may grant such a request if such governing body determines that payment of such a fee would impose an unreasonable financial hardship on the applicant or his or her family and, upon such determination, the governing body shall pay such fee on behalf of the prospective employee to the appropriate authority.

5. The commissioner and the division of criminal justice services shall enter into an agreement for the purposes of implementing the provisions of this section.

6. Nothing in this section shall be construed or interpreted to alter or in any way diminish the integrity of collective bargaining agreements negotiated between an employer and any certified or authorized collective bargaining agent, with respect to payment of fees for criminal history records searches, nor to diminish any rights pursuant to such agreements.

§ 3036. Coursework for reporting child abuse and maltreatment for those with coaching licenses or coaching certificates. 1. Notwithstanding any other provision of law, the commissioner shall prescribe regulations requiring that all persons currently holding a temporary coaching license or a professional coaching certificate and persons applying for such license or certificate shall, in addition to all the other licensure or certification requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

2. Persons currently holding a temporary coaching license or a professional coaching certificate shall meet the coursework or training requirements prescribed in subdivision one of this section no later than

July first, two thousand fifteen.

§ 3037. Grants for hiring teachers. 1. For purposes of this section, the following term shall have the following meaning: "Eligible teacher" shall mean an individual that: (a) is certified to teach in New York state pursuant to section three thousand four of this article; or holds a Master's degree or Ph.D. in Mathematics, Science, Technology or Education; or holds a Bachelor's degree in Mathematics, Science, Technology or Education and is currently enrolled in a Master's or Ph.D. program in Mathematics, Science, Technology or Education within five years from the later of the effective date of this section or the employment start date with the nonpublic school, (b) teaches Mathematics, Science or Technology in any grades from three through twelve, and (c) is employed by a nonpublic school.

2. (a) Within amounts appropriated therefor, nonpublic schools shall, upon application, be reimbursed by the department for the salaries of eligible teachers. Each school which seeks a reimbursement pursuant to this section shall submit to the office of religious and independent schools an application therefor, together with such additional documents as the commissioner may reasonably require, at such times, in such form and containing such information as the commissioner may prescribe by regulation. Applications for reimbursement pursuant to this section must be received by August first of each year for schools to be reimbursed for the salaries of eligible teachers in the prior year.

(b) Pursuant to paragraph (a) of this subdivision, reimbursement for eligible teachers shall be the average comparable teacher salary and personal service, per subject area, of public school teachers in the school district in which such nonpublic schools are located, multiplied by the percentage of full time equivalent secular instructional hours completed in the school day per subject area. Reimbursements shall not be provided for eligible teachers who provide instruction in mathematics, science or technology if such teachers also provide non-secular instruction in any capacity.

(c) In the event that the applications for reimbursement under this section exceed the appropriation available for this program, then each

applicant shall only be reimbursed an amount equal to the percentage that each such applicant represents to the total of all applications submitted.

3. The commissioner may promulgate any rules or regulations necessary to carry out the provisions of this section.

§ 3038. The superintendent of each school district, in consultation with the district superintendent of a board of cooperative educational services, where applicable, shall designate an employee who is a member of the school district staff or an employee of the board of cooperative educational services staff to provide information to any student, parent, or staff regarding where and how to find available substance use related services. Where possible, such designated individual shall be a school social worker, school guidance counselor, or any other health practitioner or counselor employed by the school. Any information provided by a student, parent or teacher to such designated individual shall be confidential, shall not be used in any school disciplinary proceeding and shall, in addition to any other applicable privilege, be considered confidential in the same manner as information provided pursuant to section forty-five hundred eight of the civil practice law and rules. Provided, however, that nothing in this section shall relieve such designated individual of any legal duty to otherwise report such information. Such designated individual or individuals shall undergo any necessary training as may be required by the commissioner.

ARTICLE 63

SALARIES OF TEACHERS AND SUPERVISORS

Section 3101. Definitions.
3107. (Enacted without section heading).
3108. Payment of salaries.
3109. Reduction of salaries for purchase of annuities.
3109-A. Reduction of salaries for tax-deferred annuities.

§ 3101. Definitions. As used in this article:

1. "Teachers" shall mean all full-time members of the teaching and supervisory staff of each school district of the state, including, if employed in such district, the superintendent of schools, associate, district or other superintendents, members of the board of examiners, directors, inspectors, supervisors, principals, administrative assistants, first assistants, teachers, school psychologists, social workers in a city having a population of over one million, lecturers and special instructors, except employees holding the positions enumerated in subdivisions one and two of section thirty-one hundred six of this article.

2. "Year of service" shall mean the number of years which a teacher has served in the school district in which he is employed including the year for which a determination for salary purposes is made.

3. Except in a city having a population of one million or more, "salary" shall mean the amount of compensation that is to be paid to a teacher for services rendered during the full ten months period that the public schools of the district are required by law to be in session during any school year. For purposes of prorating the salary of a teacher not rendering all the service required of teachers during such period, the monthly rate for the services rendered shall be at least one tenth of the salary and the daily rate at least one two-hundredth of the salary. If any teacher is required to render services beyond the ten months period in any school year, the compensation for such additional services shall be at least the monthly or daily rate used in prorating the salary.

4. "Transfer credit" shall mean the credit given by the school authorities to a teacher for years of service outside the school district.

§ 3107. In cities having a population of one million or more, employees of the board of education who are members of the New York city

teachers' retirement system shall be granted sick leave due to personal illness. Such sick leave shall be on the basis of at least ten days for each year of service, cumulative to a maximum of two hundred days. Members shall upon application be granted a retirement leave of absence with full pay consisting of one-half of their accumulated unused sick leave, up to a maximum of one school term or the equivalent number of school days.

Members of the New York city teachers' retirement system who are in the employ of the board of higher education and members of the permanent instructional staff of the board of higher education who are members of any other retirement system shall be eligible for retirement leave on the same basis as employees of the board of education, except that such members shall be granted sick leave due to personal illness of twenty days for each year of service cumulative to a maximum of one hundred sixty days. Such members shall upon application to the board of higher education be granted a retirement leave with full pay consisting of one-half of their accumulated unused sick leave, up to a maximum of one semester or the equivalent number of school days.

Members of any retirement system who are members of the permanent instructional staff of any community college in the city of New York shall upon application be granted a retirement leave of absence with full pay consisting of one-half of their accumulated unused sick leave, up to a maximum of one semester or the equivalent number of school days.

Days when school is not in session shall not be counted in the calculation of such retirement leaves. When a vacation period intervenes between the end of a retirement leave and the member's retirement date, such vacation period shall be deemed a period of active service for all purposes including compensation.

A retirement leave of absence shall be cancelled when a member on such leave files an application for immediate retirement or files an application for reinstatement to active service, in which event such member shall be deemed to have forfeited the future right to the number of days of retirement leave already taken. In the event that a member on

retirement leave applies for a sick leave during the period of such retirement leave, he shall thereupon become entitled to his total accumulated unused sick leave minus the number of school days actually taken as retirement leave, provided however, that such retirement leave, exclusive of sick leave, shall not exceed one school term or semester, or the equivalent number of school days. However, members of the instructional staff of the board of higher education or of the community colleges of the city of New York who are entitled to retirement leave of one semester shall not have the right to start a retirement leave during the course of a semester, nor may any member of the instructional staff of the board of higher education or of the community colleges of the city of New York on retirement leave have the right to be reinstated to active service during the course of a semester.

The extent of such leaves shall be included in the number of years of allowable service for retirement purposes.

The duties of members on retirement leave shall be covered in like manner as when members are absent on sick leave.

Any provision of law inconsistent with this section is hereby deemed superseded.

§ 3108. Payment of salaries. No teacher or other employee of any board of education shall be requested or required to make, execute and deliver a general release or waiver as a condition prerequisite to the payment of any salary, compensation or other emolument to which he is entitled; and no board of education shall deprive any such teacher or other employee of the whole or any part of such salary, compensation or other emolument for refusing to make, execute and deliver a general release.

§ 3109. Reduction of salaries for purchase of annuities. Each board of education, trustee or trustees in any school district, and each board of cooperative educational services or county vocational education and

extension board, in its discretion, may enter into a written agreement with any employee of such school district or board to reduce the annual salary as otherwise payable by law of such employee for the purpose of purchasing an annuity or investing in a custodial account as permitted under section 403(b) of the United States Internal Revenue Code, as amended, for such employee. Any such agreement may be terminated at any time upon written notice by either such employee or such school district or board. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

§ 3109-A. Reduction of salaries for tax-deferred annuities. The board of education of a city having a population of one million or more, in its discretion, may enter into a written agreement with any of its employees or with any employee of a school district within such city to reduce the annual salary, as otherwise earned and payable by law, of such employee for the purpose of providing a tax-deferred annuity for such employee under the retirement system in which such employee is currently a member, but only if such retirement system specifically provides for such tax-deferred annuities, and subject to any provisions and limitations applicable thereto. Any such agreement may be terminated upon written notice by either such employee or such board. Nothing contained in this section shall be construed to diminish or impair any benefits to which such employee or his legal representatives or beneficiaries would be otherwise entitled had such salary reduction agreement not been entered into in accordance with the provisions of this section.

ARTICLE 65
COMPULSORY EDUCATION AND SCHOOL CENSUS

PART I

COMPULSORY EDUCATION

Section 3201. Discrimination on account of race, creed, color or national origin prohibited.

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§ 3201. Discrimination on account of race, creed, color or national origin prohibited. 1. No person shall be refused admission into or be excluded from any public school in the state of New York on account of race, creed, color or national origin.

2. Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian, and further provided that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination or from giving preference to such selection to

such members or to make such selection to its pupils as is calculated to promote the religious principle for which it is established.

§ 3201-a. Discrimination on account of sex. Notwithstanding any general, special, local law or rule or regulation of the education department to the contrary, no person shall be refused admission into or be excluded from any course of instruction offered in the state public and high school systems by reason of that person's sex. No person shall be disqualified from state public and high school athletic teams, by reason of that person's sex, except pursuant to regulations promulgated by the state commissioner of education.

§ 3201-b. Denial of a free public education prohibited; additional prohibited practices. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "School" includes a school district, public school, charter school, board of cooperative educational services, special act school district as defined in section four thousand one of this chapter, or state-operated school. For the purposes of subdivisions three through eleven of this section, school also includes universal pre-kindergarten programs authorized under this chapter that are operated by schools on school property.

(b) "School property" means: in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law.

(c) "School function" means a school sponsored event or activity, including if such event or activity occurs outside of school property.

(d) "Immigration authority" has the same meaning as such term is defined in section three hundred nineteen of the executive law.

(e) "Immigration enforcement" has the same meaning as such term is defined in section three hundred nineteen of the executive law.

(f) "Child" means a person entitled to attend the public schools of this state under section three thousand two hundred two of this part.

(g) "School personnel" means any employee, agent, officer, or school resource officer of a school or any volunteer or employee of any firm, corporation, institution, or governmental agency who works on school property.

(h) "School resource officer" means a school resource officer, school safety officer, school security official, or any other substantially similar position or office whose purpose is to provide improved public safety and/or security on school property.

(i) "Immigration detainer" means any document, form, or other communication requesting or directing that a school or school personnel detain or maintain custody of an individual, for any period of time, for pickup by or transfer to immigration authorities.

(j) "Civil immigration warrant" means any warrant for a violation of civil immigration law that is not issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631.

(k) "Municipal government" means a municipal corporation or a governing board as defined in section two of the general municipal law.

2. (a) No child shall be denied a free public education. Notwithstanding any general, special or local law, rule or regulation of the education department to the contrary, no child shall be refused admission into, be deterred from participation in, have their admission delayed to, or be excluded from any school in the state of New York on account of such child's perceived or actual citizenship or immigration status or the perceived or actual citizenship or immigration status of a person in a parental relationship to such child.

(b) No school or school personnel shall undertake any action or use any policies that have the intent or effect of deterring a student from participation in or denying a student the benefits of any program or activity on account of such student's perceived or actual citizenship or immigration status or the perceived or actual citizenship or immigration status of a person in a parental relationship to such student.

(c) No school or school personnel shall use policies or procedures or engage in practices that have the intent or effect of excluding participation of a person in a parental relationship to a student from parental engagement activities or programs on account of their perceived

or actual citizenship or immigration status.

3. No school or school personnel shall:

(a) use school resources, including, but not limited to, time spent while on duty on school property or at a school function for immigration enforcement purposes;

(b) disclose any information, including actual records, about the actual or perceived citizenship or immigration status of a student or a person in a parental relationship to such student to any other person or entity, including an immigration authority or any employee thereof, except to comply with a court order issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, or a judicial warrant issued by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C. § 631;

(c) threaten to disclose any information, including actual records, about the actual or perceived citizenship or immigration status of a student or a person associated with such student to any other person or entity, including an immigration authority or any employee thereof;

(d) disclose to an immigration authority or any employee thereof the personally identifiable information of a student or a person in a parental relationship to such student, including, but not limited to, name, social security number, physical description, associated addresses, telephone number, financial information, medical information, or place of employment or education except to comply with a court order issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, or a judicial warrant issued by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C. § 631 or unless otherwise required by law;

(e) inquire about a student or a person in a parental relationship to such student about such person's citizenship, immigration status, nationality, or country of origin, except to comply with a court order issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28

U.S.C. § 631, or a judicial warrant issued by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C. § 631; or as necessary to administer a public program or benefit sought by such person; or when registering an individual to vote and other election related matters; or as otherwise required by law;

(f) collect information from a student or a person in a parental relationship to such student about such student's or person's citizenship, immigration status, nationality, or national origin except to comply with a court order issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, or a judicial warrant issued by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C. § 631; or as necessary to administer a public program or benefit sought by such person; or when registering an individual to vote and other election related matters; or as otherwise required by law;

(g) designate immigration status, citizenship, nationality, or national origin as directory information; or

(h) employ registration and enrollment requirements or procedures that have the intent or effect of disproportionately delaying or denying the enrollment of non-citizen students.

4. (a) No school or school personnel shall grant permission to access or facilitate access to non-public areas of school property or facilities owned or operated by or under the control of a school to any immigration authority engaging in immigration enforcement unless presented with a judicial warrant signed by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C. § 631, authorizing a search or seeking the arrest of an individual present at the time the judicial warrant is presented, or as otherwise required by law.

(b) Civil immigration warrants, immigration detainers, notices to appear, or other non-judicial documents shall not constitute sufficient authority to authorize an immigration authority or any employee thereof to access non-public areas of school property or facilities owned or operated by or under the control of a school for the purpose of engaging

in immigration enforcement.

5. (a) No school or school personnel shall grant permission for or facilitate the release, transfer, surrender, escort of, or otherwise deliver, a student into the custody of an immigration authority or any employee thereof solely on the basis that a person in a parental relationship to such student has been arrested, detained, or taken into federal custody, unless there is a judicial warrant or court order, issued by a federal or state court of competent jurisdiction, specifically authorizing the removal, detention, or assumption of custody of the student by an immigration authority or any employee thereof.

(b) Civil immigration warrants, immigration detainers, notices to appear, or other non-judicial documents shall not constitute sufficient authority to release, transfer, surrender, escort, or otherwise deliver a student into the custody of an immigration authority or any employee thereof.

(c) (i) No school or school personnel shall assist immigration authorities in locating, questioning, or detaining a student unless presented with court orders issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, or judicial warrants issued by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C. § 631, or to comply with requirements under existing law.

(ii) Nothing in this section shall be construed to limit, restrict, or impair the authority of state or local law enforcement to apprehend, detain, or take into custody any individual, including a minor, pursuant to a judicial warrant, court order, or lawful criminal investigation conducted in accordance with applicable New York state criminal law and procedure.

6. No school personnel shall use an immigration authority or any employee thereof as interpreters or translators for law enforcement matters relating to individuals that schools or such school personnel interact with as part of their employment duties.

7. The provisions of this section shall not be construed to prohibit or restrict a school or school personnel from sending to or receiving from the United States department of homeland security or any other federal, state, or local governmental entity information regarding the citizenship or immigration status of an individual under 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

8. The provisions of this section shall not prohibit school or school personnel from complying with court orders or judicial warrants issued by a judge appointed pursuant to Article III of the United States Constitution or federal magistrate judge appointed pursuant to 28 U.S.C. § 631.

9. The provisions of this section shall apply notwithstanding any other provisions of state or local law, charter, code, ordinance, resolution, rule, or regulation to the contrary and shall not be construed to in any way expand the authority of schools or school personnel to participate in immigration enforcement. Provided, however, that nothing in this article shall be construed to prevent or restrict a municipal government or school from adopting, enacting, or enforcing local policies, laws, resolutions, ordinances, or regulations which comply with at least the applicable standards or requirements of this section, or which exceed the provisions of this section, or which further restrict the ability of schools or school personnel to participate in immigration enforcement beyond the requirements set forth in the chapter of the laws of two thousand twenty-six that added this section.

10. Within forty-five days of the effective date of this section, the department shall develop and publish on the department's website model procedures that shall comply with the requirements of this section.

11. Within sixty days of the date the model procedures are published on the department's website pursuant to subdivision ten of this section, each school shall verify to the commissioner that they have developed and implemented procedures that comply with the department's model procedures and the requirements of this section, which shall include,

but not be limited to, procedures for reviewing and authorizing requests from immigration authorities to enter school property or to take custody of a student, including designating an individual who is responsible for reviewing such requests, and procedures for notifying parents and persons in a parental relationship about the rights of and protections for students, parents, and persons in a parental relationship provided by this section. Such procedures shall identify the actions the school will take if the school or school personnel become aware that a person in a parental relationship to a student will be unavailable to retrieve the student from school or a school function because a person in a parental relationship to the student has been detained by immigration authorities or the student is not picked up as scheduled, and such student is in need of an alternate plan for pickup. Such procedures shall include, at a minimum, that the school shall not contact the statewide central register for child abuse and maltreatment unless the school has made reasonable efforts to contact all known individuals authorized to retrieve the student and that the school will retain the student on the premises until the student is picked up by an individual authorized by the person in a parental relationship to such student or by law.

§ 3202. Public schools free to resident pupils; tuition from nonresident pupils. 1. A person over five and under twenty-one years of age who has not received a high school diploma is entitled to attend the public schools maintained in the district in which such person resides without the payment of tuition. Provided further that such person may continue to attend the public school in such district in the same manner, if temporarily residing outside the boundaries of the district when relocation to such temporary residence is a consequence of such person's parent or person in parental relationship being called to active military duty, other than training. Notwithstanding any other provision of law to the contrary, the school district shall not be required to provide transportation between a temporary residence located outside of the school district and the school the child attends. A veteran of any age who shall have served as a member of the armed forces of the United States and who (a) shall have been discharged therefrom

under conditions other than dishonorable, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, may attend any of the public schools of the state upon conditions prescribed by the board of education, and such veterans shall be included in the pupil count for state aid purposes. A nonveteran under twenty-one years of age who has received a high school diploma shall be permitted to attend classes in the schools of the district in which such person resides or in a school of a board of cooperative educational services upon payment of tuition under such terms and conditions as shall be established in regulations promulgated by the commissioner; provided, however, that a school district may waive the payment of tuition for such nonveteran, but in any case such a nonveteran who has received a high school diploma shall not be counted for any state aid purposes. Nothing herein contained shall, however, require a board of education to admit a child who becomes five years of age after the school year has commenced unless his or her birthday occurs on or before the first of December.

1-a. No pupil over the compulsory attendance age in his or her school district shall be dropped from enrollment unless he or she has been absent twenty consecutive school days and the following procedure is complied with: The principal or superintendent shall schedule and notify, in writing and at the last known address, both the student and the person in parental relation to the student of an informal conference. At the conference the principal or superintendent shall determine both the reasons for the pupil's absence and whether reasonable changes in the pupil's educational program would encourage and facilitate his or her re-entry or continuance of study. The pupil and the person in parental relation shall be informed orally and in writing of the pupil's right to re-enroll at any time in the public school maintained in the district where he or she resides, if otherwise qualified under this section. If the pupil and the person in parental relationship fail, after reasonable notice, to attend the informal conference, the pupil may be dropped from enrollment provided that he or

she and the person in parental relation are notified in writing of the right to re-enter at any time, if otherwise qualified under this section.

2. Nonresidents of a district, if otherwise competent, may be admitted into the school or schools of a district or city, upon the consent of the trustees or the board of education, upon terms prescribed by such trustees or board.

3. The school authorities of a district or city must deduct from the tuition of a nonresident pupil, whose parent or guardian owns property in such district or city and pays a tax thereon for the support of the schools maintained in such district or city, the amount of such tax.

4. a. Definitions. For purposes of this subdivision only, the following definitions shall apply.

(i) The term "school district of origin" shall mean the school district within the state of New York in which the child or youth in foster care was attending a public school or preschool on a tuition-free basis or was entitled to attend when the social services district or office of children and family services assumed responsibility for the placement, support and maintenance of such child or youth, which is different from the school district of residence.

(ii) School district of residence. The term "school district of residence" shall mean the public school district within the state of New York in which the foster care placement is located, which is different from the school district of origin.

b. Except as provided in subdivision five of this section, the cost of instruction of children in foster care shall be borne by the school district of origin. Where a school district other than the school district of origin is designated in accordance with paragraph e of subdivision two of section thirty-two hundred forty-four of this article, the cost of instruction shall be borne by the school district of origin and the tuition paid to the designated school district of attendance shall be computed as provided in paragraph d of this subdivision, except that, where the foster care placement receives

program support from a child care institution affiliated with a special act school district as defined in subdivision eight of section four thousand one of this chapter, and the designated school district of attendance, upon the recommendation of its committee on special education, contracts for such pupil's education pursuant to paragraph c, d, e, or f of subdivision two of section forty-four hundred one of this chapter or for a nonresidential placement pursuant to paragraph l of such subdivision, costs incurred shall be reimbursed in accordance with paragraph e of this subdivision. Notwithstanding any inconsistent provision of law, where the permanent residence of a pupil is outside of the state, the school district in which the pupil was located at the time the public agency placed such pupil shall be deemed the school district of origin of such pupil for purposes of this subdivision and shall be responsible for the cost of instruction of such pupil.

c. Children cared for in free family homes and children cared for in family homes at board, when such family homes shall be the actual and only residence of such children and when such children are not supported and maintained at the expense of a social services district or of a state department or agency, shall be deemed residents of the school district in which such family home is located.

d. For the purposes of this subdivision, tuition shall be fixed in an amount which represents the additional operating cost to the designated school district of attendance resulting from the attendance of a child for whom tuition is required, computed in accordance with a formula established by the commissioner of education.

e. Where the designated school district of attendance for a child or youth in foster care that receives program support from a child care institution affiliated with a special act school district, other than the board of the pupil's school district of origin as defined in paragraph a of this subdivision, upon the recommendation of its committee on special education, contracts for the instruction of such pupil pursuant to paragraph c, d, e, or f of subdivision two of section forty-four hundred one of this chapter or for a nonresidential placement pursuant to paragraph l of such subdivision, such board shall submit a

claim to the commissioner for current year reimbursement of costs incurred for such pupil. The commissioner shall pay such claim in accordance with the applicable provisions of section thirty-six hundred nine-b of this chapter and shall be reimbursed by the school district identified as the pupil's school district of origin as defined in paragraph a of this subdivision. The commissioner shall deduct the amount of such claim from moneys otherwise due the school district of origin.

f. The identity of the school district of origin shall be established in accordance with the following procedure:

(i) Within ten days of the placement of such pupil, the public agency or its designee shall give written notice of such placement to the board of education of the school district believed to be the school district of origin. Such notification shall include the name of the pupil and any particulars about the pupil that pertain to the identification of the school district as the school district of origin as defined in paragraph a of this subdivision.

(ii) A board of education of a school district which receives notification pursuant to subparagraph (i) of this paragraph may submit to the public agency, within ten days of its receipt of such notice, additional evidence to establish that it is not the pupil's district of origin as defined in paragraph a of this subdivision. Any evidence so submitted shall be considered by the agency prior to making its final determination, which shall be made no later than five days after the agency's receipt of such additional evidence. In the event such school district fails to submit additional evidence within such ten day period, the determination of the public agency shall be final and the notification provided pursuant to subparagraph (i) of this paragraph shall be deemed final notification of such determination.

(iii) If, upon its review, the public agency determines that the school district notified pursuant to subparagraph (i) of this paragraph was not the pupil's district of origin, the public agency shall send notification to the correct school district, in the form prescribed by subparagraph (i) of this paragraph. Alternatively, if, upon its review, the public agency determines that the school district originally designated pursuant to subparagraph (i) of this paragraph is the pupil's

district of origin, the public agency shall notify such district in writing of its final determination.

(iv) The board of education of the school district finally determined by the public agency to be the pupil's school district of origin may appeal such determination to the commissioner within thirty days of its receipt of final notification pursuant to this paragraph. Such an appeal shall be conducted in the same manner as an appeal from the actions of local school officials pursuant to section three hundred ten of this chapter, except that the factual allegations of the petitioner shall not be deemed true in the event the public agency elects not to appear in the appeal. The petitioner shall join as a party to the appeal any other school district suspected to be the pupil's actual school district of origin.

(v) If the commissioner finds that the school district notified pursuant to subparagraph (i) or (iii) of this paragraph was not the pupil's school district of origin as defined in paragraph a of this subdivision and that the correct school district was not joined as a party to the appeal, the commissioner shall direct the public agency to notify the correct school district pursuant to subparagraph (i) of this paragraph.

(vi) Notwithstanding any inconsistent provisions of law, during the pendency of all proceedings to review a denial of financial responsibility, the commissioner shall issue an interim order assigning such financial responsibility to the school district or, alternatively, upon a determination that the public agency failed to make reasonable efforts to identify the school district of origin of such child, to the public agency. In the event the public agency fails to provide timely notice pursuant to subparagraph (i) of this paragraph, or fails to render its final determination in a timely manner, the public agency responsible for such pupil's residential placement shall reimburse the commissioner for the payments made to the district furnishing instruction pursuant to this paragraph during the pendency of all proceedings or for the duration of the current school year, whichever is longer, and the state comptroller shall withhold such amount from any moneys due the county or the city of New York, on vouchers certified or approved by the commissioner, in the manner prescribed by law or shall transfer such amount from the account of such state department or agency

upon certification of the commissioner, and such funds shall be credited to the general support for public schools local assistance account of the department.

(vii) Any final determination or order of the commissioner concerning the school district of origin of any pupil under this section may only be reviewed in a proceeding brought in the supreme court pursuant to article seventy-eight of the civil practice law and rules. In any such proceeding under such article seventy-eight, the court may grant any relief authorized by the provisions of section seventy-eight hundred six of such law and rules and may also, in its discretion, remand the proceedings to the commissioner. A local social services commissioner or any state department or agency placing pupils pursuant to this subdivision is a proper party in any such appeal or proceeding.

(viii) Upon completion of all proceedings to review the denial of financial responsibility for the costs of instruction pursuant to this paragraph, the commissioner shall refund any payments made by a party cleared of such responsibility and shall collect any payments owed by a party found to have such responsibility. Where such transactions involve a school district liable for reimbursement pursuant to paragraph e of this subdivision, the commissioner shall appropriately increase or decrease the moneys due a school district by such amount in accordance with the provisions of section thirty-six hundred nine-b of this chapter. Where such transactions involve the public agency making a placement pursuant to this subdivision, the comptroller shall increase or decrease the moneys due such public agency by such amount upon certification of the commissioner, transferring such amount to or from the account of such state department or agency to or from the general support for public schools local assistance account of the department.

g. If within ninety days from the entry of an order or judgment of a court of competent jurisdiction or the receipt of a decision of the commissioner pursuant to section three hundred ten of this chapter, determining the responsibility of a school district to pay tuition for a pupil in accordance with the provisions of paragraph a of this subdivision or of section five hundred four of the executive law, such school district has not made payment to the designated school district of attendance, the school district entitled to such payment may make

application to the commissioner to receive a sum in the amount of such tuition from the apportionment of public money payable to the school district required to pay such tuition. The application for payment shall be accompanied by a certified copy of the order or judgment of a court, or a copy of the decision of the commissioner, and by proof of service by first class mail of a copy of such application upon the school district required to pay such tuition. Unless the school district required to pay such tuition shall have notified the commissioner of such payment within thirty days from the receipt of such application, the commissioner shall withhold an amount equal to the tuition for such pupil from the public money payable to the school district responsible for such tuition and shall pay such amount to the school district which has provided instruction to such pupil. The commissioner is authorized to promulgate regulations to implement the provisions of this paragraph.

5. a. Children who reside in a school for individuals with developmental disabilities operated by the department of mental hygiene and for whom the department has assumed responsibility for support and maintenance prior to July one, nineteen hundred seventy-seven and who are placed in a family home at board, a duly incorporated orphan asylum or other institution for the care, custody and treatment of children shall be admitted to the schools of the school district in which such family home or institution is located. The department is authorized to reimburse each school district furnishing educational services to such children for the direct cost of such services in accordance with regulations promulgated by the commissioner and approved by the director of the budget. The educational costs for these children shall not be otherwise aidable or reimbursable.

b. Children who reside in a school for individuals with developmental disabilities operated by the department of mental hygiene and for whose support and maintenance the department assumes responsibility on or after July one, nineteen hundred seventy-seven and who are thereafter placed in a family home at board, a duly incorporated orphan asylum or other institution for the care, custody and treatment of children shall be admitted to the schools of the school district in which such family home or institution is located. The department is authorized to

reimburse each school district furnishing educational services to such children for the direct cost of such services in accordance with regulations promulgated by the commissioner and approved by the director of the budget. The educational costs for these children shall not be otherwise aidable or reimbursable. The school district in which the child resided at the time the department of mental hygiene assumed responsibility for the support and maintenance of such child shall reimburse the education department for its expenditure on behalf of such child in an amount equal to the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter. The department of mental hygiene shall notify the department of the name of the child, the location of the family home or institution where the child is to be placed and the name of the school district in which such child resided at the time the department of mental hygiene assumed responsibility for his or her support and maintenance.

c. (1) The department is authorized to reimburse each school district furnishing educational services to children residing in schools for individuals with developmental disabilities operated by the office for people with developmental disabilities for the direct cost of such services in accordance with regulations promulgated by the commissioner and approved by the director of the budget.

(2) The school district in which each such child resided at the time the office for people with developmental disabilities assumed responsibility for the support and maintenance of such child shall reimburse the department for its expenditures on behalf of such child, in an amount equal to the school district basic contribution as such term is defined in subdivision eight of section forty-four hundred one of this chapter, for any such child admitted to a state school for individuals with developmental disabilities on or after July first,

nineteen hundred seventy-eight. The comptroller may deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph and the amount so deducted shall not be included in the approved operating expense of such district for the purpose of computing the approved operating expenses pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

d. (1) Children who reside in an intermediate care facility for individuals with developmental disabilities, other than a state operated school for individuals with developmental disabilities, as defined in regulations of the office for people with developmental disabilities, shall be admitted to the public schools, except as otherwise provided in subparagraph fourteen of this paragraph. The trustees or board of education of the school district in which such facility is located shall receive such children in the school or schools of the district for instruction and for the provision of necessary related services for a compensation to be fixed by the trustees or board of education, unless such trustees or board of education shall establish to the satisfaction of the commissioner that there are valid and sufficient reasons for refusal to receive such children. Evaluation of the educational needs of such children and placement in appropriate educational programs shall be made in accordance with article eighty-nine of this chapter.

(2) A child who resides in an individualized residential alternative as defined in regulations of the office for people with developmental disabilities which is located in a school district other than the school district in which such child's parent or person in parental relation resided at the time such child was placed in an institution under the auspices of such office shall be deemed to reside in an intermediate care facility for purposes of this subdivision to the extent such child is enrolled in a home and community based waiver program approved by the Health Care Financing Administration.

(3) Such intermediate care facility is authorized to contract with the trustees or board of education of such school district for the provision of services, including transportation.

(4) The education department shall reimburse the school district in which such intermediate care facility is located for the full cost of

all services, which shall, notwithstanding any inconsistent provision of law, include transportation services provided pursuant to a contract authorized by this paragraph. Provided, however, that notwithstanding any other law, rule or regulation to the contrary, that no reimbursement shall be payable pursuant to this subparagraph for due process costs incurred on or after July first, two thousand nine. Such reimbursement shall be for the period from September first through June thirtieth, and state reimbursement for July and August programs shall be in accordance with subdivision one of section forty-four hundred eight of this chapter. The provisions of subdivision two of such section forty-four hundred eight shall apply to all July and August programs provided pursuant to this section.

(5) The school district in which the child resided at the time of placement in such intermediate care facility shall reimburse the education department for its expenditure on behalf of such child in an amount equal to the school district's basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this article for any child first admitted to such intermediate care facility, on or after July first, nineteen hundred seventy-nine.

(6) Upon certification by the commissioner of education, the comptroller may deduct from any state funds which become due to the school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expenses pursuant to paragraph t of subdivision one of section thirty-six hundred two of this article.

(7) Within forty-five days of the placement of a child in a school district, the intermediate care facility shall notify the school district in which the child resided at time of entrance to the intermediate care facility and the school district in which the facility is located. Such notice shall include the name of the child, the location of the intermediate care facility, and the name of the school district in which such child resided at the time of placement.

(8) A board of education of a school district which receives notification that a child has been placed in an intermediate care facility for individuals with developmental disabilities may deny

financial responsibility for any child by written notice within twenty days of such notification to the school district furnishing instruction and the intermediate care facility.

(9) An intermediate care facility responsible for placing the child, the school district furnishing instruction or the parent or guardian of the child involved may appeal a denial of responsibility to the commissioner of education. If the commissioner finds that the child was not a resident of the school district that was notified that the child was a resident therein, the commissioner shall request the intermediate care facility to ascertain the correct school district and notify such school district pursuant to subparagraph six of this paragraph. The commissioner shall review and determine responsibility for the child in question. If the commissioner finds that a child has no residence in this state, he shall determine that there is no local contribution for such child.

(10) If the intermediate care facility fails to make a reasonable effort to identify the residence of such a child, such agency shall be responsible for the local contribution and, upon notification by the commissioner of education, shall pay such amount to the commissioner of education.

(11) If the intermediate care facility rejects the finding of the committee on special education of the school district of attendance, or a finding affirmed or revised on appeal, such facility shall retain responsibility for payment of the cost of instruction of such child.

(12) Any final determination or order of the commissioner concerning residence or placement of any child under this paragraph may only be reviewed in a proceeding brought in the supreme court pursuant to article seventy-eight of the civil practice law and rules. In any such proceeding, the court may grant any relief authorized by the provisions of section seventy-eight hundred six of such law and rules or may, in its discretion, remand the proceedings to the commissioner. An intermediate care facility attempting to place a child pursuant to this paragraph shall be considered a proper party to any such proceeding.

(13) The school district providing educational services to children placed pursuant to this paragraph shall provide a report on the status of each such child with a handicapping condition annually to the committee on special education of the school district in which the child

resided at the time of admission to the intermediate care facility for individuals with developmental disabilities. Such report shall also be sent to the parent or guardian of the child and the office for people with developmental disabilities.

(14) The board of education responsible for providing appropriate educational services for a child receiving care in an intermediate care facility developed pursuant to the residential school bed development program, as authorized by chapter fifty-four of the laws of nineteen hundred eighty-five or any subsequent enactment extending such program, shall be the board of education of the school district in which such child would be deemed to reside but for such child's placement in such an intermediate care facility. The department shall reimburse such school district of residence for all nonfederally reimbursable costs of such educational services in accordance with subparagraph four of this paragraph as if such district were the school district in which the intermediate care facility is located, and such school district of residence shall be responsible for reimbursement of the department for its expenditure on behalf of the child in an amount equal to the school district basic contribution, as defined in subdivision eight of section four thousand four hundred one of this chapter. The comptroller may deduct the amount of such reimbursement from any state funds due the district in the manner prescribed in subparagraph six of this paragraph.

e. Notwithstanding the provisions of paragraph a of subdivision five of section thirty-six hundred four of this chapter, the commissioner shall be authorized to grant a waiver excusing the late filing of claims submitted for costs incurred pursuant to this subdivision, upon findings that the school district has submitted a timely request for a waiver and has submitted proof satisfactory to the commissioner that the delay in filing was caused by a party other than the school district. A request for such a waiver, together with all supporting documentation, shall be submitted to the commissioner within sixty days after the date on which this paragraph was enacted, or within fourteen months after the end of the school year in which services were provided pursuant to this subdivision, whichever is later.

6. Except as provided in subdivision five of this section or by

article eighty-one of this chapter, children cared for in a hospital or other institution for the care, custody and treatment of children, other than a school and excepting children of the officers and employees of such hospital or institution, shall not, by reason of their presence in such hospital or institution, be deemed to be residents of the school district in which such hospital or institution is located. The trustees or board of education of the school district of their residence shall provide educational services for such children. Such services may be provided by a tutor employed by the district, by contract with a school connected with such hospital or institution, or by contract with the local public school district in which such hospital or institution is located. Such contracts shall be limited to the cost of educational services and shall not include maintenance or medical services. Provided, however, if such children are supported and maintained at the expense of a social services district, the cost of said instruction shall be paid by the social services district which is liable for payment of the cost of their support and maintenance. In the case of hospitals or institutions located in the state of New York, the trustees or board of education of a school district in which such a hospital or institution is located shall receive such children in the school or schools of the district for instruction for a compensation to be fixed by the trustee or board of education, unless such trustees or board of education shall establish to the satisfaction of the commissioner of education that there are valid and sufficient reasons for refusal to receive such children.

6-a. Notwithstanding subdivision six of this section or any other law to the contrary, the commissioner of the office of children and family services shall be responsible for the secular education of youth under the jurisdiction of the office and may contract for such education with the trustees or board of education of the school district wherein a facility for the residential care of such youth is located or with the board of cooperative educational services at which any such school district is a component district for special education programs, related services and career and technical education services and music, art and foreign language programs in accordance with subparagraph eight of paragraph (h) of subdivision four of section nineteen hundred fifty of

this chapter. A youth attending a local public school while in residence at such facility shall be deemed a resident of the school district where his parent or guardian resides at the commencement of each school year for the purpose of determining which school district shall be responsible for the youth's tuition pursuant to section five hundred four of the executive law.

7. Youth incarcerated in county correctional facilities or youth shelters. a. A person under twenty-one years of age who has not received a high school diploma and who is incarcerated in a correctional facility maintained by a county or by the city of New York or in a youth shelter is eligible for educational services pursuant to this subdivision and in accordance with the regulations of the commissioner. Such services shall be provided by the school district in which the facility or youth shelter is located, within the limits of the funds allocated by the commissioner for such purposes pursuant to section thirty-six hundred two of this chapter and pursuant to a plan approved by the commissioner. School districts shall submit such plan by July fifteenth of each school year. Boards of education are authorized to contract for the provision of such educational services by a board of cooperative educational services or by another public school district.

b. Except as otherwise provided in this paragraph, the school district in which the child resided at the time of the child's commitment to the custody of the sheriff or local commissioner of corrections or youth shelter shall reimburse the education department for its expenditure for the full time equivalent attendance of such child pursuant to subdivision thirteen of section thirty-six hundred two of this chapter on behalf of such child, in an amount equal to the product of such full time equivalent attendance and the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter, provided, however, that such basic contribution shall be multiplied by the full time equivalent attendance multiplied by one hundred twenty per centum for such children attending programs which operate between July first and June thirtieth. If at the applicable time specified in this paragraph a school district other than the school district in which the child resides is responsible for the

cost of instruction of the child or for reimbursement of the state for its expenditure on behalf of the child pursuant to any provision of this chapter, then such other school district shall be responsible for reimbursement of the education department in accordance with this paragraph. Upon certification by the commissioner, the comptroller shall deduct from any state funds which become due to a school district an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

c. After admission of a child eligible for educational services pursuant to this subdivision, but within a time prescribed by the commissioner in regulations, the correctional facility maintained by the county or the city of New York shall furnish such child with information concerning the availability of such educational services and shall submit a request for educational services to the school district in which the facility is located. Such request shall conform to requirements prescribed by the commissioner by regulation in consultation with the state commission of correction and shall include, but shall not be limited to, notice of: the name of the child, the name and location of the facility in which such child is incarcerated, the last grade completed by the child as reported by the child, the anticipated duration of the incarceration and the last known residence of such child at the time of the child's commitment to custody. The school district in which the facility is located shall notify other appropriate agencies, including, but not limited to, the education department and the school district identified as being responsible for the educational costs of such child pursuant to paragraph b of this subdivision, that such a request for educational services has been received. The commissioner shall promulgate regulations specifying the time within which such notice shall be provided and the contents of such notice, and establishing a procedure by which a school district may request the commissioner to review its identification as the school district responsible for the educational costs of such child.

d. Upon release or discharge of a child eligible for educational services pursuant to this subdivision, the correctional facility shall apprise such child that further educational services may be available pursuant to this section through the school district in which the child resides or in which the child is otherwise entitled to attend school, and shall, at the request of the student, notify such district of the child's desire to enroll in such district.

e. The state commission of correction shall promulgate rules and regulations in consultation with the commissioner which shall require each correctional facility operated by a county or the city of New York to cooperate with the school district or board of cooperative educational services providing educational services and to comply with the requirements of this subdivision.

f. As used in this subdivision, "youth shelter" shall mean an alternative residential facility for the incarceration of youths between the ages of sixteen and twenty-one who are remanded by the criminal courts.

8. Homeless children. A homeless child, as defined in subdivision one of section thirty-two hundred nine of this article, over the age of five and under twenty-one years of age, who has not received a high school diploma, shall be entitled to attend a public school without the payment of tuition, in accordance with the provisions of section thirty-two hundred nine of this article.

§ 3203. Selection of school for attendance of children when district line intersects a dwelling. 1. The owner of taxable property that is so located that the boundary line between two school districts intersects (a) the dwelling on said property or (b), in the case of an owner-occupied single family dwelling unit, the property on which the dwelling unit is located may designate the school in either of such districts to which the children lawfully residing in said dwelling on said property shall attend by filing with the district clerk of each of

such districts a notice of such designation on or before August first in any year and thereafter or, in the case of a single family unit, when such dwelling unit is built or when its owner-occupant's first child commences attending school from such residence and thereafter whenever the ownership of such taxable property changes hands in an arms length transaction or, likewise, the first child of its new owner-occupant first commences attending school from such residence and, until a subsequent designation shall be made and filed, such children shall be deemed to be resident children of the district designated and shall be entitled to the school privileges of such district as resident pupils without the payment of tuition.

2. School taxes on such property shall continue to be levied and collected without reference to the aforesaid designation, but the school authorities of the district that levies and collects a tax upon such property and does not furnish instructional service to the children residing on such property shall pay to the district designated, in which such children are received and instructed, the amount of the tax on such property so levied and collected. If any such district shall fail or refuse on demand to pay the amount of any tax so collected, the school authorities of the district designated and furnishing the instructional service may recover the amount in an action therefor.

3. A designation made as provided in this section shall continue until a new designation is made or until the district superintendent or superintendents having jurisdiction over the districts affected shall otherwise order in a proceeding for the alteration of the boundaries of the districts, but no subsequent designation may be made in any school year after August first until the close of that school year.

§ 3204. Instruction required. 1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

2. Quality and language of instruction; text-books. (i) Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years, which period may be extended by the commissioner with respect to individual pupils, upon application therefor by the appropriate school authorities, to a period not in excess of six years, from the date of enrollment in school, pupils who, by reason of foreign birth or ancestry have limited English proficiency, shall be provided with instructional programs as specified in subdivision two-a of this section and the regulations of the commissioner. The purpose of providing such pupils with instruction shall be to enable them to develop academically while achieving competence in the English language. Instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

(ii) For purposes of considering substantial equivalence pursuant to this subdivision for nonpublic elementary and middle schools that are: (1) non-profit corporations, (2) have a bi-lingual program, and (3) have an educational program that extends from no later than nine a.m. until no earlier than four p.m. for grades one through three, and no earlier than five thirty p.m. for grades four through eight, on the majority of weekdays, the department shall consider the following, but not limited to: if the curriculum provides academically rigorous instruction that develops critical thinking skills in the school's students, taking into account the entirety of the curriculum, over the course of elementary and middle school, including instruction in English that will prepare pupils to read fiction and nonfiction text for information and to use that information to construct written essays that state a point of view or support an argument; instruction in mathematics that will prepare pupils to solve real world problems using both number sense and fluency with mathematical functions and operations; instruction in history by being able to interpret and analyze primary text to identify and explore important events in history, to construct written arguments using the supporting information they get from primary source material,

demonstrate an understating of the role of geography and economics in the actions of world civilizations, and an understanding of civics and the responsibilities of citizens in world communities; and instruction in science by learning how to gather, analyze and interpret observable data to make informed decisions and solve problems mathematically, using deductive and inductive reasoning to support a hypothesis, and how to differentiate between correlational and causal relationships.

(iii) For purposes of considering substantial equivalence pursuant to this subdivision for nonpublic high schools that: (1) are established for pupils in high school who have graduated from an elementary school that provides instruction as described in this section, (2) are a non-profit corporation, (3) have a bi-lingual program, and (4) have an educational program that extends from no later than nine a.m. until no earlier than six p.m. on the majority of weekdays the department shall consider the following but not limited to: if the curriculum provides academically rigorous instruction that develops critical thinking skills in the school's students, the outcomes of which, taking into account the entirety of the curriculum, result in a sound basic education.

(iv) Nothing herein shall be construed to entitle or permit any school to receive an increase in mandated services aid pursuant to 8 NYCRR 176 on account of providing a longer school day.

(v) The commissioner shall be the entity that determines whether nonpublic elementary and secondary schools are in compliance with the academic requirements set forth in paragraphs (ii) and (iii) of this subdivision.

2-a. Instructional programs for pupils of limited English proficiency. 1. Each school district which is receiving total foundation aid shall develop a comprehensive plan consistent with requirements as the commissioner may establish in regulations to meet the educational needs of pupils of limited English proficiency. Such plan shall include a description of the programs, activities and services used to meet the educational needs of pupils of limited English proficiency that comply with the regulations of the commissioner governing such programs. By July first, two thousand eight, the commissioner shall develop guidelines for the enhancement of services for such pupils, which shall include but not be limited to the replication of existing model programs

that have been effective in meeting the needs of such pupils, and shall establish eligibility standards for incentive grants to improve services to such pupils and the competitive process that will be used to award such grants. On or before March first of each year commencing with March first, two thousand nine, the commissioner shall submit a report to the governor, the director of the budget, the speaker of the assembly, the temporary president of the senate, the chair of the fiscal committees of the senate and assembly on the expenditure of state, local and federal funds by school districts in the prior school year on programs, activities and services for pupils of limited English proficiency, along with recommendations for improvement of such programs.

2. The board of education of each school district receiving such funds shall provide a program of bilingual education or English as a second language for eligible pupils and may contract with a board of cooperative educational services or another school district to provide such program, provided that in a city having a population of one million or more, the community school boards shall provide such program in the schools within their jurisdiction.

3. Eligibility for such programs shall be based on the following criteria. A pupil who by reason of foreign birth or ancestry speaks a language other than English, and either understands and speaks little or no English, or who has been identified by any English language assessment instrument approved by the commissioner as a pupil of limited English proficiency, shall receive a program of bilingual education or English as a second language in accordance with standards established by the commissioner. A pupil's proficiency in the English language shall be measured annually by such language assessment instrument in order to determine further participation in bilingual education or English as a second language program in accordance with standards established by the commissioner, subject to the provisions of subdivision two of this section. The parent or guardian of a pupil designated as limited English proficient shall be informed by the local school authorities of the pupil's placement in an instructional program.

4. Bilingual programs shall be designed to:

(a) provide content instruction for children of limited English proficiency using the child's native language and English;

(b) provide native language instruction; and

(c) provide English as a second language instruction.

5. English as a second language program shall be designed to develop skills in listening, speaking, reading and writing the English language, and assist in the learning of content areas through monolingual instruction in English.

6. The commissioner shall establish, by regulation, standards for approved programs for pupils of limited English proficiency.

7. After a pupil is enrolled in a regular instructional program, he may receive additional instruction in his native language.

8. A school district which provides a program of bilingual education or English as a second language designed to meet the needs of pupils of limited English proficiency, shall be empowered to:

(a) impart to pupils a knowledge of the history and culture associated with their native languages;

(b) establish closer cooperation between the school and the home;

(c) provide early childhood educational programs related to the purposes of this section and designed to improve the potential for profitable learning activities by children;

(d) offer adult education programs related to the purposes of this section, particularly for parents of pupils with limited English proficiency;

(e) provide programs designed for dropouts or potential dropouts having need of such programs; and

(f) provide other activities deemed desirable to further the purposes of this section.

9. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under any public law enacted by the United States Congress.

2-b. Gifted instruction in schools. The governing board of any school district and any community school district is hereby empowered to determine the circumstances wherein instruction shall be given to meet the special needs of gifted pupils as provided in this chapter.

3. Courses of study. a. (1) The course of study for the first eight years of full time public day schools shall provide for instruction in at least the twelve common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state and science.

(2) The courses of study and of specialized training beyond the first eight years of full time public day schools shall provide for instruction in at least the English language and its use, in civics, hygiene, physical training, and American history including the principles of government proclaimed in the Declaration of Independence and established by the constitution of the United States.

(3) The courses of study beyond the first eight years of full time public day schools may provide a program for a course in "communism and its methods and its destructive effects".

b. For part time day schools. The course of study of a part time public day school shall include such subjects as will enlarge the civic and vocational intelligence and skill of the minors required to attend.

c. For evening schools. In a public evening school instruction shall be given in at least speaking, reading, and writing English.

d. For parental schools. In a parental school provision shall be made for vocational training and for instruction in other subjects appropriate to the minor's age and attainments.

e. Changes in courses of study. The state education department shall have power to alter the subjects of instruction as prescribed in this section.

4. Length of school sessions. a. A full time day school or class,

except as otherwise prescribed, shall be in session for not less than one hundred eighty days each year, exclusive of legal holidays that occur during the term of said school and exclusive of Saturdays.

b. A part time day school or class shall be in session each year for at least four hours of each week during which the full time day schools are in session.

c. Evening schools shall be in session each year as follows:

(1) In cities having a population of one hundred thousand or more, on at least one hundred nights;

(2) In cities having a population of fifty thousand but less than one hundred thousand, on at least seventy-five nights;

(3) In each other city, and in each school district where twenty or more persons from seventeen to twenty-one years of age are required to attend upon evening instruction, on at least fifty nights.

4-a. Special education. Every pupil, having been determined to be a "child with a handicapping condition" by a committee on the handicapped, shall be offered an opportunity to receive the benefits of an appropriate public education as prescribed in article eighty-nine of this chapter.

4-b. The board of education or the board of trustees of each school district shall establish a policy and adopt procedures to allow any student in such district to participate in the graduation ceremony of the student's high school graduating class and all related activities if such student has been awarded a skills and achievement commencement credential or career development and occupational studies commencement credential but has not otherwise qualified for a regents or local diploma. The policy and procedures shall provide annual written notice to all students and their parents or guardians about the school district's policy and procedures adopted in accordance with this subdivision. Nothing in this subdivision shall compel a student to participate in the high school graduation ceremony and activities. For purposes of this subdivision, a student's high school graduating class shall be the twelfth grade class with which such student entered into

ninth grade.

5. Subject to rules and regulations of the board of regents, a pupil may, consistent with the requirements of public education and public health, be excused from such study of health and hygiene as conflicts with the religion of his parents or guardian. Such conflict must be certified by a proper representative of their religion as defined by section two of the religious corporations law.

6. Notwithstanding any law, rule, or regulation to the contrary:

(a) Instruction at a nonpublic school satisfies all the requirements of this part applicable to instruction, including subdivision two of this section, subdivision two of section thirty-two hundred ten of this part, and any other requirements in this chapter applicable to instruction, and shall thereby qualify as and be finally recognized to be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides, if such nonpublic school is:

(i) a registered high school or nonpublic school serving grades one through eight that has a registered high school;

(ii) a state-approved private special education school or state-operated or state-supported school established by the state legislature pursuant to article eighty-five, eighty-seven or eighty-eight of this chapter;

(iii) a nonpublic school that is accredited or is awarded provisional status by an accreditation body approved by the commissioner for purposes of demonstrating compliance with the requirements of this section, except that such provisional status shall only apply for the first five years that such nonpublic school has been awarded provisional status. An accreditation body shall have the knowledge and expertise to properly evaluate the entirety of the day's curriculum of those schools that it accredits and shall use a peer review process that includes evaluation by leaders of similar nonpublic schools, appropriately train all staff and peer reviewers who are involved in the accreditation process, accredit based on publicly accessible documented standards, perform a comprehensive onsite visit of any school seeking accreditation while such school is in session, and periodically conduct a combination

of interim and full accreditation reviews of the nonpublic schools which it accredits during at least a ten-year period. Additionally, such accreditation body shall require nonpublic schools seeking accreditation to have curriculum that is informed by research, document individual student progress, and have mechanisms for monitoring, assessing, and providing feedback on student progress. The commissioner may, at any time, revoke such commissioner's approval of an accreditation body for cause, upon notice and hearing;

(iv) a nonpublic school that participates in the international baccalaureate program;

(v) a nonpublic school whose instruction is approved by the United States government for instruction on a military base or service academy;

(vi) a nonpublic school in which the percentage of students who score "proficient" on a year-end summative or cumulative assessment and taken in the same subject areas and for the same grade levels as the annual New York state testing program to comply with the federal Every Student Succeeds Act is equal to or greater than one of the following metrics, and such school has declared the intended use of such metric at the beginning of the school year:

(1) the percentage of similarly situated public school students scoring at the "proficient" level on New York state testing program tests taken in the same subject areas and grade levels in the school district that serves the same geographic area as the nonpublic school is located; or

(2) the percentage of similarly situated public school students statewide scoring at the "proficient" level on New York state testing program tests taken in the same subject areas and grade levels; or

(vii) a nonpublic school that administers a year-end summative or cumulative assessment taken in substantially the same subject areas and same grade levels as the annual New York state testing program to comply with the federal Every Student Succeeds Act, has a three-year average participation rate that is equal to or greater than the three-year statewide average participation rate, and uses the results to assess the school's educational program and to seek to improve instruction and its students' performance on such tests.

(a-1) A nonpublic school's satisfaction of one or more criteria listed in paragraph (a) of this subdivision in one school year shall not

automatically be deemed satisfaction of such criteria in later school years if such school ceases to satisfy such criteria in such later years.

(b) (i) For purposes of subparagraphs (vi) and (vii) of paragraph (a) of this subdivision, the following terms shall have the following meanings:

(1) "Year-end summative or cumulative assessment" shall mean one or more assessments selected by the nonpublic school that qualifies as (A) a New York state testing program test; (B) an assessment approved by the commissioner; or (C) a nationally-recognized, commercially published norm-referenced achievement test that is: (I) recognized and used in at least three other states; (II) selected by the nonpublic school from one of the following: the Iowa Test of Basic Skills, the California Achievement Test, the Stanford Achievement Test, the Comprehensive Test of Basic Skills, the Metropolitan Achievement Test, i-Ready, a state education department test, or; (III) another test approved by the state education department. All assessments and materials used in connection with such assessments shall be culturally competent and respectful of cultural curricula and pedagogy. A nonpublic school shall not need to use the same year-end summative or cumulative assessment across all grades or years and may change assessments used at any time.

(2) "Proficient" shall mean, as applicable, (A) a score of "proficient" on a New York state testing program test; (B) a score determined by the commissioner for an assessment approved by the commissioner; or (C) a score of at least the thirty-third percentile on a nationally-recognized, commercially published norm-referenced achievement test, unless the commissioner approves a lower percentage for such tests.

(ii) To rely on subparagraph (vi) of paragraph (a) of this subdivision, a nonpublic school shall demonstrate a student participation rate on its year-end summative or cumulative assessment or assessments equal to or greater than the three-year average statewide participation rate.

(iii) To allow for adequate preparation of students in connection with subparagraphs (vi) and (vii) of paragraph (a) of this subdivision, a phase-in period shall be established. During such phase-in period, a nonpublic school and its affiliated schools shall be deemed to have met

the criteria in subparagraphs (vi) and (vii) of paragraph (a) of this subdivision, for purposes of all components of this subdivision. Such phase-in status shall commence upon the effective date of this subdivision, including prior to the administration of any year-end summative or cumulative assessment, and shall continue until the first cohort entering second grade at such nonpublic school after such effective date completes the year-end summative or cumulative assessment for the third grade and shall further continue in the subsequent years, as long as such nonpublic school continues administering a year-end summative or cumulative assessment for the third grade and adds one additional, higher grade each year until such nonpublic school is administering a year-end summative or cumulative assessment for grades three through ten. The phase-in period shall end after the two thousand thirty-two--two thousand thirty-three school year. Prior to such cohorts tested using year-end summative or cumulative assessments under subparagraphs (vi) and (vii) of paragraph (a) of this subdivision, such cohorts may be provided with practice and/or sample testing questions to begin familiarizing themselves with standardized testing methodology. The phase-in period shall be applicable to all nonpublic schools, and it shall only be necessary for a nonpublic school to administer year-end summative or cumulative assessments for the phased-in grades, notwithstanding the nonpublic school's past or current administration of such assessments for other grades.

(iv) If a nonpublic school meets, or has been deemed pursuant to subparagraph (iii) of this paragraph to have met, the criteria in subparagraph (vi) or (vii) of paragraph (a) of this subdivision, then during the phase-in period of subparagraph (iii) of this paragraph, all affiliated schools shall be deemed to have met such criteria. Affiliated schools are those with one of the following: the same office of religious and independent school support (ORISS) code under a single basic educational data system (BEDS) code; or the same organization with a different BEDS code in the same location; or the same ORISS code and leadership but may have physical buildings in different locations. During the phase-in period of subparagraph (iii) of this paragraph, a nonpublic school which meets the criteria of subparagraph (vii) of paragraph (a) of this subdivision shall include its affiliated schools when using the results of the year-end summative or cumulative

assessment to assess educational programming and improve instruction and students' performance on such tests. During the phase-in period of subparagraph (iii) of this paragraph, if a nonpublic school meets the criteria in subparagraph (iii) of paragraph (a) of this subdivision with respect to provisional status then all affiliated schools shall be deemed to have met such criteria. If a nonpublic high school meets the criteria in subparagraph (i) or (vi) of paragraph (a) of this subdivision, then all affiliated middle or elementary schools shall be deemed to have met such criteria.

(c) Nothing in this subdivision shall preclude the commissioner from defining by rule or regulation alternative criteria which may also be used to demonstrate that instruction at a nonpublic school is in compliance with this section. Compliance with this section may be demonstrated through any one or more of the criteria established in this subdivision and shall thereby qualify as and be finally recognized to be substantially equivalent without any further requirements. A nonpublic school's satisfaction of one or more criteria in one school year shall not automatically be deemed satisfaction of such criteria in later school years if such school ceases to satisfy such criteria in such later years. A nonpublic school may elect at any time to select different criteria. A nonpublic school's omission to satisfy one or more criteria shall not affect a nonpublic school's ability to satisfy another criteria, or such criteria at a later date.

§ 3205. Attendance of minors upon full time day instruction. 1. a. In each school district of the state, each minor from six to sixteen years of age shall attend upon full time instruction.

b. Each minor from six to sixteen years of age on an Indian reservation shall attend upon full time day instruction.

c. For purposes of this article, a minor who becomes six years of age on or before the first of December in any school year shall be required to attend upon full time instruction from the first day that the appropriate public schools are in session in September of such school year, and a minor who becomes six years of age after the first of

December in any school year shall be required to attend upon full time instruction from the first day of session in the following September; and, except as otherwise provided in subdivision three of this section, shall be required to remain in attendance until the last day of session in the school year in which the minor becomes sixteen years of age.

2. Exceptions. a. A minor who has completed a four-year high school course of study shall not be subject to the provisions of part one of this article in respect to required attendance upon instruction.

b. A minor for whom application for a full-time employment certificate has been made and who is eligible therefor may, though unemployed, be permitted to attend part time school not less than twenty hours per week instead of full time school.

c. The board of education of every school district within the state is hereby authorized to require minors who are five years of age on or before December first to attend kindergarten instruction. However, the provisions of this paragraph shall not apply to:

(i) Minors whose parents elect not to enroll their children in school until the following September.

(ii) Students enrolled in non-public schools or in home instruction.

3. In each school district, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full time day instruction until the last day of session in the school year in which the student becomes seventeen years of age.

§ 3206. Attendance of minors upon part time instruction. 1. The board of education of a city or district shall have power to require each employed minor from sixteen to seventeen years of age to attend upon part time instruction in accordance with the provisions of this section.

2. A minor who is a graduate of a four-year high school course of study shall not be required to attend upon part time instruction.

3. The attendance of an employed minor required to attend upon part time instruction by a board of education in accordance with the provisions of this section shall be for not less than four, nor more than eight hours per week, and on such day or days of the week as the school authorities may determine.

4. An employed minor, while temporarily unemployed, or a minor attending part time school under the provisions of subdivision two, paragraph b, of section thirty-two hundred five, required to attend part time instruction by a board of education in accordance with the provisions of this section, shall attend upon part time instruction for not less than twenty hours a week. An employed minor shall be deemed to be temporarily unemployed until he reenters lawful employment or attends upon full time day instruction.

5. The absence of an employed minor during a rush season may be permitted by the school authorities on condition that the minor attend a greater number of hours per week thereafter until the absence is made up, and provided that the minor's employer is a party to such an agreement.

6. An absence due to unlawful cause may be required to be made up by attendance in excess of the number of hours per week otherwise required.

7. The school authorities of a city or district shall have power after a hearing to establish a half-time system or program of employment and required attendance at part time schools for minors who are included by the provisions of this section.

8. Each minor above the age of sixteen years and under the age of eighteen years, who is not in regular full-time day attendance at a public, private or parochial school or who is regularly and lawfully employed in some occupation or service, unless such minor has completed a four year secondary course of instruction approved by the regents of the university, shall attend a part-time school or class in the city or district in which such minor resides or may be employed, provided the

board of education of such city or district has enacted appropriate rules and regulations requiring attendance at such part-time schools under the provisions of section forty-six hundred one. Such attendance shall be subject to the provisions of article ninety-three of this chapter.

§ 3207. Attendance upon evening instruction. In each city and school district in which evening instruction is provided, under the provisions of part one of this article, each person from seventeen to twenty-one years of age who is unable to speak, read and write English as required for the completion of the fifth year of the elementary school course of study, and who is not attending upon equivalent day instruction, shall attend upon such evening instruction.

§ 3207-a. Service of persons seventeen years of age as election inspectors or poll clerks. A school district may permit an enrolled student, with the consent of such student's parent, guardian, or other person in parental relation, to serve as an election inspector or poll clerk pursuant to section 3-400 of the election law (and other applicable provisions of this chapter and the labor law). For the purposes of attendance, any student so serving while school is in session shall be recorded as in attendance.

*** § 3208. Attendance; screening of new entrants; prohibition against mandatory medication.** 1. A person included by the provisions of this part shall be required to attend upon instruction only if in proper mental and physical condition.

2. A person whose mental or physical condition is such that his or her attendance upon instruction under the provisions of this part would endanger the health or safety of such person or of others shall not be permitted to attend, provided that nothing in this section shall be construed to authorize a denial of access to education based on disability in violation of state or federal law.

3. If a person's mental or physical condition, by virtue of which he or she is not required or permitted to attend upon instruction, is due to a mental or physical condition which may be remedied by the taking of reasonable measures, such mental or physical condition shall justify only the temporary failure of the person to attend.

4. The determination of mental or physical condition under the provisions of this part shall be based upon actual examination made by a person or persons qualified by appropriate training and experience, in accordance with regulations of the department. The department shall designate persons having the required qualifications to make such mental or physical examinations on behalf of any local school authorities, except that in a city having a population of one million or more the superintendent of schools shall designate such persons.

4-a. Officers or employees of the state, a school district, a board of cooperative educational services, a charter school, an approved private school for the education of students with disabilities approved pursuant to paragraph e, f, g or h of subdivision two of section forty-four hundred one of this chapter, an approved provider of preschool special education approved pursuant to section forty-four hundred ten of this chapter or a state-supported school operating pursuant to article forty-five of this chapter, shall be prohibited from requiring a child who is entitled to attend school pursuant to subdivision one of section thirty-two hundred two of this part to obtain a prescription for a substance covered by the federal controlled substances act, section eight hundred one of title twenty-one of the United States code, et seq., as a condition of attending school, receiving an evaluation or reevaluation pursuant to article eighty-nine of this chapter or any other provision of law relating to students with disabilities or receiving special education programs or services.

5. a. Each board of education or trustees of each school district shall provide for the screening of every new entrant to school to determine which pupils are or may be children with disabilities or gifted children, as well as all pupils who score below level two on

either the third grade English language arts or mathematics assessments for New York state elementary schools, in accordance with regulations of the commissioner to determine whether such pupils may have disabilities.

b. Such screening shall include, but not be limited to:

(1) A physical examination pursuant to the provisions of sections nine hundred one, nine hundred three and nine hundred four of this chapter, including proof of immunization as required by section twenty-one hundred sixty-four of the public health law.

(2) A language development assessment.

c. If such screening indicates a suspected disability, which may require the provision of special education services or programs, a referral shall be made to the committee on special education.

d. If such screening indicates a possibly gifted child, the name and finding shall be reported to the superintendent of schools of such district and to the parent or legal guardian of such child. Such notification shall not be construed as an entitlement for services for any such child identified as possibly gifted.

* NB Effective until June 30, 2027

* § 3208. Attendance; proper mental and physical condition. 1. A person included by the provisions of part one of this article shall be required to attend upon instruction only if in proper mental and physical condition.

2. A person whose mental or physical condition is such that his attendance upon instruction under the provisions of part one of this article would endanger the health or safety of himself or of others shall not be permitted to attend.

3. If a person's mental or physical condition, by virtue of which he is not required or permitted to attend upon instruction, is due to physical defects or to a physical condition which may be remedied by the taking of reasonable measures, such mental or physical condition shall justify only the temporary failure of the person to attend.

4. The determination of mental or physical condition under the provisions of part one of this article shall be based upon actual examination made by a person or persons qualified by appropriate training and experience, in accordance with regulations of the state education department. The state education department shall designate persons having the required qualifications to make such mental or physical examinations on behalf of any local school authorities, except that in a city having a population of one million or more the superintendent of schools shall designate such persons.

5. a. Each board of education or trustees of each school district shall provide for the screening of every new entrant to school to determine which pupils are or may be children with handicapping conditions or gifted, as well as all pupils who score below level two on either the third grade reading or mathematics tests for New York state elementary schools and all students who obtain a comparable percentile score on the regents preliminary competency test, in accordance with regulations of the commissioner to determine whether such pupils may have handicapping conditions.

b. Such screening shall include, but not be limited to:

(1) A physical examination pursuant to the provisions of sections nine hundred one, nine hundred three and nine hundred four of this chapter, including proof of immunization as required by section twenty-one hundred sixty-four of the public health law.

(2) A language development assessment.

c. If such screening indicates a suspected handicapping condition, which may require the provision of special education services or programs, a referral shall be made to the committee on special education.

d. If such screening indicates a possibly gifted child, the name and finding shall be reported to the superintendent of schools of such district and to the parent or legal guardian of such child. Such notification shall not be construed as an entitlement for services for any such child identified as possibly gifted.

* NB Effective June 30, 2027

§ 3208-a. Special proceeding to determine physical capacity of student to participate in athletic programs. 1. Upon a school district's determination that a student shall not be permitted to participate in an athletic program by reason of a physical impairment, based on a medical examination conducted by the school physician, the student may commence a special proceeding in the supreme court pursuant to the provisions of article four of the civil practice law and rules to enjoin the school district from prohibiting his participation. Such special proceeding may be brought in the county in which the student resides or in the county in which the school district is located.

2. The petition in the proceeding shall be a verified petition of a parent or guardian of the student. The petition shall have annexed affidavits of at least two licensed physicians setting forth that in their opinion the student is physically capable of participating in an athletic program, that participation would be reasonably safe, and any special or preventive measures or devices needed to protect the student.

3. The court shall grant such petition if it is satisfied that it is in the best interest of the student to participate in an athletic program and that it is reasonably safe for him to do so.

4. No school district shall be held liable for an injury sustained by a student granted an order under this section provided such injury is incurred during such student's actual participation in an athletic program and, provided further, that such injury is attributable to the physical impairment for which such court order was obtained.

5. Unless specifically prohibited by the court, an order granted pursuant to the provisions of this section shall be considered valid and sufficient for subsequent years, provided that the student has not changed athletic programs and, further, that two licensed physicians set forth current affidavits that, in their opinion, the student's physical impairment has not changed since the time of the original court order.

6. In no event shall a successful petitioner be entitled to costs in any proceeding brought pursuant to this section.

7. The school district shall not be responsible for providing or bear the cost of, any special or preventive measures or devices needed to protect the student unless such special or preventive measures or devices are contained in a student's individual education plan recommended by the school district committee on the handicapped and such student is a child with a handicapping condition, as defined in section forty-four hundred one of this chapter.

8. A physically impaired child eligible to commence a special proceeding as provided by this section shall be defined as any child determined by a school physician as ineligible for participation on the basis of the regulations of the state education department, the American Medical Association Guide for Medical Evaluation for Candidates for School Sports, or by any standard established by the school district involved.

9. An athletic program for the purpose of this section shall include intramural activities, inter-school activities, extramural activities, and organized practice as defined by section 135.1 by the commissioner of education's regulations.

§ 3209. Education of homeless children. 1. Definitions.

a. Homeless child. For the purposes of this article, the term "homeless child" shall mean:

(1) a child or youth who lacks a fixed, regular, and adequate nighttime residence, including a child or youth who is:

(i) sharing the housing of other persons due to a loss of housing, economic hardship or a similar reason;

(ii) living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;

(iii) abandoned in hospitals; or

(iv) a migratory child, as defined in subsection two of section thirteen hundred nine of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, who qualifies as homeless under any of the provisions of clauses (i) through (iii) of this subparagraph or subparagraph two of this paragraph;

(v) an unaccompanied youth, as defined in section seven hundred twenty-five of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act; or

(2) a child or youth who has a primary nighttime location that is:

(i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the state or local department of social services, and residential programs for runaway and homeless youth established pursuant to article nineteen-H of the executive law; or

(ii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train stations or similar setting.

a-1. Exception. For the purposes of this article the term "homeless child" shall not include a child in a foster care placement or receiving educational services pursuant to subdivision four, five, six, six-a or seven of section thirty-two hundred two of this part or pursuant to article eighty-one, eighty-five, eighty-seven or eighty-eight of this chapter.

b. Designator. The term "designator" shall mean:

(1) the parent or the person in parental relation to a homeless child; or

(2) the homeless child, if no parent or person in parental relation is available; or

(3) the director of a residential program for runaway and homeless youth established pursuant to article nineteen-H of the executive law, in consultation with the homeless child, where such homeless child is living in such program.

c. School district of origin. The term "school district of origin"

shall mean the school district within the state of New York in which the homeless child was attending a public school or preschool on a tuition-free basis or was entitled to attend when circumstances arose which caused such child to become homeless, which is different from the school district of current location. School district of origin shall also mean the school district in the state of New York in which the child was residing when circumstances arose which caused such child to become homeless if such child was eligible to apply, register, or enroll in public preschool or kindergarten at the time such child became homeless, or the homeless child has a sibling who attends a school in the school district in which the child was residing when circumstances arose which caused such child to become homeless.

d. School district of current location. The term "school district of current location" shall mean the public school district within the state of New York in which the hotel, motel, shelter or other temporary housing arrangement of a homeless child, or the residential program for runaway and homeless youth, is located, which is different from the school district of origin.

e. Regional placement plan. The term "regional placement plan" shall mean a comprehensive regional approach to the provision of educational placements for homeless children which has been approved by the commissioner.

f. Feeder school. The term "feeder school" shall mean:

(1) a preschool whose students are entitled to attend a specified elementary school or group of elementary schools upon completion of that preschool;

(2) a school whose students are entitled to attend a specified elementary, middle, intermediate, or high school or group of specified elementary, middle, intermediate, or high schools upon completion of the terminal grade of such school; or

(3) a school that sends its students to a receiving school in a neighboring school district pursuant to section two thousand forty of this chapter.

g. Preschool. The term "preschool" shall mean a publicly funded prekindergarten program administered by the department or a local educational agency or a Head Start program administered by a local educational agency and/or services under the Individuals with Disabilities Education Act administered by a local educational agency.

h. Receiving school. The term "receiving school" shall mean:

(1) a school that enrolls students from a specified or group of preschools, elementary schools, middle schools, intermediate schools, or high schools; or

(2) a school that enrolls students from a feeder school in a neighboring local educational agency pursuant to section two thousand forty of this chapter.

i. School of origin. The term "school of origin" shall mean a public school that a child or youth attended when permanently housed, or the school in which the child or youth was last enrolled, including a preschool or a charter school. Provided that, for a homeless child or youth who completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools. Where the child is eligible to attend school in the school district of origin because the child becomes homeless after such child is eligible to apply, register, or enroll in the public preschool or kindergarten or the child is living with a school-age sibling who attends school in the school district of origin, the school of origin shall include any public school or preschool in which such child would have been entitled or eligible to attend based on such child's last residence before the circumstances arose which caused such child to become homeless.

2. Choice of district and school.

a. The designator shall have the right to designate one of the following as the school district within which the homeless child shall be entitled to attend upon instruction:

(1) the school district of current location;

(2) the school district of origin; or

(3) a school district participating in a regional placement plan.

b. The designator shall also have the right to designate one of the following as the school where a homeless child seeks to attend for instruction:

(1) the school of origin; or

(2) any school that nonhomeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool.

c. (1) Notwithstanding any other provision of law to the contrary, where the public school district in which a homeless child is temporarily housed is the school district of origin, the homeless child shall be entitled to attend the schools of such district without the payment of tuition in accordance with subdivision one of section thirty-two hundred two of this article for the duration of the homelessness and until the end of the school year in which such child becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

(2) Notwithstanding any other provision of law to the contrary, where the school district of origin or school of origin that a homeless child was attending on a tuition-free basis or was entitled to attend when circumstances arose which caused the child to become homeless is located in New York state and the homeless child's temporary housing arrangement is located in a contiguous state, the homeless child shall be entitled to attend the school of origin or any school that nonhomeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool, subject to a best interest determination pursuant to subparagraph three of paragraph f of this subdivision, for the duration of the homelessness and until the end of the school year in which such child becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

(3) Notwithstanding any other provision of law to the contrary, where the child's temporary housing arrangement is located in New York state, the homeless child shall be entitled to attend the school of origin or any school that nonhomeless children and youth who live in the

attendance area in which the child or youth is actually living are eligible to attend, including a preschool, subject to a best interest determination pursuant to subparagraph three of paragraph f of this subdivision, for the duration of the homelessness and until the end of the school year in which such child becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

d. Notwithstanding the provisions of paragraph a of this subdivision, a homeless child who has designated the school district of current location as the district of attendance and who has relocated to another temporary housing arrangement outside of such district, or to a different attendance zone or community school district within such district, shall be entitled to continue to attend in the same school building or designate any school that nonhomeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool, subject to a best interest determination in accordance with subparagraph three of paragraph f of this subdivision, for the duration of the homelessness and until the end of the school year in which the child becomes permanently housed and for one additional year if that year constitutes the child's terminal year in such building.

e. Such designation shall be made on forms specified by the commissioner, and shall include the name of the child, the name of the parent or person in parental relation to the child, the name and location of the temporary housing arrangement, the name of the school district of origin, the name of the school district where the child's records are located, the complete address where the family was located at the time circumstances arose which caused such child to become homeless and any other information required by the commissioner. All school districts, temporary housing facilities operated or approved by a local social services district, and residential facilities for runaway and homeless youth shall make such forms available and shall ensure that the completed designation forms are given to the local educational agency liaison for the local educational agency in which the designated school is located in a timeframe prescribed by the commissioner in

regulations. Where the homeless child is located in a temporary housing facility operated or approved by a local social services district, or a residential facility for runaway and homeless youth, the director of the facility or a person designated by the social services district, shall, within two business days, assist the designator in completing the designation forms and enrolling the homeless child in the designated school district and shall forward the completed designation form to the local educational agency liaison for the local educational agency in which the designated school is located in a timeframe prescribed by the commissioner in regulations.

f. Upon receipt of the designation form, the designated school district shall immediately:

(1) review the designation form to ensure that it has been completed;

(2) admit the homeless child even if the child or youth is unable to produce records normally a requirement for enrollment, such as previous academic records, records of immunization and/or other required health records, proof of residency or other documentation and/or even if the child has missed application or enrollment deadlines during any period of homelessness, if applicable. Provided that nothing herein shall be construed to require the immediate attendance of an enrolled student lawfully excluded from school temporarily pursuant to section nine hundred six of this chapter because of a communicable or infectious disease that imposes a significant risk of infection of others;

(3) determine whether the designation made by the designator is consistent with the best interests of the homeless child or youth. In determining a homeless child's best interest, a local educational agency shall:

(i) presume that keeping the homeless child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the child's parent or guardian, or in the case of an unaccompanied youth, the youth;

(ii) consider student-centered factors, including but not limited to factors related to the impact of mobility on achievement, education, the health and safety of the homeless child, giving priority to the request of the child's or youth's parent or guardian or the youth in the case of an unaccompanied youth;

(iii) if after considering student-centered factors and conducting a best interest school placement determination, the local educational agency determines that it is not in the homeless child's best interest to attend the school of origin or the school designated by the designator, the local educational agency must provide a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth. The information must also include information regarding the right to a timely appeal in accordance with regulations of the commissioner. The homeless child or youth must be enrolled in the school in which enrollment is sought by the designator during the pendency of all available appeals;

(4) treat the homeless child as a resident for all purposes;

(5) make a written request to the school district where the child's records are located for a copy of such records; and

(6) forward the designation form to the school district of origin where applicable.

g. Within five days of receipt of a request for records pursuant to subparagraph five of paragraph f of this subdivision, the school district shall forward, in a manner consistent with state and federal law, a complete copy of the homeless child's records including, but not limited to, proof of age, academic records, evaluations, immunization records, and guardianship papers, if applicable.

h. Where the school of origin is a charter school, the school district designated pursuant to this subdivision shall be deemed to be the school district of residence of such child for purposes of fiscal and programmatic responsibility under article fifty-six of this chapter and shall be responsible for transportation of the homeless child if a social services district is not otherwise responsible pursuant to subdivision four of this section.

i. The commissioner shall promulgate regulations setting forth the circumstances pursuant to which a change in designation may be made and establishing a procedure for the identification of the school district of origin.

2-a. Notwithstanding any other provision of law to the contrary, each local educational agency, as such term is defined in subsection twenty-six of section ninety-one hundred one of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, shall designate a local educational agency liaison for homeless children and youths and shall, consistent with the provisions of this section, otherwise comply with the applicable requirements of paragraphs three through seven of subsection (g) of section seven hundred twenty-two of subtitle B of title VII of the McKinney-Vento Assistance Act.

3. Reimbursement.

a. Where either the school district of current location or a school district participating in a regional placement plan is designated as the district in which the homeless child shall attend upon instruction and such homeless child's school district of origin is within New York state, the school district providing instruction, including preschool instruction, shall be eligible for reimbursement by the department, as approved by the commissioner, for the direct cost of educational services, not otherwise reimbursed under special federal programs, calculated pursuant to regulations of the commissioner for the period of time for which such services are provided. The claim for such reimbursement shall be in a form prescribed by the commissioner. The educational costs for such children shall not be otherwise aidable or reimbursable.

b. The school district of origin shall reimburse the department for its expenditure for educational services on behalf of a homeless child pursuant to paragraph a of this subdivision in an amount equal to the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter, pro-rated for the period of time for which such services were provided in the base year by a school district other than the school district of origin. Upon certification by the commissioner, the comptroller shall deduct from any state funds which become due to the school district of

origin an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

4. Transportation.

a. A social services district shall provide for the transportation of each homeless child, including those in preschool and students with disabilities identified pursuant to sections forty-four hundred one and forty-four hundred two of this chapter whose individualized education programs include special transportation services, who is eligible for benefits pursuant to section three hundred fifty-j of the social services law, to and from a temporary housing location in which the child was placed by the social services district and the school attended by such child pursuant to this section, if such temporary housing facility is located outside of the designated school district pursuant to paragraph a of subdivision two of this section. A social services district shall be authorized to contract with a board of education or a board of cooperative educational services for the provision of such transportation. Where the social services district requests that the designated school district of attendance provide or arrange for transportation for a homeless child eligible for transportation pursuant to this paragraph, the designated school district of attendance shall provide or arrange for the transportation and the social services district shall fully and promptly reimburse the designated school district of attendance for the cost as determined by the designated school district. This paragraph shall apply to placements made by a social services district without regard to whether a payment is made by the district to the operator of the temporary housing facility.

b. The designated school district of attendance shall provide for the transportation of each homeless child who is living in a residential program for runaway and homeless youth established pursuant to article nineteen-H of the executive law, to and from such residential program,

and the school attended by such child pursuant to this section, if such temporary housing location is located outside the designated school district. The designated district of attendance shall be authorized to contract with a board of cooperative educational services or a residential program for runaway and homeless youth for the provision of such transportation. The department shall reimburse the designated school district of attendance for the cost of transporting such child to and from the residential program and the school attended by such child to the extent funds are provided for such purpose, as determined by the director of the budget.

c. Notwithstanding any other provision of law, any homeless child not entitled to receive transportation pursuant to paragraphs a and b of this subdivision who requires transportation in order to attend a school of origin designated pursuant to subdivision two of this section, shall be entitled to receive such transportation pursuant to this paragraph. The designated school district of attendance shall provide transportation to and from the child's temporary housing location and the school of origin. Such transportation shall not be in excess of fifty miles each way except where the commissioner certifies that transportation in excess of fifty miles is in the best interest of the child. Any cost incurred for such transportation that is allowable pursuant to the applicable provision of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with commissioner's regulations. The commissioner shall promulgate regulations setting forth the circumstances pursuant to which parent accompaniment for transportation may be reimbursable, including but not limited to: the age of the child; the distance of the transportation; the cost-effectiveness of the transportation; and whether the child has a handicapping condition.

d. Notwithstanding any other provision of law, where a homeless child designates the school district of current location as the district the

child will attend and such child does not attend the school of origin, such school district shall provide transportation to such child on the same basis as a resident student.

e. Where the designated school district of attendance has recommended that the homeless child attend a summer educational program and the lack of transportation poses a barrier to such child's participation in the summer educational program, the designated school district of attendance shall provide transportation.

f. The designated school district of attendance, or the social services district if such child is eligible for transportation from the social services district pursuant to paragraph a of this subdivision, shall provide or arrange for transportation to extracurricular or academic activities where:

(1) the homeless child participates in or would like to participate in an extracurricular or academic activity, including an after-school activity, at the school;

(2) the homeless child meets the relevant eligibility criteria for the activity; and

(3) the lack of transportation poses a barrier to such child's participation in the activity.

g. Where the homeless child is temporarily living in a contiguous state and has designated a school of origin located in the state of New York, the designated school district in New York state shall collaborate with the local educational agency in which such child is temporarily living to arrange for transportation in accordance with section 722(g)(1)(J)(iii)(II) of the McKinney-Vento Homeless Assistance Act.

h. Where the homeless child is temporarily living in New York state and continues to attend a school of origin located in a contiguous state, the school district of current location shall coordinate with the local educational agency where such child is attending school to arrange for transportation in accordance with section 722(g)(1)(J)(iii)(II) of the McKinney-Vento Homeless Assistance Act.

i. Transportation as described in this subdivision must be provided to the homeless child by the designated school district of attendance or the social services district for the duration of homelessness. The designated district of attendance must transport the child for the remainder of the school year in which the child becomes permanently housed and one additional year if that year constitutes the child's terminal year in the designated school. Such transportation shall not be in excess of fifty miles each way except where the commissioner certifies that transportation in excess of fifty miles is in the best interest of the child. The designated school district of attendance shall be entitled to reimbursement from the current school district in which the child becomes permanently housed for any cost incurred for transportation for the remainder of the school year after the child becomes permanently housed and one additional year if that year constitutes the child's terminal year in the designated school.

5. Each school district shall:

a. establish procedures, in accordance with 42 U.S.C. section 11432(g)(3)(E), for the prompt resolution of disputes regarding school selection or enrollment of a homeless child or youth, including, but not limited to, disputes regarding transportation and/or a child's or youth's status as a homeless child or unaccompanied youth;

b. provide a written explanation, including a statement regarding the right to appeal pursuant to 42 U.S.C. section 11432(g)(3)(E)(ii), the name, post office address and telephone number of the local educational agency liaison and the form petition for commencing an appeal to the commissioner pursuant to section three hundred ten of this chapter of a final determination regarding enrollment, school selection and/or transportation, to the homeless child's or youth's parent or guardian, if the school district declines to either enroll and/or transport such child or youth to the school of origin or a school requested by the parent or guardian; and

c. shall immediately enroll the child or youth in the school in which enrollment is sought pending final resolution of the dispute over the

school district's final determination of the child's or youth's homeless status, including all available appeals within the local educational agency and the commissioner pursuant to the provisions of section three hundred ten of this chapter.

6. a. By January thirty-first, nineteen hundred ninety-five, the commissioner, the commissioner of the office of temporary and disability assistance and the commissioner of the office of children and family services shall develop a plan to ensure coordination and access to education for homeless children and shall annually review such plan.

b. The commissioner shall periodically monitor local school districts to ensure their compliance with the provisions of this article, and that such districts review and revise any local regulations, policies, or practices that may act as barriers to the enrollment or attendance of homeless children in school or their receipt of comparable services as defined in Part B of Title VII of the Federal Stewart B. McKinney Act.

c. School districts shall periodically report such information to the commissioner as he or she may require to carry out the purposes of this section.

7. Public welfare officials, except as otherwise provided by law, shall furnish indigent children with suitable clothing, shoes, books, food, transportation and other necessaries to enable them to attend upon instruction as required by law. Upon demonstration of need, such necessaries shall also include transportation of indigent children for the purposes of evaluations pursuant to section forty-four hundred ten of this chapter and title II-A of article twenty-five of the public health law.

8. Information about a homeless child's or youth's living situation shall be treated as a student educational record, and shall not be deemed to be directory information, under the McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act of 2015.

9. Each homeless child to be assisted under this section shall be

provided services comparable to services offered to other students in the school selected under this section, including the following: transportation services; educational services for which the child or youth meets the eligibility criteria, such as services provided under Title I of the Elementary and Secondary Education Act of 1965 or similar state or local programs; educational programs for children with disabilities; educational programs for English learners; programs in career and technical education; programs for gifted and talented students; and school nutrition programs.

10. The commissioner may promulgate regulations to carry out the purposes of this section.

§ 3209-a. Child abuse prevention. Each school district of the state shall: (1) develop, maintain and disseminate written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; and (2) establish, and implement on an ongoing basis, a training program for all current and new school officials regarding the policies and procedures established pursuant to this section.

§ 3210. Amount and character of required attendance. 1. Regularity and conduct. a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where he resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.

b. (i) Absence for religious observance and education shall be

permitted under rules that the commissioner shall establish.

(ii) In addition, the board of education or trustees shall determine whether school session should not be held at an individual public school, or district-wide, on a day where, if school were in session, absenteeism may result in the waste of educational resources because a considerable proportion of the student population is unlikely to attend because of a religious or cultural day of observance.

c. In the event that a person requests the release of a minor required by the provisions of part one of this article to attend upon instruction, the identity of such person shall be verified against a list of names provided by the person or persons in parental relation to the minor, as defined in section two of this chapter, at the time of such minor's enrollment. The school district may adopt appropriate procedures for the purpose of submitting a list of names at a later date or updating the list of names provided by the person or persons in parental relation. If such person is identified as one of those persons included on such list, such minor may be released from attendance. If such person is identified as a person not included on such list, such minor may not be released except in the event of an emergency as determined in the sole discretion of the principal of the school, or his designee, provided that the person or persons in parental relation to the minor have been contacted and have agreed to such release. A school district may presume that either parent of the student has authority to obtain the release of said minor unless the school district has been provided with a certified copy of the legally binding instrument such as the court order or decree of divorce, separation or custody which provides evidence to the contrary. No situation shall be deemed an emergency until the facts of such situation have been verified by such principal or his designee. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph. The foregoing procedure shall not apply to release of a minor pursuant to the protective custody provisions of the social services law and the family court act.

2. Attendance elsewhere than at a public school. a. Hours of attendance. If a minor included by the provisions of part one of this article attends upon instruction elsewhere than at a public school, he shall attend for at least as many hours, and within the hours specified therefor.

b. Absence. Absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. Holidays and vacations. Holidays and vacations shall not exceed in total amount and number those allowed by the public schools.

d. Exception. In applying the foregoing requirements a minor required to attend upon full time day instruction by the provisions of part one of this article may be permitted to attend for a shorter school day or for a shorter school year or for both, provided, in accordance with the regulations of the state education department, the instruction he receives has been approved by the school authorities as being substantially equivalent in amount and quality to that required by the provisions of part one of this article.

§ 3211. Records of attendance upon instruction. 1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.

2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding

brought under the provisions of part one of this article.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shall give prompt notification in writing to the school authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following discharge, if such place of residence be known, and the name of the person in parental relation to the minor.

§ 3211-a. Reports of reading tests. The results of any standardized reading test administered by a district or school to determine the level at which a pupil is capable of reading shall be reported to the parents (including persons in parental relationship) of any pupil who shall attain a score at the twenty-third percentile or below. Local school districts shall determine the means of reporting these scores to parents. If the parent requests an interpretation of such test results, such scores shall be interpreted for the parent by a certified teacher of reading, or, in the absence of a certified teacher of reading, by other appropriate school district personnel.

§ 3212. Definition of persons in parental relation and their duties;

duties of certain other persons. 1. Definition. As used in this article, a person in parental relation to another individual shall include his father or mother, by birth or adoption, his step-father or step-mother, his legally appointed guardian, or his custodian. A person shall be regarded as the custodian of another individual if he has assumed the charge and care of such individual because the parents or legally appointed guardian of such individual have died, are imprisoned, are mentally ill, or have been committed to an institution, or because, they have abandoned or deserted such individual or are living outside the state or their whereabouts are unknown, or have designated the person pursuant to title fifteen-A of article five of the general obligations law as a person in parental relation to the child.

2. Duties of persons in parental relation. Every person in parental relation to another individual included by the provisions of part one of this article:

a. Shall submit at the time such individual begins to attend upon instruction evidence of age as required for the issuance of an employment certificate, or show that such evidence cannot be produced. When such evidence cannot be produced, or when circumstances exist which reasonably indicate that such individual may be a missing child, the superintendent of schools or his or her authorized representative shall report and make inquiry to the statewide central register for missing children pursuant to section eight hundred thirty-seven-e of the executive law. If such child appears to match a child registered with the statewide central register for missing children, or one registered with the national crime information center register, the superintendent or his or her authorized representative shall immediately contact the local law enforcement authority. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

b. Shall cause such individual to attend upon instruction as hereinbefore required, and to comply with the provisions of part one of this article with respect to the employment or occupation of minors in

any business or service whatever.

c. Shall cause such individual to be placed in proper physical condition to attend upon required instruction, if his physical condition is remediable by the taking of reasonable measures.

d. Shall furnish proof that an individual who is not attending upon instruction at a public or parochial school in the city or district where the person in parental relation resides is attending upon required instruction elsewhere. Failure to furnish such proof shall be presumptive evidence that such individual is not attending.

e. Shall furnish, with respect to an individual from seventeen to twenty-one years of age, on demand of a duly authorized representative of the school authorities, satisfactory proof that he is able to speak, read and write English as required for the completion of the fifth year of the elementary school course of study, or cause such individual to submit to an examination to determine his ability in these respects.

3. Exception. A person in parental relation to another individual included by the foregoing provisions of this section shall not be subject thereto if it can be shown that he is unable to control such individual.

4. Duties of certain individuals from sixteen to twenty-one years of age. An individual from sixteen to twenty-one years of age, if not under the control of a person in parental relation, shall comply with such requirements of part one of this article as are applicable.

5. Duties of other persons.

a. No person shall induce another individual to absent himself from attendance upon required instruction or harbor him while he is absent or aid or abet him in violating any provision of part one of this article.

b. No person shall interfere with an attendance officer in the lawful pursuit of his duties, or neglect or refuse to answer his lawful

inquiries.

c. No person shall violate any provision of part one of this article in relation to employment of minors, duties of employers, issuance or transfer of any paper authorizing the employment of minors.

d. No person shall make a false oral or written statement in or in relation to any employment certificate or other paper required by part one of this article as to any matter required to appear therein.

f. No person shall present as his own any substitute, altered or transferred certificate or badge.

6. Birth certificates. For the purpose of part one of this article, the board of health upon request shall furnish to the school authorities, or to the person in parental relation to a minor, or to an individual from seventeen to twenty-one years of age, a duly certified transcript of the birth certificate, filed according to law, of an individual from five to twenty-one years of age.

§ 3212-a. Records of telephone numbers. 1. Each school shall maintain a record of the telephone number of each pupil enrolled in the school and each person in parental relation to such pupil including the residential and business telephone numbers of persons in parental relation to pupils unless such person or pupil chooses not to supply such numbers. The record of such telephone numbers shall, except as otherwise provided by law, be accessible solely for emergency purposes.

2. The provisions of this section shall not be applicable in any school district in which the board of education has adopted a resolution providing that the record otherwise required hereby shall not be maintained.

§ 3213. Supervisors of attendance; attendance teachers; attendance officers; appointment, compensation, powers and duties. 1. Appointment,

removal, compensation and supervision. a. To the end that children shall not suffer through unnecessary failure to attend school for any cause whatsoever, it shall be the duty of each attendance teacher and each attendance supervisor to secure for every child his right to educational opportunities which will enable him to develop his fullest potentialities for education, physical, social and spiritual growth as an individual and to provide for the school adjustment of any nonattendant child in cooperation with school authorities, special school services and community and social agencies.

The school authorities of each city school district, union free school district, central school district, central high school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove one or more supervisors of attendance or attendance teachers of such district. A supervisor of attendance shall be appointed in accordance with the civil service law and rules, unless he or she is a licensed attendance teacher or a teacher licensed to teach in New York state, with such further qualifications as the board of regents shall establish. On and after July first, nineteen hundred fifty-five no full-time supervisor of attendance shall be appointed unless he or she holds a license as attendance teacher. Such supervisors of attendance and those holding full-time positions who are similarly licensed teachers or who hold attendance teacher licenses shall be assigned to the step in the salary schedule of the school district commensurate with the salary being paid such supervisors or teachers. Such persons shall be paid thereafter in accordance with such schedule. If the amount of salary received on said July first, nineteen hundred fifty-five is less than the minimum step of the salary schedule, such supervisor or teacher shall be paid until June thirtieth, nineteen hundred fifty-six at the rate of the first step and in accordance with the schedule thereafter.

No supervisor of attendance or attendance teacher shall be appointed who is not twenty-one years of age and in proper physical condition.

In the establishment of an eligible list advanced education related to attendance service shall be taken into consideration in the grading of

the candidates. Experience in teaching, in social service and welfare work, and in business or in the professional field shall likewise be taken into consideration.

Paragraph a of subdivision one of this section shall apply to a city in which attendance supervisors are appointed from an eligible list now prepared by a board of examiners.

Supervisors of attendance in a city having a board of examiners shall be licensed as attendance teachers only when they comply with the regulations for such license as established by the commissioner of education and any additional requirements which may be established by the board of examiners.

The board of education shall fix the compensation of part-time supervisors of attendance and prescribe their duties not inconsistent with part one of this article and make rules and regulations for the performance thereof. The superintendent of schools or district superintendent of schools shall supervise the enforcement of part one of this article within such city or school district.

b. The town board of each town, with the approval, in writing, of the district superintendent, shall appoint, on or before August first of each year, one or more attendance officers and shall fix their compensation. During the school year it shall also fill promptly any vacancy after notification thereof by the district superintendent. The district superintendent shall promptly notify the town board of his approval or disapproval of an appointment. If within one month a town board shall not comply with the foregoing provisions, the district superintendent, subject to appeal to the commissioner of education, shall exercise the powers and duties of the town board with respect thereto. An attendance officer appointed for a town shall have jurisdiction over all school districts of the town which are not otherwise provided for by this section. He shall be removable at the pleasure of the district superintendent. His compensation and his necessary expenses in attending conferences called by the district superintendent shall be a town charge.

c. In case a school district shall include territory lying within the boundaries of more than one town, the attendance officer appointed by the town in which the schoolhouse is located shall have jurisdiction over the entire school district.

2. Powers and duties. a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him.

b. Right of entry.

(1) A supervisor of attendance, attendance teacher or attendance officer, as the case may be, in the performance of his duties, may enter during business hours any factory, mercantile or other establishment, or other place in which a minor is believed to be employed within the city or school district in which he is appointed, and shall be entitled to examine on demand the employment certificates or work permits of minors therein employed, for whose lawful employment such certificates or permits are required by the provisions of part one of this article.

(2) He may also enter any public place during the hours in which the public have access thereto, to ascertain if any minor is therein who is required to attend upon instruction by the provisions of part one of this article, or engaged in a street trade contrary to the provisions of part one of this article, or to collect information required for the school census.

c. Notification upon absence. It shall be the duty of every school district to inform persons in parental relation to elementary school pupils of such person's right to be notified when such pupil is deemed absent from attendance at his designated school. Persons in parental relation to elementary school pupils shall, if such notification is desired, forward a request in writing to the principal of the pupil's designated school. Such request shall contain the telephone number of person or persons in parental relation to the pupil or other information to facilitate communication with such persons by the most expedient means available. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

d. Notification when deemed absent. A supervisor of attendance, attendance teacher, attendance officer, or other person authorized by the school district, as the case may be, shall, where a request for notification has been made pursuant to paragraph c of this subdivision, notify a person in parental relation to any elementary school pupil by the means designated in such request when such pupil is deemed absent from required attendance at his designated school without prior notification and consent to such absence by the person in parental relation. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

e. To the extent that supervisors of attendance, attendance teachers and attendance officers act pursuant to this subdivision and subdivision one of this section for the purpose of carrying out the provisions of part one of this article, they shall be deemed to have acted within the scope of their employment. Such personnel shall continue to have all the powers, duties and responsibilities conferred on them by law prior to the date on which the provisions of this paragraph become effective.

§ 3214. Student placement, suspensions and transfers. 1. School

delinquent. A minor under seventeen years of age, required by any of the provisions of part one of this article to attend upon instruction, who is an habitual truant from such instruction or is irregular in such attendance or insubordinate or disorderly or disruptive or violent during such attendance, is a school delinquent.

2. Special day schools. The school authorities of any city or school district may establish schools or set apart rooms in public school buildings for the instruction of school delinquents, and fix the number of days per week and the hours per day of required attendance, which shall not be less than is required of minors attending the full time day schools.

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age who:

(1) commits an act of violence upon a teacher, administrator or other school employee;

(2) commits, while on school district property, an act of violence upon another student or any other person lawfully upon said property;

(3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;

(4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

(5) threatens, while on school district property, to use any instrument that appears capable of causing physical injury or death;

(6) knowingly and intentionally damages or destroys the personal property of a teacher, administrator, other school district employee or any person lawfully upon school district property; or

(7) knowingly and intentionally damages or destroys school district property.

b. Disruptive pupil. For the purposes of this section, a disruptive pupil is an elementary or secondary student under twenty-one years of age who is substantially disruptive of the educational process or

substantially interferes with the teacher's authority over the classroom.

3. Suspension of a pupil. a. The board of education, board of trustees or sole trustee, the superintendent of schools, district superintendent of schools or principal of a school may suspend the following pupils from required attendance upon instruction:

A pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

b. (1) The board of education, board of trustees, or sole trustee, superintendent of schools, district superintendent of schools and the principal of the school where the pupil attends shall have the power to suspend a pupil for a period not to exceed five school days. In the case of such a suspension, the suspending authority shall provide the pupil with notice of the charged misconduct. If the pupil denies the misconduct, the suspending authority shall provide an explanation of the basis for the suspension. The pupil and the person in parental relation to the pupil shall, on request, be given an opportunity for an informal conference with the principal at which the pupil and/or person in parental relation shall be authorized to present the pupil's version of the event and to ask questions of the complaining witnesses. The aforesaid notice and opportunity for an informal conference shall take place prior to suspension of the pupil unless the pupil's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the pupil's notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

(2) A teacher shall immediately report and refer a violent pupil to the principal or superintendent for a violation of the code of conduct and a minimum suspension period pursuant to section twenty-eight hundred one of this chapter.

c. * (1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to

such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on his or her behalf. Where the pupil is a student with a disability or a student presumed to have a disability, the provisions of paragraph g of this subdivision shall also apply. Where a pupil has been suspended in accordance with this subparagraph by a superintendent of schools, district superintendent of schools, or community superintendent, the superintendent shall personally hear and determine the proceeding or may, in his or her discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him or her. A record of the hearing shall be maintained, but no stenographic transcript shall be required and a tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

* NB Effective until June 30, 2027

* (1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by

counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on his behalf. Where a pupil has been suspended in accordance with this subdivision by a superintendent of schools, district superintendent of schools, or community superintendent, the superintendent shall personally hear and determine the proceeding or may, in his discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him. A record of the hearing shall be maintained, but no stenographic transcript shall be required and a tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

* NB Effective June 30, 2027

(2) Where a pupil has been suspended in accordance with this section by a board of education, the board may in its discretion hear and determine the proceeding or appoint a hearing officer who shall have the same powers and duties with respect to the board that a hearing officer has with respect to a superintendent where the suspension was ordered by him. The findings and recommendations of the hearing officer conducting the proceeding shall be advisory and subject to final action by the board of education, each member of which shall before voting review the testimony and acquaint himself with the evidence in the case. The board

may reject, confirm or modify the conclusions of the hearing officer.

d. (1) Consistent with the federal gun-free schools act, any public school pupil who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school shall be suspended for a period of not less than one calendar year and any nonpublic school pupil participating in a program operated by a public school district using funds from the elementary and secondary education act of nineteen hundred sixty-five who is determined under this subdivision to have brought a firearm to or possessed a firearm at a public school or other premises used by the school district to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. The procedures of this subdivision shall apply to such a suspension of a nonpublic school pupil. A superintendent of schools, district superintendent of schools or community superintendent shall have the authority to modify this suspension requirement for each student on a case-by-case basis. The determination of a superintendent shall be subject to review by the board of education pursuant to paragraph c of this subdivision and the commissioner pursuant to section three hundred ten of this chapter. Nothing in this subdivision shall be deemed to authorize the suspension of a student with a disability in violation of the individuals with disabilities education act or article eighty-nine of this chapter. A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon or firearm to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under subdivision forty-two of section 1.20 of the criminal procedure law, who has been determined to have brought a weapon or firearm to school in violation of this subdivision to the appropriate law enforcement officials.

(2) Nothing in this paragraph shall be deemed to mandate such action by a school district pursuant to subdivision one of this section where

such weapon or firearm is possessed or brought to school with the written authorization of such educational institution in a manner authorized by article two hundred sixty-five of the penal law for activities approved and authorized by the trustees or board of education or other governing body of the public school and such governing body adopts appropriate safeguards to ensure student safety.

(3) As used in this paragraph:

(i) "firearm" shall mean a firearm as defined in subsection a of section nine hundred twenty-one of title eighteen of the United States Code; and

(ii) "weapon" shall be as defined in paragraph 2 of subsection g of section nine hundred thirty of title eighteen of the United States Code.

e. Procedure after suspension. Where a pupil has been suspended pursuant to this subdivision and said pupil is of compulsory attendance age, immediate steps shall be taken for his or her attendance upon instruction elsewhere or for supervision or detention of said pupil pursuant to the provisions of article seven of the family court act. Where a pupil has been suspended for cause, the suspension may be revoked by the board of education whenever it appears to be for the best interest of the school and the pupil to do so. The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

f. Whenever the term "board of education or superintendent of schools" is used in this subdivision, it shall be deemed to include community boards of education and community superintendents governing community districts in accordance with the provisions of article fifty-two-A of this chapter.

* g. Discipline of students with disabilities and students presumed to have a disability for discipline purposes. (1) Notwithstanding any other provision of this subdivision to the contrary, a student with a disability as such term is defined in section forty-four hundred one of this chapter and a student presumed to have a disability for discipline purposes, may be suspended or removed from his or her current

educational placement for violation of school rules only in accordance with the procedures established in this section, the regulations of the commissioner implementing this paragraph, and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, as such federal law and regulations are from time to time amended. Nothing in this paragraph shall be construed to confer greater rights on such students than are conferred under applicable federal law and regulations, or to limit the ability of a school district to change the educational placement of a student with a disability in accordance with the procedures in article eighty-nine of this chapter.

(2) As used in this paragraph:

(1) a "student presumed to have a disability for discipline purposes" shall mean a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in subsection (k) (5) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute; and

(ii) a "manifestation team" means a representative of the school district, the parent or person in parental relation, and relevant members of the committee on special education, as determined by the parent or person in parental relation and the district.

(3) In applying the federal law consistent with this section:

(i) in the event of a conflict between the procedures established in this section and those established in subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, such federal statute and regulations shall govern.

(ii) the trustees or board of education of any school district, a district superintendent of schools or a building principal shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days where such student is suspended pursuant to this subdivision and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iii) the superintendent of schools of a school district, either

directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to ten consecutive school days, inclusive of any period in which the student is placed in an appropriate interim alternative educational setting, another setting or suspension pursuant to clause (ii) of this subparagraph for the behavior, where the superintendent determines in accordance with the procedures set forth in this subdivision that the student has engaged in behavior that warrants a suspension, and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iv) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the change in placement of a student with a disability to an interim alternative educational setting for up to forty-five school days under the circumstances specified in subsection (k)(1)(G) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute or a longer period where authorized by federal law under the circumstances specified in subsection (k)(1)(C) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, but in neither case shall such period exceed the period of suspension ordered by a superintendent in accordance with this subdivision.

(v) the terms "day," "business day," and "school day" shall be as defined in section 300.11 of title thirty-four of the code of federal regulations.

(vi) notwithstanding any other provision of this subdivision to the contrary, upon a determination by a manifestation team that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined pursuant to this section in the same manner and for the same duration as a nondisabled student, except that such student shall continue to receive services to the extent required under federal law and regulations, and such services may be provided in an interim alternative educational setting.

(vii) an impartial hearing officer appointed pursuant to subdivision

one of section forty-four hundred four of this chapter may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for not more than forty-five school days under the circumstances specified in subsections (k)(3) and (k)(4) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statutes, provided that such procedure may be repeated, as necessary.

(viii) nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by a manifestation team that the behavior is a manifestation of the student's disability, except as authorized under federal law and regulations.

(ix) the commissioner shall implement this paragraph by adopting regulations which coordinate the procedures required for discipline of students with disabilities, and students presumed to have a disability for discipline purposes, pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, with the general procedures for student discipline under this section.

* NB Effective until June 30, 2027

* g. Discipline of students with disabilities and students presumed to have a disability for discipline purposes. (1) Notwithstanding any other provision of this subdivision to the contrary, a student with a disability as such term is defined in section forty-four hundred one of this chapter and a student presumed to have a disability for discipline purposes, may be suspended or removed from his or her current educational placement for violation of school rules only in accordance with the procedures established in this section, the regulations of the commissioner implementing this paragraph, and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, as such federal law and regulations are from time to time amended. Nothing in this paragraph shall be construed to confer greater rights on such students than are conferred under applicable federal law and regulations, or to limit the ability of a school district to change the educational placement of a student with a disability in accordance with the procedures in article

eighty-nine of this chapter.

(2) As used in this paragraph, a "student presumed to have a disability for discipline purposes" shall mean a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in subsection (k)(8) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(3) In applying the federal law consistent with this section:

(i) in the event of a conflict between the procedures established in this section and those established in subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, such federal statute and regulations shall govern.

(ii) the trustees or board of education of any school district, a district superintendent of schools or a building principal shall have authority to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days where such student is suspended pursuant to this subdivision and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iii) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to ten consecutive school days, inclusive of any period in which the student is placed in an appropriate interim alternative educational placement, another setting or suspension pursuant to clause (ii) of this subparagraph for the behavior, where the superintendent determines in accordance with the procedures set forth in this subdivision that the student has engaged in behavior that warrants a suspension, and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iv) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant

to paragraph c of this subdivision, may order the change in placement of a student with a disability to an interim alternative educational setting for up to forty-five days, but not to exceed the period of suspension ordered by a superintendent in accordance with this subdivision, under the circumstances specified in subsection (k)(1) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(v) the terms "day," "business day," and "school day" shall be as defined in section 300.9 of title thirty-four of the code of federal regulations.

(vi) notwithstanding any other provision of this subdivision to the contrary, upon a determination by the committee on special education that the behavior of a student with a disability was not a manifestation of the student's disability, such student may be disciplined pursuant to this section in the same manner as a nondisabled student, except that such student shall continue to receive services to the extent required under federal law and regulations.

(vii) an impartial hearing officer appointed pursuant to subdivision one of section forty-four hundred four of this chapter may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for not more than forty-five days under the circumstances specified in subsections (k)(2) and (k)(7) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statutes, provided that such procedure may be repeated, as necessary.

(viii) nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by the committee on special education that the behavior is a manifestation of the student's disability, except as authorized under federal law and regulations.

(ix) the commissioner shall implement this paragraph by adopting regulations which coordinate the procedures required for discipline of students with disabilities, and students presumed to have a disability for discipline purposes, pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, with the general

procedures for student discipline under this section.

* NB Effective June 30, 2027

3-a. Teacher removal of a disruptive pupil. In addition, any teacher shall have the power and authority to remove a disruptive pupil, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision and provided further that nothing in this subdivision shall authorize the removal of a pupil in violation of any state or federal law or regulation. No pupil shall return to the classroom until the principal makes a final determination pursuant to paragraph c of this subdivision, or the period of removal expires, whichever is less.

a. Such teacher shall inform the pupil and the school principal of the reasons for the removal. If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day.

b. The principal shall inform the person in parental relation to such pupil of the removal and the reasons therefor within twenty-four hours of the pupil's removal, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day. The pupil and the person in parental

relation shall, upon request, be given an opportunity for an informal conference with the principal to discuss the reasons for the removal. If the pupil denies the charges, the principal shall provide an explanation of the basis for the removal and allow the pupil and/or person in parental relation to the pupil an opportunity to present the pupil's version of relevant events. Such informal hearing shall be held within forty-eight hours of the pupil's removal, provided that if such forty-eight hour period does not end on a school day, it shall be extended to the corresponding time on the second school day next following the pupil's removal. For purposes of this subdivision, "school day" shall mean a school day as defined pursuant to clause (v) of subparagraph three of paragraph g of subdivision three of this section.

c. The principal shall not set aside the discipline imposed by the teacher unless the principal finds that the charges against the pupil are not supported by substantial evidence or that the pupil's removal is otherwise in violation of law or that the conduct warrants suspension from school pursuant to this section and a suspension will be imposed. The principal's determination made pursuant to this paragraph shall be made by the close of business on the school day next succeeding the end of the forty-eight hour period for an informal hearing contained in paragraph b of this subdivision.

d. The principal may, in his or her discretion, designate a school district administrator, to carry out the functions required of the principal under this subdivision.

4. Expense. a. The expense attending the commitment and costs of maintenance of any school delinquent shall be a charge against the city or district where he resides, if such city or district employs a superintendent of schools; otherwise it shall be a county charge.

b. The school authorities may institute proceedings before a court having jurisdiction to determine the liability of a person in parental relation to contribute towards the maintenance of a school delinquent under sixteen years of age ordered to attend upon instruction under confinement. If the court shall find the person in parental relation

able to contribute towards the maintenance of such a minor, it may issue an order fixing the amount to be paid weekly.

5. Involuntary transfers of pupils who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may transfer a pupil who has not been determined to be a student with a disability as defined in section forty-four hundred one of this chapter, or a student presumed to have a disability for discipline purposes as defined in paragraph g of subdivision three of this section from regular classroom instruction to an appropriate educational setting in another school upon the written recommendation of the school principal and following independent review thereof. For purposes of this section of the law, "involuntary transfer" does not include a transfer made by a school district as part of a plan to reduce racial imbalance within the schools or as a change in school attendance zones or geographical boundaries.

b. A school principal may initiate a non-requested transfer where it is believed that such a pupil would benefit from the transfer, or when the pupil would receive an adequate and appropriate education in another school program or facility.

No recommendation for pupil transfer shall be initiated by the principal until such pupil and a person in parental relation has been sent written notification of the consideration of transfer recommendation. Such notice shall set a time and place of an informal conference with the principal and shall inform such person in parental relation and such pupil of their right to be accompanied by counsel or an individual of their choice.

c. After the conference and if the principal concludes that the pupil would benefit from a transfer or that the pupil would receive an adequate and appropriate education in another school program or

facility, the principal may issue a recommendation of transfer to the superintendent. Such recommendation shall include a description of behavior and/or academic problems indicative of the need for transfer; a description of alternatives explored and prior action taken to resolve the problem. A copy of that letter shall be sent to the person in parental relation and to the pupil.

d. Upon receipt of the principal's recommendation for transfer and a determination to consider that recommendation, the superintendent shall notify the person in parental relation and the pupil of the proposed transfer and of their right to a fair hearing as provided in paragraph c of subdivision three of this section and shall list community agencies and free legal assistance which may be of assistance. The written notice shall include a statement that the pupil or person in parental relation has ten days to request a hearing and that the proposed transfer shall not take effect, except upon written parental consent, until the ten day period has elapsed, or, if a fair hearing is requested, until after a formal decision following the hearing is rendered, whichever is later.

Parental consent to a transfer shall not constitute a waiver of the right to a fair hearing.

6. Transfer of a pupil. Where a suspended pupil is to be transferred pursuant to subdivision five of this section, he or she shall remain on the register of the original school for two school days following transmittal of his or her records to the school to which he or she is to be transferred. The receiving school shall immediately upon receiving those records transmitted by the original school, review them to insure proper placement of the pupil. Staff members who are involved in the pupil's education must be provided with pertinent records and information relating to the background and problems of the pupil before the pupil is placed in a classroom.

7. Transfer of disciplinary records. Notwithstanding any other provision of law to the contrary, each local educational agency, as such term is defined in subsection thirty of section eighty-one hundred one of the Elementary and Secondary Education Act of 1965, as amended, shall

establish procedures in accordance with section eighty-five hundred thirty-seven of the Elementary and Secondary Education Act of 1965, as amended, and the Family Educational Rights and Privacy Act of 1974, to facilitate the transfer of disciplinary records relating to the suspension or expulsion of a student to any public or nonpublic elementary or secondary school in which such student enrolls or seeks, intends or is instructed to enroll, on a full-time or part-time basis.

*** § 3215. Unlawful employment.** 1. It shall be unlawful, except as otherwise provided by law, to employ in any trade, business or service a minor who does not present an employment certificate or permit issued in accordance with this article.

2. No minor shall be employed during the hours when attendance upon instruction is required by this chapter.

3. No minor shall be employed in violation of any provision of the labor law or other law.

4. Exceptions. a. When attendance upon instruction is not required by this chapter, a minor fourteen years of age or over may be employed without an employment certificate or permit in the following occupations:

(1) Caddy service on a golf course;

(2) Service as a baby sitter staying with and at the home of another child or children with or without the presence at such home of such child or children's parents or guardians;

(3) Casual employment of a minor fourteen or fifteen years of age consisting of yard work and household chores in and about a residence or the premises of a non-profit, non-commercial organization, not involving the use of power-driven machinery; and

(4) Casual employment of a minor sixteen years of age or over consisting of yard work and household chores in and about a residence or the premises of a non-profit, non-commercial organization, not involving the use of power-driven machinery other than power-driven machinery ordinarily used in such yard work or household chores.

b. When attendance upon instruction is not required, a minor sixteen years of age or over may be employed in work on a farm without an employment certificate or permit.

c. Nothing in this section shall prohibit the employment of a minor during the school lunch period in a school cafeteria at the school which the minor attends if the minor presents an employment certificate issued in accordance with this article.

d. Nothing in this section shall be construed to prohibit the employment of a minor in accordance with sections thirty-two hundred twenty-six through and including section thirty-two hundred thirty of this chapter.

e. Nothing in this section shall be construed to prohibit the employment of a minor twelve years of age or over in work for his parents or guardians on the home farm or at other outdoor work not connected with or for any trade, business or service when attendance upon instruction is not required by this chapter.

f. Notwithstanding any other provision of this chapter, an employment certificate or permit shall not be required for a student sixteen years of age or over who is in attendance at a recognized institution of higher learning and who is employed by a non-profit college or university or by a non-profit college or university fraternity, sorority, student association or faculty association.

* NB Effective until May 9, 2027

* § 3215. Unlawful employment. 1. It shall be unlawful, except as otherwise provided by law, to employ in any trade, business or service a minor who does not present an employment certificate or permit issued in accordance with this article and section one hundred thirty-five of the labor law.

2. No minor shall be employed during the hours when attendance upon instruction is required by this chapter.

3. No minor shall be employed in violation of any provision of the labor law or other law.

4. Exceptions. a. When attendance upon instruction is not required by this chapter, a minor fourteen years of age or over may be employed without an employment certificate or permit in the following occupations:

(1) Caddy service on a golf course;

(2) Service as a baby sitter staying with and at the home of another child or children with or without the presence at such home of such child or children's persons in parental relation;

(3) Casual employment of a minor fourteen or fifteen years of age consisting of yard work and household chores in and about a residence or the premises of a non-profit, non-commercial organization, not involving the use of power-driven machinery; and

(4) Casual employment of a minor sixteen years of age or over consisting of yard work and household chores in and about a residence or the premises of a non-profit, non-commercial organization, not involving the use of power-driven machinery other than power-driven machinery ordinarily used in such yard work or household chores.

b. When attendance upon instruction is not required, a minor sixteen years of age or over may be employed in work on a farm without an employment certificate or permit.

c. Nothing in this section shall prohibit the employment of a minor during the school lunch period in a school cafeteria at the school which the minor attends if the minor presents an employment certificate issued in accordance with this article.

d. Nothing in this section shall be construed to prohibit the employment of a minor in accordance with section thirty-two hundred twenty-six of this chapter.

e. Nothing in this section shall be construed to prohibit the employment of a minor twelve years of age or over in work for their person in parental relation on the home farm or at other outdoor work

not connected with or for any trade, business or service when attendance upon instruction is not required by this chapter.

f. Notwithstanding any other provision of this chapter, an employment certificate or permit shall not be required for a student sixteen years of age or over who is in attendance at a recognized institution of higher learning and who is employed by a non-profit college or university or by a non-profit college or university fraternity, sorority, student association or faculty association.

* NB Effective May 9, 2027

*** § 3215-a. General certification provisions.** 1. Certificating officials. Employment certificates or permits shall be issued by the chancellor in the city school district of the city of New York, and by the superintendent of schools in other school districts, provided that the district superintendent of schools may issue such certificates or permits for students attending classes operated by a board of cooperative educational services, and the principal of a nonpublic secondary school may issue such certificates or permits for students attending such school. The chancellor in New York city, or elsewhere the superintendent of schools or district superintendent of schools may designate in writing the principal of the public school the minor attends or last attended or other public school official to act as certificating official in his stead. During the months of July and August, and at other times in extraordinary circumstances and emergencies, one or more public school officials shall be designated in writing by the chancellor in New York city and elsewhere by the superintendent or district superintendent to act as certificating officials. The designation or authorization of certificating officials in public schools shall be subject to such limitations or standards as may be prescribed by the chancellor in New York city and elsewhere by the superintendent or district superintendent.

2. Revocation. Employment certificates or permits may be revoked for cause by the chancellor in New York city and elsewhere by the superintendent of schools or the district superintendent of schools

within their respective jurisdictions, or, by a principal of a nonpublic secondary school for a student attending such school. Where a student who is required to attend school pursuant to section thirty-two hundred five of this article has failed no less than four academic courses in one semester, the chancellor in New York city, and elsewhere the superintendent of schools or the district superintendent of schools within their respective jurisdictions, or a principal of a nonpublic secondary school may revoke such student's employment certificate or permit. In determining whether to revoke an employment certificate or permit, the chancellor in New York city, and elsewhere the superintendent of schools or the district superintendent of schools within their respective jurisdictions, or a principal of a nonpublic secondary school, shall consider, (1) an evaluation of the student's overall academic performance and past academic record; (2) an examination of the student's attendance record; (3) the economic need of the student's family for the income provided by the student; (4) the willingness of the student to participate in a cooperative education program, work study program, school to work program or any other structured program which provides a student with an opportunity to earn income while earning academic credit; (5) such other factors as the aforementioned officials identify; and (6) any material submitted by the student.

Notwithstanding any other provisions of law, nothing in this section shall be construed to prevent any student from obtaining an employment certificate or permit for the purpose of working during the months of July and August.

3. Approval of form and contents. The commissioner of education shall prescribe or approve the form and contents of all certificates, permits, physical examination records, and schooling records required by part one of this article. The form of such certificates and permits shall also be subject to the approval of the industrial commissioner.

* NB Effective until May 9, 2027

* § 3215-a. General certification provisions. 1. Certificating officials. Employment certificates or permits shall be issued by the commissioner of labor. The commissioner of labor may share the status of

a student's certificate or permit with the chancellor in the city school district of the city of New York and elsewhere with the superintendent of schools or the district superintendent of schools within their respective jurisdictions or with a principal of a nonpublic secondary school for a student attending such school.

2. Revocation. Employment certificates or permits may be revoked by the commissioner of labor pursuant to section one hundred thirty-five of the labor law.

Notwithstanding any other provisions of law, nothing in this section shall be construed to prevent any student from obtaining an employment certificate or permit for the purpose of working during the months of July and August.

3. Approval of form and contents. The commissioner of labor, in consultation with the commissioner of education, shall prescribe the form and contents of all certificates, permits, and schooling records required by part one of this article for employment purposes and consistent with section one hundred thirty-five of the labor law. Any employment certificate or permit issued pursuant to this part shall be issued electronically within the database created and maintained by the department of labor, in consultation with and with support from the department, pursuant to section one hundred thirty-five of the labor law.

* NB Effective May 9, 2027

*** § 3216. Employment certificates.** 1. A student non-factory employment certificate may be issued to a minor fourteen or fifteen years of age who is attending day school. The certificate shall be valid for work in a trade, business or service, but shall not be valid for work in or in connection with a factory except as provided in subdivision four of section one hundred thirty-one of the labor law.

2. A student general employment certificate may be issued to a minor sixteen or seventeen years of age who is attending day school. It shall

be valid for work in or in connection with a factory or any other trade, business or service.

3. A full-time employment certificate may be issued to a minor sixteen or seventeen years of age who is not attending day school or who declares his intention to leave day school for full-time employment. It shall be valid for work in or in connection with a factory or any other trade, business or service. A full-time employment certificate also may be issued to a minor who is a graduate of a four-year high school, but if such minor is under sixteen years of age the certificate shall not be valid for work in or in connection with a factory except as provided in subdivision four of section one hundred and thirty-one of the labor law.

4. A limited employment certificate may be issued as provided in subdivision two of section thirty-two hundred twenty of this article.

5. A special employment certificate may be issued as provided in section thirty-two hundred twenty-five of this article.

6. An employment certificate shall be valid not only for the initial employment but also for subsequent employments in work permitted by the particular type of certificate.

7. An employment certificate shall expire two years from the date of its issuance, except as otherwise provided in this article. No employment certificate shall be valid for employment in violation of any provision of the labor law or rules issued thereunder.

8. An employment certificate shall be kept on file at the place of the minor's employment and shall be returned to the minor when the employment terminates.

* NB Effective until May 9, 2027

* § 3216. Employment certificates. 1. A student non-factory employment certificate may be issued to a minor fourteen or fifteen years of age who is attending day school. The certificate shall be valid for work in a trade, business or service, but shall not be valid for work in or in connection with a factory except as provided in subdivision four of

section one hundred thirty-one of the labor law.

2. A student general employment certificate may be issued to a minor sixteen or seventeen years of age who is attending day school. It shall be valid for work in or in connection with a factory or any other trade, business or service.

3. A full-time employment certificate may be issued to a minor sixteen or seventeen years of age who is not attending day school or who declares their intention to leave day school for full-time employment. It shall be valid for work in or in connection with a factory or any other trade, business or service. A full-time employment certificate also may be issued to a minor who is a graduate of a four-year high school, but if such minor is under sixteen years of age the certificate shall not be valid for work in or in connection with a factory except as provided in subdivision four of section one hundred and thirty-one of the labor law.

4. An employment certificate shall be valid not only for the initial employment but also for subsequent employments in work permitted by the particular type of certificate, provided that the minor has updated their electronic registration to reflect the subsequent employer as required by section one hundred thirty-five of the labor law.

5. An employment certificate shall expire two years from the date of its issuance, except as otherwise provided in this article. No employment certificate shall be valid for employment in violation of any provision of the labor law or rules issued thereunder.

6. An employment certificate shall be kept on file at the place of the minor's employment or be readily accessible to any person authorized by law to examine such document in accordance with the recordkeeping requirements set forth in section one hundred thirty-five of the labor law.

* NB Effective May 9, 2027

*** § 3217. Procedure for issuance of employment certificates.** 1. An application for an employment certificate shall be made by a minor on a form prescribed by the commissioner of education.

2. Before issuing an employment certificate the issuing official shall require the minor to submit the following:

a. Evidence of age;

b. Written consent of the parent or guardian;

c. A certificate of physical fitness; and

d. If the application is for a full-time employment certificate, a schooling record.

In addition, in a city or school district which, pursuant to section thirty-two hundred five, subdivision three, of this article, requires minors from sixteen to seventeen years of age who are not employed to attend school, the certificating official shall require a minor applying for a full-time employment certificate to submit the following:

a. A pledge of employment; and

b. A schooling record.

* NB Effective until May 9, 2027

* § 3217. Procedure for issuance of employment certificates. 1. An application for an employment certificate shall be made by a minor in the manner prescribed by the commissioner of labor and consistent with the requirements of section one hundred thirty-five of the labor law.

2. Before issuing an employment certificate the issuing official shall require the minor to submit the following:

a. Evidence of age;

b. Written consent of the person in parental relation as defined in

section thirty-two hundred twelve of this part; and

c. If the application is for a full-time employment certificate, a schooling record.

In addition, in a city or school district which, pursuant to section thirty-two hundred five, subdivision three, of this article, requires minors from sixteen to seventeen years of age who are not employed to attend school, the certificating official shall require a minor applying for a full-time employment certificate to submit the following:

a. A pledge of employment; and

b. A schooling record.

* NB Effective May 9, 2027

§ 3218. Evidence of age. 1. Evidence showing that the minor is of the required age shall be presented as follows:

a. A duly certified transcript of a birth certificate filed according to law, or duly certified transcript of a record of baptism, giving the date of birth; or, if not available,

b. A passport showing the date of birth of the minor; or, if not available,

c. Other documentary evidence or other recorded evidence in existence two years or more, and satisfactory to the certificating officer, except an affidavit of age.

2. Certificate of age. A person over eighteen years of age may apply for a certificate of age to the superintendent of schools, the district superintendent, or to the certificating officer. Upon such application a certificate of age, containing the name, date of birth, address and signature of the applicant, shall be issued to him if he furnishes such evidence that he is over eighteen years of age as is required for the

issuance of an employment certificate. Such a certificate of age or an employment certificate previously issued for such person shall be conclusive evidence for an employer that the person has reached the age certified to therein.

*** § 3219. Consent of parent or guardian.** If the application is for a full-time employment certificate a parent or guardian shall personally appear before the issuing officer or school authorities to indicate consent to the issuance of the application, provided, however, that such personal appearance shall not be required if the applicant is a high school graduate.

* NB Repealed May 9, 2027

*** § 3220. Certificate of physical fitness.** 1. A certificate of physical fitness shall be issued to a minor if a thorough physical examination made within twelve months of his or her application for an employment certificate shows that such minor is of sound health, and if there are no known health problems at the time of issuance of the certificate, and if the applicant is physically qualified for lawful employment. If a known health problem exists at the time of the application for such certificate, another examination may be required by the issuing authority. Such certificate shall be issued and such physical examination shall be made, in a city of over three hundred thousand population, by a physician designated by the board of health, and elsewhere by the director of school health services charged with the duty of making physical examinations of all school children or by any physician duly licensed to practice medicine in this state. A new certificate of physical fitness shall not be required if one had been issued to the minor within twelve months.

2. If the physician authorized to issue certificates of physical fitness shall find that a minor from fourteen to eighteen years of age is not physically sound but that in the physician's opinion the minor may safely engage in certain occupations as specified by the regulations of the commissioner of education, the physician shall require a pledge

of employment and may issue to the minor a certificate of limited physical fitness, and shall describe therein the physical disability of the minor and shall indicate the particular employer and the occupation in which the minor may engage. A limited employment certificate issued to a minor from fourteen to eighteen years of age who has presented a certificate of limited physical fitness shall be valid for not more than six months from the date of its issuance and shall bear on the face of the certificate the date of its expiration and the particular employer and occupation to which the employment of the minor is limited; provided, however, that the examining physician may indicate upon the certificate of limited physical fitness that the physical disability of the minor is of a permanent nature, in which case such certificate shall not expire at the end of six months but shall remain valid for so long as the nature and type of work set forth in the pledge of employment remain substantially the same.

3. A record made of the physical examination shall show whether a certificate of physical fitness has been issued or withheld. Such record shall be sent to the certificating official.

4. A certificate of physical fitness issued in another state to a minor seeking employment in this state may be accepted in lieu of the certificate of physical fitness required by subdivision one of this section, provided the standards for issuing such certificates in the other state are deemed substantially equivalent to those of this state in accordance with regulations adopted by the commissioner of education.

* NB Repealed May 9, 2027

*** § 3221. Pledge of employment.** The pledge of employment shall be signed by the initial prospective employer or his authorized representative and shall show his name and place of business, the minor's name, the number of days per week and the number of hours per day and per week during which he will be employed, the hours of the beginning and the ending of work, and the nature and type of the employment.

* NB Effective until May 9, 2027

* § 3221. Pledge of employment. The pledge of employment shall be completed in the method prescribed pursuant to section one hundred thirty-five of the labor law by the initial prospective employer or their authorized representative and shall show their name and place of business, the minor's name, the number of days per week and the number of hours per day and per week during which they will be employed, the hours of the beginning and the ending of work, and the nature and type of the employment.

* NB Effective May 9, 2027

§ 3222. Schooling record. 1. By whom issued. The schooling record shall be issued by the principal of the school the minor attends or last attended, or by a teacher deputized by the principal or by a supervising official, and during the months of July and August, and at other times in extraordinary circumstances and emergencies, by one or more public school officials deputized in writing by the chancellor in New York city and elsewhere by the superintendent of schools or by the district superintendent of schools.

2. Procedure. On application of the person in parental relation, a schooling record shall be issued promptly to a minor who complies with the following conditions:

a. Presents a certificate of physical fitness. Upon receipt of an application for a schooling record the person authorized to issue such record shall request that an examination be made of the minor for a certificate of physical fitness in accordance with the requirements herein prescribed.

b. Meets the specified age requirement.

3. Such schooling record shall show, when practicable, the name of the school and grade or class which the minor is then attending or last attended.

4. Upon notification by the division of criminal justice services that

a child has been listed as a missing child, a school in which the child is currently or was previously enrolled shall flag the schooling record of the child in such a manner that whenever a copy of or information concerning the schooling record is requested, the person authorized to issue such record shall be alerted to the fact that the child has been reported as a missing child. The school shall immediately report to the local law enforcement authority and the division of criminal justice services any request concerning flagged schooling records or knowledge as to the whereabouts of any missing child. Upon notification by the division of criminal justice services that a reported missing child has been recovered, the school shall remove the flag from the person's schooling record.

5. Upon notification by the division of criminal justice services that a child who may be listed as a missing child is currently enrolled in and believed to be attending a New York school, such school shall immediately notify the division of criminal justice services.

*** § 3223. Duties of employers.** The employer of any minor required to have an employment certificate:

1. Shall satisfy himself that the minor presenting an employment certificate is in fact the minor named therein.

2. Shall before employment begins, file at the place of the minor's employment such certificate so that it may be readily accessible to any authorized person to examine such document.

3. Shall, upon termination of the minor's employment, return the employment certificate to the minor.

* NB Effective until May 9, 2027

* § 3223. Duties of employers. The employer of any minor required to have an employment certificate:

1. Shall personally confirm that the minor presenting an employment certificate is in fact the minor named therein.

2. Shall before employment begins, physically or electronically file at the place of the minor's employment such certificate so that it may be readily accessible to any authorized person to examine such document.

3. Shall, upon termination of the minor's employment, destroy any physical or electronic copies of such certificate.

* NB Effective May 9, 2027

*** § 3224. Temporary services.** a. If an employer is engaged in a business of assigning employees for temporary services at another establishment, and the employer compensates the employee for such services rendered the employer shall keep on file in his office the employment certificate and shall cause to be delivered to each establishment where the child will perform his services a true copy of such employment certificate. Such delivery shall be deemed compliance with sections thirty-two hundred sixteen and thirty-two hundred twenty-three of this chapter. The owner of each establishment to which the child is assigned shall keep on file in his office such copy of the employment certificate, which shall be deemed compliance with sections thirty-two hundred sixteen and thirty-two hundred twenty-three of this chapter, and shall return such copy to the employer at the conclusion of the child's assignment. Such employer shall note on the original employment certificate the existence of each copy.

b. As used in this section, the term "establishment" includes a factory, mercantile establishment, business office, restaurant, hotel and any other trade, business or service.

c. The commissioner of education may promulgate rules and regulations as he deems necessary to insure that employment under the provisions of this section shall not be harmful or undesirable from the point of view of the welfare, development, or proper education of the child.

* NB Effective until May 9, 2027

* § 3224. Temporary services. a. If an employer is engaged in a business of assigning employees for temporary services at another

establishment, and the employer compensates the employee for such services rendered the employer shall keep on file physically in office or electronically and readily accessible the employment certificate and shall cause to be delivered to each establishment where the child will perform the services a true copy of such employment certificate. Such delivery shall be deemed compliance with sections thirty-two hundred sixteen and thirty-two hundred twenty-three of this part and section one hundred thirty-five of the labor law. The owner of each establishment to which the child is assigned shall also retain a copy of the employment certificate and shall return such copy to the employer at the conclusion of the child's assignment. Such employer shall note on the original employment certificate the existence of each copy.

b. As used in this section, the term "establishment" includes a factory, mercantile establishment, business office, restaurant, hotel and any other trade, business or service.

c. The commissioner of education may promulgate rules and regulations as they deem necessary to ensure that employment under the provisions of this section shall not be harmful or undesirable from the point of view of the welfare, development, or proper education of the child.

* NB Effective May 9, 2027

*** § 3225. Special employment certificate.** 1. A special employment certificate may be issued to a minor fifteen years of age, found to be incapable of profiting by further instruction available upon compliance with the same requirements as in the case of a full-time employment certificate.

2. The fact that a minor is incapable of profiting from further instruction available shall be determined in accordance with the provisions of section thirty-two hundred eight of this article and the regulations of the commissioner of education.

3. A special employment certificate shall not authorize the employment of a minor in or in connection with or for a factory.

* NB Repealed May 9, 2027

*** § 3226. Farm work permits.** 1. A farm work permit may be issued to a minor fourteen or fifteen years of age authorizing employment in farm service.

2. A farm work permit also may be issued to a minor over twelve years of age for employment in assisting in the hand work harvest of berries, fruits and vegetables pursuant to paragraph e of subdivision two of section one hundred thirty of the labor law.

3. To obtain a farm work permit a minor shall present to the issuing officer the following:

a. Evidence of age;

b. Written consent of the parent or guardian; and

c. A certificate of physical fitness.

4. Such permit shall be valid only when signed by the employer and subject only to the condition that it shall not be valid for work in or in connection with a factory.

5. A farm work permit shall not be required for the employment of a minor sixteen years of age or over in farm service.

* NB Effective until May 9, 2027

* § 3226. Farm work permits. 1. A farm work permit may be issued to a minor fourteen or fifteen years of age authorizing employment in farm service.

2. A farm work permit also may be issued to a minor over twelve years of age for employment in assisting in the hand work harvest of berries, fruits and vegetables pursuant to paragraph e of subdivision two of section one hundred thirty of the labor law.

3. To obtain a farm work permit a minor shall present to the issuing officer the following:

a. Evidence of age; and

b. Written consent of the person in parental relation as defined in section thirty-two hundred twelve of this article.

4. Such permit shall be valid only when signed by the employer and subject only to the condition that it shall not be valid for work in or in connection with a factory.

5. A farm work permit shall not be required for the employment of a minor sixteen years of age or over in farm service.

* NB Effective May 9, 2027

*** § 3227. Street trades.** 1. Definition. A street trade for the purposes of part one of this article shall include the carrying, selling, exposing or offering for sale of newspapers or periodicals, and work as a bootblack, but shall not include the occupation engaged in by a newspaper carrier as defined in subdivision one of section thirty-two hundred twenty-eight of this chapter.

2. Application. The provisions of this section shall apply to all school districts.

3. No minor under fourteen years of age shall be engaged in a street trade; and no minor from fourteen to eighteen years of age shall be so engaged unless a street trades permit has been lawfully issued to the minor.

4. A street trades permit shall be issued in the same manner and with the same requirements as in the case of an employment certificate. Such a permit shall expire two years from the date of its issuance.

5. A minor to whom a street trades permit has been issued shall carry

it on his or her person while engaged in a street trade. Such a permit shall not be transferred to another minor or used by another if transferred.

6. No minor shall be engaged in a street trade before six o'clock in the morning nor after seven o'clock in the evening, nor during the time the minor is required to attend upon instruction, nor more than four hours in any one day when school is in session, nor more than five hours in any one day when school is not in session.

7. The police shall enforce the provisions of this section except with respect to the issuance and revocation of street trades permits. The industrial commissioner shall have concurrent power to enforce this section except with respect to the issuance and revocation of street trades permits.

8. The school authorities may revoke the permit for cause after due notice.

* NB Repealed May 9, 2027

*** § 3228. Newspaper carrier.** 1. Definition: A "newspaper carrier" is a minor between the ages of eleven and eighteen years of age who engages in the occupation of delivering, or selling and delivering, newspapers, shopping papers or periodicals to customers at their homes or places of business. For purposes of this section shopping papers shall mean those community publications distributed, for the purposes of advertising and public information, to the consumer without consideration being paid therefor by the consumer.

Such papers shall:

(i) be distributed to the public on a community-wide basis;

(ii) be published at stated intervals at least fifty times a year;

(iii) have continuity as to title and general nature of content from issue to issue;

(iv) contain in each issue community notices or editorial comment or articles by different authors; and

(v) contain in each issue advertisements from numerous unrelated advertisers including non-commercial advertisements.

The term "shopping papers" shall not include mail order and other catalogs, advertising fliers, travel brochures, house organs, theatre programs, telephone directories, shopping and restaurant guides, racing tip and form sheets, shopping center advertising sheets and similar publications.

2. A "newspaper carrier" shall possess a newspaper carrier permit and shall carry it upon his or her person when engaged in the occupation of delivering, or selling and delivering, newspapers, shopping papers or periodicals to homes or places of business.

3. A newspaper carrier permit shall be issued on a form prescribed by the commissioner of education to a minor qualified to participate in physical training as provided for in section thirty-two hundred four of this chapter. Minors that are not participating in physical training may be issued a permit with the approval of the school physician.

4. No newspaper carrier shall be engaged in delivering, or selling and delivering, newspapers, shopping papers or periodicals before five o'clock in the morning nor after seven o'clock in the evening or thirty minutes prior to sunset, whichever is later, nor during the time the minor is required to attend upon instruction, nor for more than four hours in any one day when school is in session, nor more than five hours in any one day when school is not in session.

5. No minor under eleven years of age may engage in the occupation of delivering, or selling and delivering, newspapers, shopping papers or periodicals to customers at their homes or places of business.

6. The school authorities may revoke the permit for cause after due notice.

7. Enforcement. The police shall enforce the provisions of this section except with respect to the issuance and revocation of permits.

The industrial commissioner shall have concurrent power to enforce this section except with respect to the issuance and revocation of permits.

8. It shall be unlawful for any person or corporation to wilfully and knowingly deliver or cause to be delivered newspapers, shopping papers or periodicals to a newspaper carrier who is not in compliance with the provisions of this section.

* NB Repealed May 9, 2027

§ 3230. School district meetings and activities. 1. The board of education or trustees of each school district shall ensure that at any meeting or activity which is conducted by the board of education, trustees, school district or a district school which is specific to a child's educational program and which parents or persons in parental relationship who are deaf or hard of hearing, as defined by the commissioner, attend, the board of education or trustees shall provide interpreter services at no charge to such persons, provided a written request therefor is made to the school district within a reasonable time prior to the scheduled meeting or activity. In the event interpreter services are requested, the school district shall appoint an interpreter of the deaf to interpret the proceedings of the meeting or activity. In the event that an interpreter is unavailable, other reasonable accommodations shall be made which are satisfactory to the parents or guardians.

2. Each board of education or trustees shall adopt a policy which shall establish the time limitation for requesting interpreter services, examples of what constitutes reasonable accommodations and how the regulations of the commissioner promulgated pursuant to this chapter shall be implemented.

3. For the purposes of this section "meeting" or "activity" shall include those school-initiated meetings or activities which parents or persons in parental relationship who are deaf or hard of hearing attend which are specific to the academic and/or disciplinary aspects of their child's educational program including parent-teacher conferences and

other such meetings and activities as defined by the commissioner.

§ 3232. Courts having jurisdiction. 1. Courts sitting as courts of special sessions or as magistrates' courts shall have concurrent jurisdiction with family courts to hear, try and determine charges of violation of the provisions of part one of this article, within their respective jurisdiction. In the counties of Cortland and Westchester and in the city of New York family courts shall have exclusive original jurisdiction in such proceedings. Notwithstanding other provisions of law, family courts shall have jurisdiction, for the purposes of part one of this article, of minors.

2. A prosecution instituted under the provisions of part one of this article shall be deemed a bar to a prosecution under the labor law based on the same state of facts.

§ 3233. Penalties. Except as otherwise provided, a violation of part one of this article shall be punishable for the first offense by a fine not exceeding ten dollars or ten days' imprisonment; for each subsequent offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

A violation of sections thirty-two hundred fifteen, thirty-two hundred twenty-three and thirty-two hundred twenty-four of this article shall be punishable for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Any person who knowingly makes a false statement in or in relation to any application made for an employment certificate or permit as to any matter required by this chapter to appear in any affidavit, record,

transcript, certificate or permit therein provided for, is guilty of a misdemeanor and upon conviction shall be punished, except as in this chapter or in the penal law otherwise provided, for a first offense by a fine of not more than one hundred dollars; for a second offense by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a subsequent offense by a fine of not less than three hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

§ 3234. Enforcement; withholding state moneys by commissioner of education. 1. The commissioner of education shall supervise the enforcement of part one of this article and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of part one of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, occur, or continue.

2. If the provisions of part one of this article are complied with at any time within one year from the date on which said moneys were withheld, the money so withheld shall be paid over by said commissioner of education to such district or city, otherwise forfeited to the state.

PART II

SCHOOL CENSUS

Section 3240. School census in the cities of New York, Buffalo and Rochester.
3241. School census in cities, except in cities having a population of one hundred twenty-five thousand or more.
3242. School census in school districts.
3243. Penalty for withholding information.
3244. Education of children in foster care.

§ 3240. School census in the cities of New York, Buffalo and

Rochester. In the cities of New York, Buffalo and Rochester provision shall be made by the board of education for taking a school census in connection with the work of enforcing part one of this article.

§ 3241. School census in cities, except in cities having a population of one hundred twenty-five thousand or more. 1. The board of education of each city, except in cities having a population of one hundred twenty-five thousand or more, shall constitute a permanent census board in such city. Such board shall, under its regulations, cause a census of the children in its city to be taken and to be amended from day to day, as changes of residence shall occur among persons in such cities within the ages prescribed in subdivision two of this section and as other persons shall come within the ages prescribed therein and as other persons within such ages shall become residents of such cities, so that there shall always be on file with such board a complete census giving the facts and information required in subdivision two of this section; provided, however, that for pre-school students from birth to five years of age, such census may be prepared and filed biennially on or before the fifteenth day of October.

2. Such census shall include all persons between birth and eighteen years of age and in the case of physically or mentally handicapped children between birth and twenty-one years of age, their names, their respective residences by street and number, the day of the month and the year of their birth, the names of the persons in parental relation to them, such information relating to physical or mental defects, to illiteracy, to employment and to the enforcement of the law relating to child labor and compulsory education as the education department and the board of education of each such city shall require and also such further information as such board of education shall require.

3. Such board shall provide to the commissioner of education upon written request therefor and in such form as shall be prescribed by him, a report containing the names, ages and addresses of those children who are blind or deaf and those having serious physical or mental defects. In addition such report shall indicate whether such children are being

educated within the public schools of the district or, if they are not, where such education is being furnished them.

4. It shall be the duty of persons in parental relation to any person between such ages residing within the limits of any such city to make such reports as the board of education of such city shall require. Such reports shall contain the following information:

a. Two weeks before any child shall become of the compulsory school age, the name of such child, its residence, the name of the person or persons in parental relation thereto, and the name and location of the school to which such child shall have been or shall be sent as a pupil.

b. In case a child of compulsory school age shall, for any cause, be removed from one school and sent to another school, or sent to work in accordance with the labor law, all the facts in relation thereto.

c. In case the residence of a child shall be removed from one police precinct to another police precinct, the new residence and the other facts required in paragraphs a and b of this subdivision.

d. In case a child between birth and eighteen years of age shall become a resident of such city for the first time, the name, residence and such other facts as the board of education shall require.

§ 3242. School census in school districts. The trustees or board of education of every school district may cause a census to be taken of all children between birth and eighteen years of age, including all such facts and information as are required in the census provided for in section thirty-two hundred forty-one of this part. Such census shall be prepared biennially for children between ages five and eighteen who are entitled to attend the public schools without payment of tuition in duplicate in their respective school districts, and one copy thereof filed with the teacher or principal and the other copy filed with the district superintendent or superintendent on or before the fifteenth day of October. For pre-school students from birth to five years of age,

such census may be prepared and filed biennially on or before the fifteenth day of October. Such census shall include the reports and information required from cities as provided in section thirty-two hundred forty-one of this part. All information regarding a student with a disability under the age of twenty-one years shall be filed annually with the superintendent of the board of cooperative educational services of which said district may be a part.

§ 3243. Penalty for withholding information. A parent, guardian or other person having under his control or charge a child between birth and eighteen years of age who withholds or refuses to give information in his possession relating to such child and required under part two of this article, or any such parent, guardian or other person who gives false information in relation thereto, shall be liable to and punished by a fine not exceeding twenty dollars or by imprisonment not exceeding thirty days.

§ 3244. Education of children in foster care. 1. Definitions. For purposes of this section only, the following definitions shall apply:

a. Child or youth in foster care. For the purposes of this article, the term "child or youth in foster care" shall mean a child who is in the care and custody or custody and guardianship of a local commissioner of social services or the commissioner of the office of children and family services.

b. School district of origin. The term "school district of origin" shall mean the school district within the state of New York in which the child or youth in foster care was attending a public school or preschool on a tuition-free basis or was entitled to attend at the time of placement into foster care when the social services district or the office of children and family services assumed care and custody or custody and guardianship of such child or youth, which is different from the school district of residence.

c. School district of residence. The term "school district of residence" shall mean the public school district within the state of New York in which the foster care placement is located, which is different from the school district of origin.

d. Feeder school. The term "feeder school" shall mean:

(1) a preschool whose students are entitled to attend a specified elementary school or group of elementary schools upon completion of that preschool;

(2) a school whose students are entitled to attend a specified elementary, middle, intermediate, or high school or group of specified elementary, middle, intermediate, or high schools upon completion of the terminal grade of such school; or

(3) a school that sends its students to a receiving school in a neighboring school district pursuant to section two thousand forty of this chapter.

e. Preschool. The term "preschool" shall mean a publicly funded pre-kindergarten program administered by the department or a local educational agency or a Head Start program administered by a local educational agency and/or services under the Individuals with Disabilities Education Act administered by a local educational agency.

f. Receiving school. The term "receiving school" shall mean:

(1) a school that enrolls students from a specified or group of preschools, elementary schools, middle schools, intermediate schools, or high schools; or

(2) a school that enrolls students from a feeder school in a neighboring local educational agency pursuant to section two thousand forty of this chapter.

g. School of origin. The term "school of origin" shall mean a public school that a child or youth attended at the time of placement into foster care, or the school in which the child or youth was last enrolled, including a preschool or a charter school. Provided that, for a child or youth in foster care who completes the final grade level served by the school of origin, the term "school of origin" shall

include the designated receiving school at the next grade level for all feeder schools. Where the child is eligible to attend school in the school district of origin because the child was placed in foster care after such child is eligible to apply, register, or enroll in the public preschool or kindergarten or the child is living with a school-age sibling who attends school in the school district of origin, the school of origin shall include any public school or preschool in which such child would have been entitled or eligible to attend based on such child's last residence before the circumstances arose which caused such child to be placed in foster care.

2. Choice of district and school. a. Notwithstanding any other provision of law to the contrary, the social services district, in consultation with the appropriate local educational agency or agencies, shall designate either the school district of origin or the school district of residence within which the child in foster care shall be entitled to attend in accordance with a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, in accordance with the regulations of the office of children and family services. The child shall be entitled to attend the school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child's placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child's terminal year in such building.

b. Notwithstanding any other provision of law to the contrary, where the school district of origin or school of origin that a child was attending on a tuition-free basis or was entitled to attend when such child entered foster care is located in New York state and the child's foster care placement is located in a contiguous state, the child shall

be entitled to attend the school of origin or any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child's placement in foster care and until the end of the school year in which such child is no longer in foster care and for one additional year if that year constitutes the child's terminal year in such building.

c. Notwithstanding the provisions of paragraph a or b of this subdivision, a child in foster care who is moved from one foster care placement to another shall be entitled to continue to attend the school of origin or the social services district may designate that the child in foster care attend any school that children and youth who live in the attendance area in which the foster care placement is located are eligible to attend, including a preschool, subject to a best interest determination made by the applicable social services district or voluntary authorized agency, as defined in paragraph (a) of subdivision ten of section three hundred seventy-one of the social services law, for the duration of the child's placement in foster care and until the end of the school year in which the child is no longer in such foster care placement and for one additional year if that year constitutes the child's terminal year in such building.

d. Upon notification of the designation made by the social services district for a foster care youth, the designated school district of attendance shall immediately:

(1) enroll the child or youth in foster care even if the child or youth is unable to produce records normally a requirement for enrollment, such as previous academic records, records of immunization and/or other required health records, proof of residency or other documentation and/or even if the child has missed application or enrollment deadlines during any period of placement in foster care, if applicable. Provided that nothing herein shall be construed to require the immediate attendance of an enrolled student lawfully excluded from

school temporarily pursuant to section nine hundred six of this chapter because of a communicable or infectious disease that imposes a significant risk of infection of others;

(2) treat the child or youth in foster care as a resident for all purposes; and

(3) make a written request to the school district where the child's records are located for a copy of such records.

e. Within five days of receipt of a request for records in accordance with subparagraph three of paragraph d of this subdivision, the school district shall forward, in a manner consistent with state and federal law, a complete copy of the records of the child or youth in foster care including, but not limited to, proof of age, academic records, evaluations, immunization records, and guardianship papers, if applicable.

f. Where the school of origin is a charter school, the school district designated pursuant to this subdivision shall be deemed to be the school district of residence of such child for purposes of fiscal and programmatic responsibility under article fifty-six of this chapter and shall be responsible for transportation of the child in foster care. If the designated school district of attendance is not the school district of origin, the designated school district of attendance may seek reimbursement from the school district of origin in accordance with the provisions of subdivision four of section thirty-two hundred two of this article.

g. Notwithstanding any other provision of law to the contrary, each local educational agency, as such term is defined in subsection twenty-six of section ninety-one hundred one of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, shall designate a local educational agency point of contact for children and youth in foster care. Provided that such point of contact shall not be the same as the liaison designated pursuant to the subtitle B of title VII of the McKinney-Vento Assistance Act, unless the McKinney-Vento liaison has sufficient ability to carry out the responsibilities of the McKinney-Vento liaison in addition to

the responsibilities of the point of contact for children and youth in foster care.

3. Reimbursement. The tuition costs of the education of such child or youth in foster care shall be borne in accordance with the provisions of paragraph d of subdivision four of section thirty-two hundred two of this article.

4. Transportation. a. Notwithstanding any other provision of law, any child or youth in foster care who requires transportation in order to attend a school of origin designated pursuant to subdivision two of this section, shall be entitled to receive such transportation pursuant to this paragraph. The designated school district of attendance shall provide transportation to and from the child's foster care placement location and the school of origin. Any cost incurred for such transportation that is allowable up to fifty miles each way pursuant to the applicable provision of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with the commissioner's regulations.

b. Notwithstanding any other provision of law, where any child or youth in foster care attends the school district of residence and such child does not attend the school of origin, such school district shall provide transportation to such child on the same basis as a resident student. Any cost incurred for such transportation that is allowable pursuant to the applicable provisions of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with the commissioner's regulations.

c. Excess allowable transportation costs beyond those reimbursed in paragraphs a and b of this subdivision resulting from the attendance of a child or youth in foster care shall be shared between the social services district responsible for the foster care costs of the child or youth and the designated school district of attendance equally. Excess transportation costs shall mean the difference between what a school district otherwise would spend to transport a student to his or her assigned school and the cost of transporting a child in foster care to his or her school of origin; except as otherwise reimbursed under paragraph a or b of this subdivision and as further defined in regulations of the commissioner. The school district and local social services district are expected to consider and utilize all allowable funding sources, including any available federal funds, to cover additional transportation costs. Provided however that school districts and social services districts that have written agreements relating to how excess transportation costs should be funded, that both entities have agreed to and are consistent with the requirements in subparagraph five of paragraph c of section one thousand one hundred twelve of title twenty of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, filed with the department and the office of children and family services shall not be subject to this paragraph. In the absence of such a shared agreement, such school districts and local departments of social services are subject to the provisions of this paragraph.

d. Where the child has been placed in foster care in a contiguous state and has designated a school of origin located in the state of New York, the designated school district of attendance in New York state shall collaborate with the social services district to arrange for transportation.

5. Each child or youth in foster care to be assisted under this section shall be provided services comparable to services offered to other students in the school selected under this section, including the following: transportation services; educational services for which the child or youth meets the eligibility criteria, such as services provided under Title I of the Elementary and Secondary Education Act of 1965 or

similar state or local programs; educational programs for children with disabilities; educational programs for English learners; programs in career and technical education; programs for gifted and talented students; and school nutrition programs.

6. The commissioner, in consultation with the office of children and family services, may promulgate regulations to carry out the purposes of this section.

ARTICLE 66

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

Section 3300. Short title.
3301. Purpose.
3302. Definitions.
3303. Applicability.
3304. Educational records and enrollment.
3304-a. Advance enrollment.
3305. Placement and attendance.
3306. Eligibility.
3307. Graduation.
3308. State coordination.
3309. Interstate commission on educational opportunity for military children.
3310. Powers and duties of the interstate commission.
3311. Organization and operation of the interstate commission.
3312. Rulemaking functions of the interstate commission.
3313. Oversight, enforcement, and dispute resolution.
3314. Financing of the interstate commission.
3315. Member states, effective date and amendment.
3316. Withdrawal and dissolution.
3317. Severability and construction.
3318. Binding effect of compact and other laws.

§ 3300. Short title. This article shall be known and may be cited as the "interstate compact on educational opportunity for military

children".

§ 3301. Purpose. It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or districts or variations in entrance/age requirements.

2. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

3. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

4. Facilitating the on-time graduation of children of military families.

5. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

6. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

7. Promoting coordination between this compact and other compacts affecting military children.

8. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

§ 3302. Definitions. As used in this compact, unless the context clearly requires a different meaning:

1. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211.

2. "Children of military families" means a school-aged child or children, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

3. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to section thirty-three hundred nine of this article.

4. "Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

5. "Education records" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local educational agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

6. "Extracurricular activities" means a voluntary activity sponsored by the school or local educational agency or an organization sanctioned by the local educational agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

7. "Interstate commission on educational opportunity for military children" means the commission that is created under section thirty-three hundred nine of this article, which is generally referred to in this article as the "interstate commission".

8. "Local educational agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions. In New York state, a local educational agency means a public school district located within New York state.

9. "Member state" means a state that has enacted this compact.

10. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the department of defense, including any leased facility, which is located within any of the several states, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

11. "Non-member state" means a state that has not enacted this compact.

12. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

13. "Rule" means a written statement by the interstate commission promulgated pursuant to section thirty-three hundred twelve of this article that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission.

14. "Sending state" means the state from which a child of a military

family is sent, brought, or caused to be sent or brought.

15. "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States territory.

16. "Student" means the child of a military family for whom the local educational agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

17. "Transition" means (a) the formal and physical process of transferring from school to school as a result of military orders or (b) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

18. "Uniformed service" or "uniformed services" means the Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

19. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

§ 3303. Applicability. 1. Except as otherwise provided in subdivision two of this section, this compact shall apply to the children of:

(a) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211;

(b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

(c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

2. The provisions of this interstate compact shall only apply to local educational agencies as defined in this compact.

3. The provisions of this compact shall not apply to the children of:

(a) inactive members of the national guard and military reserves;

(b) members of the uniformed services now retired, except as provided in subdivision one of this section;

(c) veterans of the uniformed services, except as provided in subdivision one of this section; and

(d) other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

§ 3304. Educational records and enrollment. 1. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records, to the extent feasible, and using any template developed by the interstate commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

3. Notwithstanding any provisions of subdivision seven of section twenty-one hundred sixty-four of the public health law to the contrary, compacting states shall give thirty days from the date of enrollment or

within such time as is reasonably determined under the rules promulgated by the interstate commission, for students transferring from a school in a sending state to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

4. For purposes of ensuring a smooth educational transition, students transferring from a local educational agency in a sending state shall initially be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level from a local educational agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local educational agency in the sending state shall initially be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state. Nothing in this subdivision shall prohibit a local educational agency in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

§ 3304-a. Advance enrollment. A student whose parent or guardian is being relocated to the state under military orders and is transferred or is pending transfer to a military installation within the state shall be deemed to be a resident pupil of a school district for the purposes of enrollment pursuant to section three thousand two hundred two of this title, provided that such parent or guardian provides a school district an address that the student will reside within the boundaries of the district in which the student is to be enrolled. A school district shall permit a student to enroll preliminarily by remote registration without charge and shall not require the student or the parent or guardian of the student to physically appear at a location within the district for the purpose of enrolling the student provided the parent or guardian of the student provide a school district with military orders that a parent

or guardian will be stationed in this state during the current or following school year and an address within the boundaries of the district in which the student will reside and is to be enrolled.

§ 3305. Placement and attendance. 1. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered and there is space available as determined by the local educational agency. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical and career pathways courses. Where the local educational agency contracts with a board of cooperative educational services to deliver such courses, the local educational agency and the board of cooperative educational services shall arrange to enroll the student in the applicable board of cooperative educational services program where there is space available. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

2. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state, provided that the programs and/or courses exist and there is space available, as determined by the local educational agency. Such programs include, but are not limited to, gifted and talented programs and English as a second language. Nothing in this subdivision shall preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

3. (a) In compliance with the federal requirements of the individuals

with disabilities education act, 20 U.S.C.A. section 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his or her current individualized education program; and

(b) In compliance with the requirements of section 504 of the rehabilitation act, 29 U.S.C.A. section 794, and with title II of the Americans with disabilities act, 42 U.S.C.A. sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

4. Local educational agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local educational agency.

5. A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local educational agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

§ 3306. Eligibility. 1. (a) When properly executed under applicable law, a special power of attorney, relative to the guardianship of a military child, shall be considered sufficient for the sole purpose of establishing residency of a transferring student into a local educational agency and for all other actions in the local educational agency requiring parental participation and consent, for the duration of the guardianship. For students attending school in New York, a special designation of person in parental relation pursuant to title fifteen-A of article five of the general obligations law, in the form prescribed

in paragraph (b) of this subdivision, shall constitute a special power of attorney for such purpose, provided that notwithstanding any other provision of law to the contrary, such delegation shall remain in effect until revoked or the child re-establishes residence with a parent.

(b) A local educational agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis with a special designation of person in parental relation pursuant to title fifteen-A of article five of the general obligations law and this paragraph who lives in a jurisdiction other than that of the custodial parent. The special designation of person in parental relation shall be in the form prescribed by section 5-1552 of the general obligations law, except that it shall clearly identify the student as a transitioning military child and shall provide that the designation shall continue in effect until revoked or the child re-establishes residence with a parent. Notwithstanding any provisions of law to the contrary, such designation shall not be for a fixed period and shall result in a change in the school district of residence for purposes of this chapter to the school district in which the designee resides.

(c) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school within New York in which he or she was enrolled while residing with the custodial parent until the child completes the highest grade level in such school. Nothing in this paragraph shall be construed to require a local educational agency to provide transportation services to such student while residing outside of the district for distances greater than the maximum transportation limit established under school district policy.

2. State and local educational agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

§ 3307. Graduation. In order to facilitate the on-time graduation of

children of military families, states and local educational agencies shall incorporate the following procedures:

1. Local educational agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local educational agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local educational agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

2. States shall accept (a) exit or end-of-course exams required for graduation from the sending state, (b) national norm referenced achievement tests or (c) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of subdivision three of this section shall apply.

3. Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local educational agency after all alternatives have been considered, the sending and receiving local educational agencies shall ensure the receipt of a diploma from the sending local educational agency, if the student meets the graduation requirements of the sending local educational agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subdivisions one and two of this section.

§ 3308. State coordination. 1. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local educational agencies and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. In New York, the state council shall include the

commissioner or his or her designee, the commissioner of the New York state department of veterans' services or his or her designee, the adjutant general of the state of New York or his or her designee, a superintendent of a school district with a high concentration of military children appointed by the commissioner, a district superintendent of schools of a board of cooperative educational services serving an area with a high concentration of military children appointed by the commissioner, a representative from a military installation appointed by the governor, a representative of military families appointed by the governor, a public member appointed by the governor and one representative each appointed by the speaker of the assembly, the temporary president of the senate and the governor.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

3. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the governor or as otherwise determined by each member state.

4. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the state council, unless either is already a full voting member of the state council.

§ 3309. Interstate commission on educational opportunity for military children. The member states hereby create the "interstate commission on educational opportunity for military children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

1. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein.

2. Consist of one interstate commission voting representative from

each member state who shall be that state's compact commissioner.

(a) Each member state represented at a meeting of the interstate commission is entitled to one vote.

(b) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(c) A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from their state for a specified meeting.

(d) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

3. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local educational agency officials, parent and teacher groups, the United States department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel and other interstate compacts affecting the education of children of military members.

4. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

5. Establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact

including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The United States department of defense, shall serve as an ex-officio, non-voting member of the executive committee.

6. Establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

7. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

(a) Relate solely to the interstate commission's internal personnel practices and procedures;

(b) Disclose matters specifically exempted from disclosure by federal and state statute;

(c) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) Involve accusing a person of a crime, or formally censuring a person;

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Disclose investigative records compiled for law enforcement purposes; or

(g) Specifically relate to the interstate commission's participation in a civil action or other legal proceeding.

8. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall

provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission.

9. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules, and shall in all cases be consistent with all applicable privacy laws.

10. Shall create a process that permits military officials, education officials and parents to inform the interstate commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local educational agency. This section shall not be construed to create a private right of action against the interstate commission or any member state.

§ 3310. Powers and duties of the interstate commission. The interstate commission shall have the following powers:

1. To provide for dispute resolution among member states.

2. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

3. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

4. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

5. To establish and maintain offices which shall be located within one or more of the member states.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept, hire or contract for services of personnel.

8. To establish and appoint committees including, but not limited to, an executive committee as required by subdivision five of section thirty-three hundred nine of this article which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.

9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

13. To establish a budget and make expenditures.

14. To adopt a seal and bylaws governing the management and operation of the interstate commission.

15. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

16. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

17. To establish uniform standards for the reporting, collecting and exchanging of data.

18. To maintain corporate books and records in accordance with the bylaws.

19. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

20. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact consistent with all applicable privacy laws.

§ 3311. Organization and operation of the interstate commission. 1. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) Establishing the fiscal year of the interstate commission;

(b) Establishing an executive committee, and such other committees as may be necessary;

(c) Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;

(d) Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

(e) Establishing the titles and responsibilities of the officers and staff of the interstate commission;

(f) Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

(g) Providing "start up" rules for initial administration of the compact.

2. The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

3. (a) The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

(i) Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

(ii) Overseeing an organizational structure within, and appropriate procedures for the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

(iii) Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations

in order to advance the goals of the interstate commission.

(b) The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

4. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(a) The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this section shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(b) The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission

that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(c) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

§ 3312. Rulemaking functions of the interstate commission. 1. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this article, or conflicts with the laws of a member state, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

2. Rules shall be made pursuant to a rulemaking process that substantially conforms to section two hundred two of the state administrative procedure act as may be appropriate to the operations of the interstate commission.

3. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule

from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

§ 3313. Oversight, enforcement, and dispute resolution. 1. (a) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission.

(b) The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact or promulgated rules.

2. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:

(a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

(b) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits

conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

(f) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

(g) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. (a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(b) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

4. (a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) The interstate commission, may by majority vote of the members, initiate legal action in the United States district court for the

District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

§ 3314. Financing of the interstate commission. 1. The interstate commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

2. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

3. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

4. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be

audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

§ 3315. Member states, effective date and amendment. 1. Any state is eligible to become a member state.

2. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

3. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

§ 3316. Withdrawal and dissolution. 1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt

thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

§ 3317. Severability and construction. 1. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

2. The provisions of this compact shall be liberally construed to effectuate its purposes.

3. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

§ 3318. Binding effect of compact and other laws. 1. All agreements between the interstate commission and the member states are binding in accordance with their terms.

2. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

TITLE V

TAXATION AND FINANCIAL ADMINISTRATION

Article 73 Apportionment of public moneys (§§ 3601--3650-c).
Part I--General provisions (§§ 3601-3612).
Part II--Aidable transportation expense (§§ 3620-3628).
Part III--Transportation services (§§ 3635-3637).
Part IV--Special apportionments and grants-in-aid (§§ 3640-3642).
Part V--Comprehensive school bus driver safety training program (§§ 3650--3650-c).
74 Reserve funds (§§ 3651-3652).
75 Trusts for schools; gospel and school lots (§§ 3701-3713).
77 Fines, penalties, forfeitures and costs (§§ 3801-3816).

ARTICLE 73
APPORTIONMENT OF PUBLIC MONEYS

PART I
GENERAL PROVISIONS

Section 3601. When apportioned and how applied.
3602. Apportionment of public moneys to school districts employing eight or more teachers.
3602-b. Apportionment of moneys to school districts employing fewer than eight teachers.
3602-c. Apportionment of moneys to school districts for the provision of services to pupils attending nonpublic schools.
3602-d. Work-prep education program.
3602-e. Universal prekindergarten program.
3602-f. Apportionment of moneys to school districts that result from the partitioning of territory and formation of new school districts by district superintendents.
3604. Conditions under which districts are entitled to apportionment.
3606. Nonresident academic attendance; manner of certifying and paying apportionment.
3607. Manner of payment of moneys apportioned.

3608. Certificate of apportionment by commissioner of education.
3609-a. Moneys apportioned, when and how payable commencing July first, two thousand seven.
3609-b. Moneys apportioned for students with disabilities, when and how payable.
3609-d. Moneys apportioned for board of cooperative educational services aidable expenditures when and how payable commencing July first, two thousand four.
3609-e. School tax relief aid, when and how payable commencing July first, nineteen hundred ninety-eight.
3609-f. Moneys apportioned to school districts for lottery grants pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, when and how payable commencing July first, two thousand seven.
3609-g. Moneys apportioned to school districts for reimbursement of article twenty-three of the tax law payments commencing in the 2009-2010 school year.
3609-h. Moneys apportioned to school districts for commercial gaming grants pursuant to subdivision six of section ninety-seven-nnnn of the state finance law, when and how payable commencing July first, two thousand fourteen.
3610. Apportionment for apprenticeship training.
3611. Racial and cultural awareness fund.
3612. Teachers of tomorrow teacher recruitment and retention program.
3613. School district reorganizations and real property tax rates.

§ 3601. When apportioned and how applied. The amount annually appropriated by the legislature for general support for public schools, net of disallowances, refunds, reimbursements and credits, shall be apportioned by the commissioner each year prior to the dates of the respective final payments provided by law and all moneys so apportioned

shall be applied exclusively to school purposes authorized by law. General state aid claims, on forms prescribed by the commissioner, shall be submitted to the commissioner by September second of each school year, except that the audit report required by subdivision three of section twenty-one hundred sixteen-a of this chapter shall be submitted to the commissioner by October fifteenth following the close of the school year audited for all districts other than the city school districts of the cities of Buffalo, Rochester, Syracuse, Yonkers and New York and by January first following the close of the school year audited for such city school districts. No aid shall be paid to a school district or board of cooperative educational services prior to the submission of claims as required by the commissioner, except that no aid certified as payable to a school district by the commissioner of taxation and finance pursuant to paragraph (c) of subdivision three of section thirteen hundred six-a of the real property tax law shall be withheld due to the failure of the school district to submit general state aid claims required by the commissioner, and except that no aids shall be withheld due to the failure of a school district to submit the audit report required by subdivision three of section twenty-one hundred sixteen-a of this chapter until the thirtieth day following the due date specified in this section for such report.

§ 3602. Apportionment of public moneys to school districts employing eight or more teachers. Notwithstanding any other provisions of this chapter or any other provisions of law, each school district of the state employing eight or more teachers shall receive its apportionment of public money payable during the school year commencing July first, nineteen hundred ninety-three and during subsequent school years pursuant to the provisions of this section and in lieu of any apportionments or payments otherwise payable under any other section of this chapter except any such apportionments or payments that may be payable to such district for school lunches, for textbooks, school library materials, computer hardware or computer software, for services or programs provided by a board of cooperative educational services or by a county vocational education and extension board for such district, for the education of Indian children of a reservation under a contract

with the state, by virtue of chapter six hundred thirty-five of the laws of nineteen hundred sixty-one, for school tax relief aid, or for experimental or special programs in selected school districts, including but not limited to special apportionments and grants-in-aid pursuant to section thirty-six hundred forty-one of this article.

1. Definitions. As used in this section the following terms shall be defined as follows:

a. "Current year" shall mean the school year during which the apportionment is to be paid pursuant to this section.

b. "Base year" shall mean the school year immediately preceding the current year.

c. "Actual valuation" shall mean the valuation of taxable real property in a school district obtained by taking the assessed valuation of taxable real property within such district as it appears upon the assessment roll of the town, city, village, or county in which such property is located, for the calendar year two years prior to the calendar year in which the base year commenced, after revision as provided by law, plus any assessed valuation that was exempted from taxation pursuant to the class one reassessment exemption authorized by section four hundred eighty-five-u of the real property tax law or the residential revaluation exemption authorized by section four hundred eighty-five-v of such law as added by chapter five hundred sixty of the laws of two thousand twenty-one, and dividing it by the state equalization rate as determined by the commissioner of taxation and finance, for the assessment roll of such town, city, village, or county completed during such preceding calendar year. The actual valuation of a central high school district shall be the sum of such valuations of its component districts. Such actual valuation shall include any actual valuation equivalent of payments in lieu of taxes determined pursuant to section four hundred eighty-five of the real property tax law. "Selected actual valuation" shall mean the lesser of actual valuation calculated for aid payable in the current year or the two-year average of the actual valuation calculated for aid payable in the current year and the

actual valuation calculated for aid payable in the base year.

d. "Average daily attendance" shall mean the total number of attendance days of pupils in a public school of a school district in kindergarten through grade twelve, or equivalent ungraded programs, plus the total number of instruction days for such pupils receiving homebound instruction including pupils receiving remote instruction as defined in the regulations of the commissioner, divided by the number of days the district school was in session as provided in this section. The attendance of pupils with disabilities attending under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter shall be added to average daily attendance.

(1) Equivalent attendance shall mean the quotient of the total number of student hours of instruction in programs in a public school of a school district or a board of cooperative educational services leading to a high school diploma or a high school equivalency diploma as defined in regulations of the commissioner for pupils under the age of twenty-one not on a regular day school register of the district, divided by one thousand. Average daily attendance shall include the equivalent attendance of the school district. For the purposes of secondary school weighting, such equivalent attendance shall be considered as average daily attendance in grades seven through twelve.

(2) In computing average daily attendance, school districts may, with the commissioner's approval, exclude attendance for those days on which school attendance was adversely affected because of an epidemic or manmade or natural disaster or act of terrorism. In computing such attendance, the school district shall: (i) determine the number of religious holidays which fall on a school day within a school year according to regulations established by the commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; (ii) deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deduct such religious holidays from the total number of days of session, by grade level; and (iv) compute the average daily attendance for the school year.

e. Pupils with special educational needs.

(1) "Percentage of pupils with special educational needs" shall be based on the following tests: the third and sixth grade reading and math tests administered in spring of nineteen hundred eighty-five and the spring of nineteen hundred eighty-six. Such percentage shall be calculated as follows:

(i) determine the number of pupils tested who scored below the statewide reference point as determined by the commissioner on each test administered pursuant to this subparagraph, plus pupils, other than pupils with disabilities and English language learner pupils as defined by the commissioner who are exempt from taking such tests, provided, however, that a district employing eight or more teachers in such years but not operating each grade may use the percentage computed pursuant to this paragraph for the district which in such years enrolled the greatest number of pupils in such grade from such district;

(ii) divide the sum of such numbers by the number of such pupils who took each of such tests, plus pupils, other than pupils with disabilities and English language learner pupils as defined by the commissioner who are exempt from taking such tests, provided, however, that a district which in any of the applicable school years did not maintain a home school or employed fewer than eight teachers, and which in the base year employed eight or more teachers, may use the scores in a later test as designated by the commissioner for the purposes of this paragraph;

(iii) express the result as a percentage carried to one decimal place without rounding; and

(iv) for the purposes of the computation made pursuant to this subparagraph, pupils attending campus schools of the state university shall be included in the numbers of pupils in the district in which they reside. The percentage of such pupils in component districts shall be used in the case of central high school districts. The commissioner shall make adjustments for differences in tests and test administration in accordance to regulations adopted for such purposes.

(2) (i) For the computation of total wealth pupil units, "pupils with special educational needs" shall be computed by multiplying the percentage of pupils with special educational needs by the district's adjusted average daily attendance.

(ii) For the computation of total aidable pupils units pursuant to

subdivision eight of this section for aid payable in the nineteen hundred ninety-seven--ninety-eight through the two thousand six--two thousand seven school years, "pupils with special educational needs" shall be the product of the percentage of pupils with special educational needs, the district's adjusted average daily attendance for the year prior to the base year, and the enrollment index.

(iii) For the computation of total aidable pupils units pursuant to paragraph e of subdivision two of this section for aid payable in the two thousand seven--two thousand eight school year and thereafter, "pupils with special educational needs" shall be the product of the percentage of pupils with special educational needs, the district's adjusted average daily attendance for the year prior to the base year, and the enrollment index.

(3) "Weighted pupils with special educational needs" shall be computed by multiplying pupils with special educational needs by twenty-five percentum, with the result rounded up to the next whole number. For the purposes of the computation of additional aidable pupil units for inclusion in total wealth pupil units, the computations made pursuant to this paragraph shall include only resident pupils.

f. "Expense per pupil" shall mean approved operating expense for the year prior to the base year divided by the sum, computed using year prior to the base year pupil counts, of the total aidable pupil units plus weighted pupils with disabilities, provided that for the two thousand six--two thousand seven school year and prior school years, total aidable pupil units plus weighted pupils with handicapping conditions shall be used in such computation. Expense per pupil for each borough in the city school district of the city of New York shall be the expense per pupil of the entire city school district.

g. "Summer session pupils" shall mean those pupils attending approved programs of instruction operated by the district during the months of July and August in accordance with the regulations promulgated by the commissioner.

h. "Adjusted gross income" shall mean the adjusted gross income of a school district for the calendar year three years prior to the calendar

year in which the current year commences. The income data shall be computed in accordance with regulations adopted by the commissioner of taxation and finance based upon personal income tax returns for the calendar year three years prior to the calendar year in which the current school year commences, as reported to the commissioner by September of the base year, including the results of the permanent computerized statewide school district address match and income verification system. Commencing with calendar year two thousand twenty-two, New York state lottery and video lottery gaming individual prizes in excess of one million dollars that when aggregated exceeds twenty-five percent of a district's adjusted gross income shall be excluded from such district's adjusted gross income for the year. The commissioner of taxation and finance shall determine the amount of this exclusion based on the annual report of New York state lottery and video lottery gaming individual prizes in excess of one million dollars produced by the gaming commission pursuant to paragraph three of subdivision c of section sixteen hundred four of the tax law. The adjusted gross income of the city school district of the city of New York shall be the sum of the adjusted gross income of the boroughs of the city. The adjusted gross income of a central high school district shall equal the sum of the adjusted gross income of each of its component school districts. "Selected adjusted gross income" shall mean the lesser of adjusted gross income calculated for aid payable in the current year or the two-year average of the adjusted gross income calculated for aid payable in the current year and the adjusted gross income calculated for aid payable in the base year.

i. "Weighted pupils with disabilities" shall be computed as follows:

(1) "Pupils with disabilities" shall mean pupils of school age who are identified as students with disabilities pursuant to article eighty-nine of this chapter and the regulations of the commissioner and who receive special education services or attend special education programs which meet criteria established by the commissioner, operated by a school district eligible for total foundation aid pursuant to this section or by a board of cooperative educational services, whether or not the school district is a component of such board.

(2) "Declassification pupils" shall mean pupils enrolled in a

full-time regular education program, who were enrolled in a special education program in the prior year. Services to pupils shall be provided on a regular basis and may include, but not be limited to psychological, social work, speech and language services and noncareer counseling services provided by qualified professional personnel as defined in regulations of the commissioner. Services for teachers of such pupils may include the assistance of teacher aides or consultation with appropriate personnel. When a committee on special education determines that a pupil no longer needs special education services and is ready for a full-time regular education program, such committee shall identify and recommend the appropriate declassification support services for the first year in the regular education program.

(3) "Weighted pupils with disabilities" shall mean the attendance, as defined in the regulations of the commissioner, of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services specified in this subparagraph, and who receive such programs and services from the school district of attendance during the base year, multiplied by a special services weighting determined as follows:

(i) for placement for sixty per centum or more of the school day in a special class, or home or hospital instruction for a period of more than sixty days, or special services or programs for more than sixty per centum of the school day, the special services weighting shall be one hundred seventy percent;

(ii) for placement for twenty per centum or more of the school week in a resource room or special services or programs including related services required for twenty per centum or more of the school week, or in the case of pupils in grades seven through twelve or a multi-level middle school program as defined by the commissioner or in the case of pupils in grades four through six in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of one hundred eighty minutes in a resource room or in other special services or programs including related services, or for at least two hours per week of direct or indirect consultant teacher services, in accordance with regulations of the commissioner adopted for such purpose, the special services weighting shall be ninety percent.

(3-a) "Resident weighted pupils with disabilities" shall mean weighted pupils with disabilities minus the nonresident weighted pupils with disabilities plus the resident weighted pupils with disabilities to whom special services or programs are provided by another public school district.

(4) "Weighted foundation pupils with disabilities" shall mean the sum of

(i) the full-time equivalent enrollment, as defined in the regulations of the commissioner, of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services specified in this subparagraph, and who receive such programs and services from the school district of attendance, multiplied by a special services weighting based on an analysis of costs of special education and general education in successful school districts, provided that the weighting for the two thousand seven--two thousand eight school year and thereafter shall be one and forty-one hundredths (1.41):

(A) placement for sixty per centum or more of the school day in a special class, or

(B) home or hospital instruction for a period of more than sixty days, or

(C) special services or programs for more than sixty per centum of the school day, or

(D) placement for twenty per centum or more of the school week in a resource room or to require special services or programs including related services for twenty per centum or more of the school week, or in the case of pupils in grades seven through twelve or a multi-level middle school program as defined by the commissioner or in the case of pupils in grades four through six in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of one hundred eighty minutes in a resource room or in other special services or programs including related services, or

(E) at least two hours per week of direct or indirect consultant teacher services, in accordance with regulations of the commissioner adopted for such purpose, plus

(ii) the full time equivalent enrollment of declassification pupils multiplied by a declassification weighting of five-tenths (0.5).

(5) "Resident weighted supplemental pupils with disabilities" shall mean weighted supplemental pupils with disabilities minus the nonresident weighted supplemental pupils with disabilities plus the resident weighted supplemental pupils with disabilities to whom special services or programs are provided by another public school district, where "weighted supplemental pupils with disabilities" shall mean the attendance, as defined in the regulations of the commissioner, of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services specified in this subparagraph, and who receive such programs and services from the school district of attendance during the base year, multiplied by a special services weighting determined as follows:

(i) for placement for sixty per centum or more of the school day in a special class, or home or hospital instruction for a period of more than sixty days, or special services or programs for more than sixty per centum of the school day, the special services weighting shall be one hundred sixty-five percent;

(ii) for placement for twenty per centum or more of the school week in a resource room or special services or programs including related services required for twenty per centum or more of the school week, or in the case of pupils in grades seven through twelve or a multi-level middle school program as defined by the commissioner or in the case of pupils in grades four through six in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of one hundred eighty minutes in a resource room or in other special services or programs including related services, or for at least two hours per week of direct or indirect consultant teacher services, in accordance with regulations of the commissioner adopted for such purpose, the special services weighting shall be ninety percent.

(6) "Integrated settings weighted pupils with disabilities" shall be the product of the attendance in the year prior to the base year of pupils who have been determined by a committee on special education to require special services or programs for sixty per centum or more of the school day pursuant to clause (i) of subparagraph three of this paragraph and are provided special services or programs in the general education setting by qualified personnel, as defined in the regulations

of the commissioner, multiplied by five tenths.

j. "Total foundation aid base" for the purposes of this section (i) for aid payable in the two thousand seven--two thousand eight school year, the total foundation aid base shall equal the total amount a district was eligible to receive in the base year for

(1) flex aid in an amount equal to the sum of (A) the amount set forth for each school district as "FLEX AID" under the heading "2005-06 Base Year Aids" in the school aid computer listing produced by the commissioner in support of the executive budget request for the 2006--2007 school year and entitled "BT131-6", and (B) the additional FLEX aid equivalent as computed pursuant to chapter fifty-eight of the laws of two thousand six;

(2) the extraordinary needs equivalent aid apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, as amended by chapter sixty-one of the laws of two thousand six;

(3) an amount equal to the amount such district received for early grade class size reduction grants pursuant to or in lieu of subdivision thirty-seven of this section, provided that such amount computed and payable as of September one of the school year immediately following the school year for which such aid is claimed shall be deemed final and not subject to change;

(4) the growth aid equivalent apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six;

(5) the enrollment adjustment aid apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six;

(6) the reorganization incentive operating aid equivalent computed pursuant to chapter fifty-eight of the laws of two thousand six;

(7) the tax limitation aid equivalent computed pursuant to chapter fifty-eight of the laws of two thousand six;

(8) the high tax aid apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, as amended by chapter sixty-one of the laws of two thousand six;

(9) the additional limited English proficiency aid equivalent apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, as amended by chapter sixty-one of the laws of two thousand six;

(10) the positive difference of the public excess cost aid equivalent apportionment computed pursuant to chapter fifty-eight of the laws of two thousand six, minus the amount computed under paragraph five of subdivision nineteen of this section;

(11) teacher support payments made in the 2006--2007 school year as follows: to the city school district of the city of New York, sixty-two million seven hundred seven thousand dollars; to the Buffalo city school district, one million, seven hundred forty-one thousand dollars; to the Rochester city school district, one million, seventy-six thousand dollars; to the Syracuse city school district, eight hundred nine thousand dollars; and to the Yonkers city school district, one million, one hundred forty-seven thousand dollars;

(12) an amount equal to the amount such district was eligible to receive pursuant to or in lieu of subdivision thirty-one-a of this section;

(13) an amount equal to a share of three million dollars in the same proportion as such district's share of Fort Drum school district grants for the 2005--2006 school year, and additional amounts provided to the Indian River central school district, the Watertown city school district and the Carthage central school district pursuant to chapter fifty-three of the laws of two thousand six to account for an increase in student enrollment as a result of the expansion of Fort Drum;

(14) payments made in the 2006--2007 school year for magnet school grants pursuant to or in lieu of subdivision five of section thirty-six hundred forty-one of this article, as follows: to the Albany city school district, three million, five hundred fifty thousand dollars; to the Amsterdam city school district, eight hundred thousand dollars; to the Beacon city school district, five hundred sixty-six thousand dollars; to the Buffalo city school district, twenty-one million twenty-five thousand dollars; to the Freeport union free school district, four hundred thousand dollars; to the Greenburgh central school district, three hundred thousand dollars; to the Hudson city school district, four hundred thousand dollars; to the Middletown city school district, four hundred thousand dollars; to the Mount Vernon city school district, two million dollars; to the New Rochelle city school district, one million, four hundred ten thousand dollars; to the city school district of the city of New York, forty-eight million, one hundred seventy-five thousand

dollars; to the Newburgh city school district, four million, six hundred forty-five thousand dollars; to the Niagara Falls city school district, six hundred thousand dollars; to the Peekskill city school district, two hundred thousand dollars; to the Port Chester city school district, one million, one hundred fifty thousand dollars; to the Poughkeepsie city school district, two million, four hundred seventy-five thousand dollars; to the Rochester city school district, fifteen million dollars; to the Schenectady city school district, one million, eight hundred thousand dollars; to the Syracuse city school district, thirteen million dollars; to the Utica city school district, two million dollars; to the White Plains city school district, nine hundred thousand dollars; to the Yonkers city school district, forty-nine million, five hundred thousand dollars;

(15) an amount equal to the amount received by such district in the 2005--2006 school year pursuant to subdivision six of section thirty-six hundred forty-one of this article;

(16) an amount equal to the amount received by such district in the 2005--2006 school year pursuant to subdivision seven of section thirty-six hundred forty-one of this article;

(17) sound basic education aid equal to the sum of (A) the district's base year apportionment for sound basic education aid set forth for each school district as "2005-2006 Sound Basic Education" in the school aid computer listing produced by the commissioner in support of the executive budget request for the 2006--2007 school year and entitled "BT131-6" plus (B) the product of three hundred seventy-five million dollars ($375,000,000) multiplied by the district's SBE ratio. The "SBE ratio" shall be equal to the quotient of the district's apportionment for sound basic education aid set forth for each school district as "2005-06 Sound Basic Education" in the school aid computer listing produced by the commissioner in support of the executive budget request for the 2006--2007 school year and entitled "BT131-6", divided by the sum of such apportionments set forth for all school districts as "2005-06 Sound Basic Education" in such school aid computer listing entitled "BT131-6".

(18) the net tuition adjustment computed for the 2006--07 school year pursuant to or in lieu of paragraph g of subdivision two of this section.

(ii) For aid payable in the two thousand eight--two thousand nine school year and thereafter, the total foundation aid base shall equal the total amount a district was eligible to receive in the base year pursuant to subdivision four of this section.

k. "Attendance ratio" shall mean the number computed to four decimals without rounding when the aggregate days attendance is divided by the possible aggregate attendance of all pupils in attendance in the district, as computed for each school district by the commissioner by June first of the year following the attendance year.

l. "Average daily membership" shall mean the possible aggregate attendance of all pupils in attendance in a public school of the school district in kindergarten through grade twelve, or equivalent ungraded programs, including possible aggregate attendance for such pupils receiving homebound instruction, including pupils receiving remote instruction as defined in the regulations of the commissioner, with the possible aggregate attendance of such pupils in one-half day kindergartens multiplied by one-half, divided by the number of days the district school was in session as provided in this section. The full time equivalent enrollment of pupils with disabilities attending under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter shall be added to average daily membership. Average daily membership shall include the equivalent attendance of the school district, as computed pursuant to paragraph d of this subdivision. In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter or a pupil is living on federally owned land or property, such pupil's possible aggregate attendance shall be counted as part of the possible aggregate attendance of the school district in which such pupil is enrolled.

n. (1) "Enrollment" shall mean the unduplicated count of all children registered to receive educational services in grades kindergarten through twelve, including children in ungraded programs, as registered

on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district or nonpublic school, as reported to the commissioner.

(2) "Public school district enrollment" shall mean the sum of: (1) the number of children on a regular enrollment register of a public school district on such date; (2) the number of children eligible to receive home instruction in the school district on such date; (3) the number of children for whom equivalent attendance must be computed pursuant to this subdivision on such date; (4) the number of children with disabilities who are residents of such district who are registered on such date to attend programs under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter; (5) the number of children eligible to receive educational services on such date but not claimed for aid pursuant to subdivision seven of section thirty-two hundred two of this chapter; and (6) the number of children registered on such date to attend programs (i) pursuant to subdivision two of section three hundred fifty-five of this chapter or (ii) pursuant to an agreement between the city school district of the city of New York and Hunter College pursuant to section sixty-two hundred sixteen of this chapter.

(3) "Nonpublic school enrollment" shall mean the number of children on a regular enrollment register of a nonpublic school meeting the compulsory attendance law, excluding any child counted as part of the enrollment of a public school district.

(4) "Resident public school district enrollment" shall be the public school district enrollment less the public school district enrollment of nonresident pupils attending public schools in the district, plus the public school district enrollment of pupils resident in the district but attending public schools in another district or state plus the public school district enrollment of pupils resident in the district but attending full-time a school operated by a board of cooperative educational services or a county vocational education and extension board. Indian pupils who are residents of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter and are attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be

deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with the state university pursuant to subdivision two of section three hundred fifty-five of this chapter under which the school district makes payments in the nature of tuition for the education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph. No student shall be counted more than once, except that, in determining the resident public school district enrollment of a component school district of a central high school district the resident public school district enrollment of high school pupils residing in such component district and attending the central high school shall be included, and in determining the resident public school district enrollment of a central high school district the resident public school district enrollment of elementary school pupils residing in such central high school district and attending a component district of the central high school district shall be included.

(5) "Resident nonpublic school district enrollment" shall be the nonpublic school district enrollment less the nonpublic school district enrollment of nonresident pupils attending nonpublic schools in the district, plus the nonpublic school district enrollment of pupils resident in the district but attending nonpublic schools in another district of the state.

(6) "Additional public school enrollment" shall mean resident students with disabilities placed by public school districts in approved private schools, the New York state school for the blind at Batavia, or the New York state school for the deaf at Rome and resident students placed in schools subject to the provisions of chapter five hundred sixty-three of the laws of nineteen hundred eighty as amended.

(7) In determining enrollment pursuant to subparagraphs two, three, four, five and six of this paragraph for central high school districts and all school districts located within the boundaries of a central high school district, for the purposes of any apportionments payable to both central high school districts and to other school districts located within the boundaries of such central high school districts pursuant to this chapter, and for the purposes of computing the poverty count pursuant to paragraph q of this subdivision and the school district

basic contribution pursuant to subdivision eight of section forty-four hundred one of this chapter, only those children in the grade levels maintained by a central high school district shall be included in the enrollment used to apportion aid to such central high school district and only those children of the grade levels maintained by a component school district of a central high school district shall be included in the public school district enrollment of such component school district.

o. "English language learner count" shall mean the number of pupils served in the base year in programs for pupils who are English language learners approved by the commissioner pursuant to the provisions of this chapter and in accordance with regulations adopted for such purpose.

q. "Poverty count" shall mean the sum of the product of the economically disadvantaged student count multiplied by sixty-five percent, plus the product of the SAIPE count multiplied by sixty-five percent, where:

(i) "Economically disadvantaged student count" shall mean the product of the public school enrollment of the school district on the date enrollment was counted in accordance with this subdivision for the base year multiplied by the three-year average economically disadvantaged rate; and

(ii) "SAIPE count" shall mean the product of the public school enrollment of the school district on the date enrollment was counted in accordance with this subdivision for the base year multiplied by the three-year average small area income and poverty estimate rate.

(iii) "Three-year average small area income and poverty estimate rate" shall equal the quotient of: (i) the sum of the number of persons aged five to seventeen within the school district, based on the small area income and poverty estimates produced by the United States census bureau, whose families had incomes below the poverty level for the calendar year prior to the year in which the base year began, plus such number for the calendar year two years prior to the year in which the base year began, plus such number for the calendar year three years prior to the year in which the base year began; divided by (ii) the sum of the total number of persons aged five to seventeen within the school district, based on such census bureau estimates, for the year prior to

the year in which the base year began, plus such total number for the year two years prior to the year in which the base year began, plus such total number for the year three years prior to the year in which the base year began, rounded to four decimals.

(iv) (1) "Economically disadvantaged count" shall be equal to the unduplicated count of all children registered to receive educational services in grades kindergarten through twelve, including children in ungraded programs who participate in, or whose family participates in, economic assistance programs, such as the free or reduced-price lunch programs, Social Security Insurance, Supplemental Nutrition Assistance Program, Foster Care, Refugee Assistance (cash or medical assistance), Earned Income Tax Credit (EITC), Home Energy Assistance Program (HEAP), Safety Net Assistance (SNA), Bureau of Indian Affairs (BIA), or Temporary Assistance for Needy Families (TANF).

(2) "Economically disadvantaged rate" shall mean the quotient arrived at when dividing the economically disadvantaged count by public enrollment as computed pursuant to subparagraph one of paragraph n of this subdivision.

(3) "Three-year average economically disadvantaged rate" shall equal the quotient of: (i) the sum of the economically disadvantaged count for the school year prior to the base year, plus such number for the school year two years prior to the base year, plus such number for the school year three years prior to the base year; divided by (ii) the sum of enrollment as computed pursuant to subparagraph one of paragraph n of this subdivision for the school year prior to the base year, plus such number for the school year two years prior to the base year, plus such number for the school year three years prior to the base year, rounded to four decimals.

r. "Sparsity count", for districts operating a kindergarten through grade twelve school program, shall mean the product of (i) the base year public school enrollment of the district and (ii) the sparsity factor, which shall mean the quotient, computed to three decimals without rounding, of the positive remainder of twenty-five minus the enrollment per square mile divided by fifty and nine tenths, but not less than zero. Enrollment per square mile shall be the quotient, computed to two decimals without rounding, of the public school enrollment of the school

district on the date enrollment was counted in accordance with this subdivision for the base year divided by the square miles of the district, as determined by the commissioner.

s. "Extraordinary needs count" shall mean the sum of (i) the product of the English language learner count multiplied by the ELL weight, (ii) the poverty count, (iii) the homeless and foster count, plus (iv) the sparsity count, provided that the 'ELL weight' shall be five tenths (0.50) for the two thousand twenty-four--two thousand twenty-five school year and prior, fifty-three hundredths (0.53) in the two thousand twenty-five--two thousand twenty-six school year, and six tenths (0.6) in the two thousand twenty-six--two thousand twenty-seven school year and thereafter.

t. The "approved operating expense" for the apportionments to any school district hereunder shall mean the amount computed as follows: The apportionment to any school district for operating expense shall be based upon the total expenditures from its general fund and from its capital fund and from its risk retention fund for purposes of employee benefit claims related to salaries paid from the general fund, and for any city school districts with a population of more than one hundred twenty-five thousand inhabitants its expenditures from the special aid fund of grant moneys for improving pupil performance and categorical aid for special reading programs as provided in the aid to localities budget during the applicable year as approved by the commissioner, and in accordance with the classification of expenditures in use by the commissioner for the reporting by school districts of receipts, expenditures and other financial data. For the purpose of this paragraph operating expense shall be defined as total cash expenditures during the applicable year, but shall exclude: (1) any balances and transfers; (2) any payments for transportation of pupils to and from school during the regular school year inclusive of capital outlays and debt service therefor; (2-a) a portion of any payments for transportation of pupils to and from district operated summer school programs pursuant to subdivision six of section thirty-six hundred twenty-two-a of this article, inclusive of capital outlays and debt service therefor, equal to the product of such expenditures multiplied by the quotient of the

total apportionment after the proration, if any, required by such subdivision six of such section divided by the total apportionment prior to such proration; (3) any payments for capital outlay and debt service for school building purposes, provided, however, that in the case of a school district which has entered into a contract with state university pursuant to paragraph o of subdivision two of section three hundred fifty-five of this chapter, under which the school district makes payments to state university on account of capital outlay relating to certain children residing in such school district, such payments shall not be so excluded; (4) any payments for cafeteria or school lunch programs; (5) any proceeds of short term borrowings in the general fund and any payments from the proceeds of the sale of obligations in the capital fund; (6) any cash receipts which reduce the cost of an item when applied against the expenditure therefor, except gifts, donations and earned interest and any refunds made; (7) any payments made to boards of cooperative educational services for purposes or programs for which an apportionment is paid pursuant to other sections of this chapter, except that payments attributable to eligible pupils with disabilities and ineligible pupils residing in noncomponent districts shall be included in operating expense; (8) any tuition payments made to other school districts inclusive of payments made to a central high school district by one of its component school districts; (9) any apportionment or payment received from the state for experimental or special programs paid under provisions other than those found in this section and other than any apportionments or payments received from the state by the city school district of the city of Yonkers for the purpose of funding an educational improvement program pursuant to a court order and other than any other state grants in aid identified by the commissioner for general use as specified by the board of education pursuant to subdivision two of section seventeen hundred eighteen of this chapter; (10) any funds received from the federal government except the federal share of medicaid subject to the provisions of section thirty-six hundred nine-a of this part and except Impact Aid funds received pursuant to sections two and six of Public Law eighty-one-eight hundred seventy-four (PL 81-874) or any law superseding such law in any such district which received aid pursuant to both such sections; provided further, however, that there shall be excluded from such

federal funds or other apportionments any payments from such funds already deducted pursuant to this paragraph; (11) any payments made for which an apportionment is disallowed pursuant to regulations of the commissioner; (12) any expenditures made for accounting, tabulation, or computer equipment, in excess of ten thousand dollars unless such expenditures shall have been specifically approved by the commissioner; (13) any rentals received pursuant to the provisions of section four hundred three-a of this chapter; (14) any rentals or other annual payments received pursuant to the provisions of section four hundred three-b of this chapter; (15) any expenditures made for persons twenty-one years of age or over attending employment preparation education programs pursuant to subdivision eleven of this section; (16) any tuition payments made pursuant to a contract under the provisions of paragraphs e, f, g, h, i and l of subdivision two of section forty-four hundred one of this chapter or any tuition payments on behalf of pupils attending a state school under paragraph d of such subdivision; (17) in any year in which expenditures are made to the New York state teachers' retirement system or the New York state and local employees' retirement system for both the prior school year and the current school year, any expenditures made to such retirement systems and recorded in the school year prior to the school year in which such obligations are paid; and (18) any payments to the commissioner of taxation and finance pursuant to article twenty-three of the tax law.

u. "Instructional expense" shall mean the sum of all year prior to the base year expenditures related to the instructional program of the district, as defined in regulations of the commissioner, including the cost of fringe benefits paid by such district for the instructional staff of the district.

w. "Extraordinary needs percent" shall mean the quotient of the extraordinary needs count for the base year, calculated pursuant to paragraph s of this subdivision, divided by the public school district enrollment for the base year, calculated pursuant to subparagraph two of paragraph n of this subdivision.

x. "Enrollment index" shall be computed by dividing the public school

enrollment for the current year by public school enrollment for the base year, both as defined in paragraph n of this subdivision, with the result carried to three places without rounding.

y. "School tax relief aid" shall mean state aid payable to a school district representing tax savings duly provided by the school district pursuant to section thirteen hundred six-a of the real property tax law that is claimed by the school district and certified by the commissioner of taxation and finance pursuant to subdivision three of section thirteen hundred six-a of the real property tax law.

aa. "Total personal income of the state" shall mean the total personal income of the state of New York as published by the United States department of commerce or any successor agency from which information is available, aggregated on a state fiscal year basis. For the two thousand twelve--two thousand thirteen school year, such personal income shall be based on the data available most proximate and prior to February first, two thousand eleven, and for the two thousand thirteen--two thousand fourteen school year and each school year thereafter, such personal income shall be based on the data available most proximate and prior to October thirty-first of the base year. Subsequent revisions of the published estimated dollar amount for any state fiscal year estimate employed pursuant to the terms of this section shall not affect the validity of the determinations made for any state fiscal year.

bb. "Personal income growth index" shall mean (1) for the two thousand twelve--two thousand thirteen school year, the average of the quotients for each year in the period commencing with the two thousand five--two thousand six state fiscal year and finishing with the two thousand nine--two thousand ten state fiscal year of the total personal income of the state for each such year divided by the total personal income of the state for the immediately preceding state fiscal year, but not less than one, (2) for the two thousand thirteen--two thousand fourteen through two thousand nineteen--two thousand twenty school years, the quotient of the total personal income of the state for the state fiscal year one year prior to the state fiscal year in which the base year commenced divided by the total personal income of the state for the immediately

preceding state fiscal year, but not less than one and (3) for the two thousand twenty--two thousand twenty-one school year and each school year thereafter, the average of the quotients for each year in the period commencing with the state fiscal year nine years prior to the state fiscal year in which the base year began and finishing with the state fiscal year prior to the state fiscal year in which the base year began of the total personal income of the state for each such year divided by the total personal income of the state for the immediately preceding state fiscal year, but not less than one.

dd. "Allowable growth amount" shall mean the product of the positive difference of the personal income growth index minus one, multiplied by the statewide total of the sum of (1) the apportionments, including the gap elimination adjustment, due and owing during the base year, commencing with the base year computed for the two thousand twelve--two thousand thirteen school year, to school districts and boards of cooperative educational services from the general support for public schools as computed based on an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the enacted budget for the base year plus (2) the competitive awards amount for the base year.

ee. "Competitive awards amount" shall mean, for the two thousand twelve--two thousand thirteen state fiscal year and thereafter, fifty million dollars.

ff. "Preliminary growth amount" shall mean the difference between the statewide total, excluding the apportionments computed pursuant to subdivisions four and seventeen of section thirty-six hundred two of the education law, of the apportionments due and owing during the current school year, commencing with the two thousand twelve--two thousand thirteen school year, to school districts and boards of cooperative educational services from the general support for public schools as computed based on an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the enacted budget for the current year, less the statewide total of such apportionments, excluding the apportionments computed pursuant to

subdivisions four and seventeen of section thirty-six hundred two of the education law, due and owing during the base school year to school districts and boards of cooperative educational services from the general support for public schools as computed based on an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the enacted budget for the current year.

gg. "Allocable growth amount" shall mean the positive difference, if any, of the allowable growth amount less the sum of the competitive awards amount plus the preliminary growth amount.

hh. "Consumer price index" shall mean the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the current year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, divided by (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, with the result expressed as a decimal to three places.

ii. (1) "Direct certification count" shall be equal to the number of children eligible for free meals or free milk based on information obtained directly from the office of temporary and disability assistance administering the supplemental nutrition assistance program and the department of health administering Medicaid and providing data as per the United States department of agriculture Medicaid demonstration project.

(2) "Direct certification enrollment" shall mean enrollment collected for purposes of the direct certification matching process.

(3) "Direct certification percent" shall mean the quotient arrived at when dividing the direct certification count by the direct certification enrollment.

(4) "Three-year direct certification percentage" shall mean the quotient of: (A) the sum of the direct certification count for the base year, plus such direct certification count computed for the year prior

to the base year, plus such direct certification count computed for the year two years prior to the base year, divided by (B) the direct certification enrollment for the base year, plus such direct certification enrollment computed for the year prior to the base year, plus such direct certification enrollment computed for the year two years prior to the base year.

jj. "Small city school districts" shall mean any school districts that were designated as small city school districts or central school districts whose boundaries include a portion of a small city for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand fourteen--two thousand fifteen school year and entitled "SA141-5".

kk. "Homeless and foster count" shall mean the sum of (i) the product of twelve hundredths (0.12) multiplied by the three-year average of students experiencing homelessness plus (ii) the product of twelve hundredths (0.12) multiplied by the three-year average of foster students, where:

(1) "students experiencing homelessness" shall be equal to the unduplicated count of students who lack a fixed, regular, and adequate nighttime residence, including a student who is sharing the housing of other persons due to a loss of housing, economic hardship, or similar reason; living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations; abandoned in hospitals; or a migratory child, as defined by the commissioner, who qualifies as homeless under any of the above provisions; or has a primary nighttime location that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the state or local department of social services, and residential programs for runaway and homeless youth established pursuant to article nineteen-H of the executive law or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a car, park, public space, abandoned building, substandard housing, bus, train station, or similar setting. Homeless students does not include children in foster care placements or

who are receiving educational services pursuant to subdivision four, five, six, six-a, or seven of section thirty-two hundred two of this chapter or pursuant to article eighty-one, eighty-five, eighty-seven or eighty-eight of this chapter;

(2) the "three-year average of students experiencing homelessness" shall be equal to the quotient of (i) the unduplicated count of students experiencing homelessness for the school year prior to the base year, plus such number for the school year two years prior to the base year, plus such number for the school year three years prior to the base year, divided by (ii) three, rounded to the nearest whole number;

(3) "foster students" shall be equal to the unduplicated count of students in twenty-four-hour substitute care for children placed away from their parents and for whom the agency under title IV-E of the Social Security Act has placement and care responsibility. This shall include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether or not the foster care facility is licensed and payments are made by the state, tribal, or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is federal matching of any payments that are made; and

(4) the "three-year average of foster students" shall be equal to the quotient of (i) the unduplicated count of foster students for the school year prior to the base year, plus such number for the school year two years prior to the base year, plus such number for the school year three years prior to the base year, divided by (ii) three, rounded to the nearest whole number.

2. Computation of pupil counts and related factors. a. Computation of resident weighted average daily attendance. For purposes of this section weighted average daily attendance of a school district for any school year shall be computed as follows:

(1) Weighted average daily attendance shall be determined by using the average daily attendance of public school pupils in a full-day kindergarten and grades one through six as the basic unit, with the

attendance of such pupils in one-half day kindergartens measured at one-half of such basic unit and the attendance of such pupils in grades seven through twelve measured at one and one-quarter of such basic unit. The sum of all such units of attendance shall be the weighted average daily attendance.

(2) In computing such attendance, the school district shall (i) determine the number of religious holidays which fall on a school day within a school year according to regulations established by the commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; (ii) deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deduct such religious holidays from the total number of days of session, by grade level; (iv) compute the weighted average daily attendance for the school year.

(3) In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter or a pupil is living on federally owned land or property, such pupil's attendance shall be counted as part of the weighted average daily attendance of the school district in which such pupil is enrolled.

(4) Resident weighted average daily attendance for purposes of determining the aid ratio of a school district for any school year shall be the weighted average daily attendance for the school year immediately preceding the base year, less the weighted average daily attendance of nonresident pupils attending public schools in the district for such school year, plus the weighted average daily attendance of pupils resident in the district but attending public schools in another district or state plus the weighted average daily attendance of pupils resident in the district but attending full-time a school operated by a board of cooperative educational services or a county vocational education and extension board for such school year. The attendance of nonresident pupils attending public school in the district and resident pupils attending such schools outside of the district shall be determined by applying to the number of such pupils registered during the school year in each case the ratio of aggregate days attendance to

the possible aggregate days attendance of all pupils in attendance in the district. Indian pupils of a reservation attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with the state university pursuant to subdivision two of section three hundred fifty-five of this chapter under which the school district makes payments in the nature of tuition for the education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph.

(5) In determining the resident weighted average daily attendance of a component school district of a central high school district for computing the aid ratio the weighted average daily attendance of high school pupils residing in such component district and attending the central high school shall be included. The resident weighted average daily attendance of a central high school district itself shall be the sum of the resident weighted average daily attendance of each component school district computed as provided in the first sentence of this paragraph.

(6) Notwithstanding the provisions of subparagraphs four and five of this paragraph, when a school district shall experience an increase in resident weighted average daily attendance during the current year because of the closing in whole, or in part, of a non-public school or a campus school, or a school previously operated by the United States government on the United States military reservation at West Point, the commissioner, in computing any aid ratio of such district, shall permit the use of such additional resident weighted average daily attendance for aid ratio purposes during the current year and the next succeeding year, provided that such additional resident weighted average daily attendance attributable to such closing, or part thereof, shall be in excess of one hundred students; provided, however, that such district which qualifies for an increase in total wealth pupil units pursuant to paragraph f of this subdivision, shall use the increase in resident weighted average daily attendance, even if such increase in resident weighted average daily attendance is less than one hundred.

b. Computation of adjusted average daily attendance. For purposes of this section adjusted average daily attendance of a school district for any school year shall be computed as follows:

(1) Adjusted average daily attendance shall be determined by using the average daily attendance of public school pupils in a full-day kindergarten and grades one through twelve as the basic unit, with the attendance of such pupils in one-half day kindergartens measured at one-half of such basic unit. The sum of all such units of attendance shall be the adjusted average daily attendance.

(2) In computing such attendance, the school district shall (i) determine the number of religious holidays which fall on a school day within a school year according to regulations established by the commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; (ii) deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deduct such religious holidays from the total number of days of session, by grade level; (iv) compute the adjusted average daily attendance for the school year.

(3) In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter or a pupil is living on federally owned land or property, such pupil's attendance shall be counted as part of the adjusted average daily attendance of the school district in which such pupil is enrolled.

c. Computation of additional aidable pupil units. The additional aidable pupil units used to compute total aidable pupil units pursuant to paragraph e of this subdivision shall be the sum of the attendance of summer session pupils multiplied by twelve per centum and the weighted pupils with special educational needs. The additional aidable pupil units used to compute total wealth pupil units pursuant to paragraph f of this subdivision shall be the sum of the year prior to the base year resident weighted pupils with special educational needs and resident weighted pupils with handicapping conditions. Nothing contained in this paragraph shall be construed to result in the inclusion of the

attendance of summer session pupils in the computation of weighted or adjusted average daily attendance pursuant to this subdivision.

d. Secondary school weighting. There shall be added to the total aidable pupil units computed in paragraph e of this subdivision and the total wealth pupil units computed in paragraph f of this subdivision, a number equal to the product of: (1) twenty-five per centum, (2) the adjusted average daily attendance in grades seven through twelve for the year prior to the base year, excluding attendance of pupils who receive a weighting for disabilities, and (3) for total aidable pupil units, the enrollment index computed pursuant to this section for the base year, provided, however, that only resident secondary pupils shall be used for the computation of total wealth pupil units.

e. Computation of total aidable pupil units. (1) A district's total aidable pupil units shall be the sum of the district's adjusted average daily attendance computed pursuant to this section for the year prior to the base year multiplied by the enrollment index computed pursuant to this section for the base year plus the additional aidable pupil units computed for the year prior to the base year under paragraph c of this subdivision.

(2) In such computation school districts may, with the commissioner's approval, exclude attendance for those days on which school attendance was adversely affected because of an epidemic or because of a religious holiday as provided in subparagraph two of paragraph b of this subdivision. For the purposes of computing selected total aidable pupil units, a district may use either total aidable pupil units for the current aid year or the average of total aidable pupil units for the current aid year and the prior aid year, using current aid year definitions of total aidable pupil units for both years, except that for aids payable during the nineteen hundred ninety-seven--nineteen hundred ninety-eight school year the total aidable pupil units for the prior aid year used in such average shall be calculated using the definition of total aidable pupil units in effect for aid payable in the base year.

f. Computation of total wealth pupil units. (1) Total wealth pupil units will be computed using the adjusted average daily attendance for

the year prior to the base year as computed in this section, plus the attendance of resident pupils attending public school elsewhere, less the attendance of nonresident pupils plus the attendance of resident pupils attending full-time in board of cooperative educational services (not otherwise specifically included), plus the additional aidable pupil units as computed pursuant to paragraphs c and d of this subdivision, excluding summer school pupils, plus the year prior to the base year resident weighted pupils with disabilities. The attendance of nonresident pupils attending public school in the district and resident pupils attending such schools outside of the district shall be determined by applying to the number of such pupils registered during the school year in each case the ratio of aggregate days attendance to the possible aggregate days attendance of all pupils in attendance in the district. Native American pupils of a reservation attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with state university pursuant to subdivision two of section three hundred fifty-five of this chapter under which the school district makes payment in the nature of tuition for the education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph.

(2) In determining the total wealth pupil units of a component school district of a central high school district for computing aid ratios the total wealth pupil units of high school pupils residing in such component district and attending the central high school shall be included. The total wealth pupil units of a central high school district itself shall be the sum of the total wealth pupil units of each component school district.

(3) Notwithstanding the foregoing provisions of this paragraph, when a school district shall experience an increase in total wealth pupil units during the current year because of the closing in whole, or in part, of a nonpublic school or a campus school, or a school previously operated by the United States government on the United States military reservation at West Point, the commissioner, in computing any aid ratio

of such district, shall permit the use of such additional total wealth pupil units during the current year and the next succeeding year, provided that such additional total wealth pupil units attributable to such closing, or part thereof, shall be in excess of one hundred students; provided, however, that such district which qualifies for an increase in resident weighted average daily attendance pursuant to subparagraph six of paragraph a of this subdivision, shall use the increase in total wealth pupil units, even if such increase in total wealth pupil units is less than one hundred.

g. Computation of total aidable foundation pupil units. Total aidable foundation pupil units shall be the sum of (1) the district's average daily membership computed pursuant to this section for the year prior to the base year multiplied by the enrollment index computed pursuant to this section for the base year plus (2) the product of the average daily membership of summer session pupils and twelve percent plus (3) the year prior to the base year weighted foundation pupils with disabilities. For the purposes of computing total foundation aid a district may use either total aidable foundation pupil units for the current aid year or the average of total foundation aidable pupil units for the current aid year and the prior aid year, using current aid year definitions of total aidable foundation pupil units for both years.

h. Computation of total wealth foundation pupil units. (1) Total wealth foundation pupil units shall mean the sum of (i) average daily membership for the year prior to the base year as computed in this section, plus (ii) the full-time equivalent enrollment of resident pupils attending public school elsewhere, less the full-time equivalent enrollment of nonresident pupils, plus (iii) the full-time equivalent enrollment of resident pupils attending full-time in board of cooperative educational services (not otherwise specifically included). Native American pupils of a reservation attending public school, or pupils living on the United States military reservation at West Point attending public school, shall be deemed to be resident pupils of the district providing such school, for purposes of this paragraph. Where a school district has entered into a contract with state university pursuant to subdivision two of section three hundred fifty-five of this

chapter under which the school district makes payment in the nature of tuition for the education of certain children residing in the district, such children for whom such tuition payments are made shall be deemed to be resident pupils of such district for the purposes of this paragraph.

(2) In determining the total wealth foundation pupil units of a component school district of a central high school district for computing aid ratios the total wealth foundation pupil units of high school pupils residing in such component district and attending the central high school shall be included. The total wealth foundation pupil units of a central high school district itself shall be the sum of the total wealth foundation pupil units of each component school district.

(3) Notwithstanding the foregoing provisions of this paragraph, when a school district shall experience an increase in total wealth foundation pupil units during the current year because of the closing in whole, or in part, of a nonpublic school or a campus school, or a school previously operated by the United States government on the United States military reservation at West Point, the commissioner, in computing any aid ratio of such district, shall permit the use of such additional total wealth foundation pupil units during the current year and the next succeeding year, provided that such additional total wealth foundation pupil units attributable to such closing, or part thereof, shall be in excess of one hundred students.

i. Parent-teacher conferences or workshops. Notwithstanding any other provision of this section to the contrary, when a school district operates for a half day session because of a parent-teacher conference or workshops for teachers, it shall be apportioned with the same amount of state aid for pupils attending kindergarten as if both morning and afternoon kindergarten groups were in attendance although only one kindergarten class attends school. The school district shall provide that morning and afternoon kindergarten groups shall alternate in attendance if more than one half day session is scheduled during the school year.

3. Computation of aid ratios.

a. (1) "Pupil wealth ratio" shall mean the number computed to three

decimals without rounding obtained when actual valuation of a school district divided by the total wealth pupil units is divided by the statewide average actual valuation per total wealth pupil unit as computed by the commissioner in accordance with the provisions of this section. Such statewide average actual valuation per total wealth pupil unit shall be established each year by the commissioner using the latest single year actual valuation computed under paragraph c of subdivision one of this section. Such statewide average shall be transmitted to the school districts. Such statewide average shall be rounded to the nearest hundredth and shall include the actual valuation and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data.

(2) "Pupil wealth ratio for total foundation aid" shall mean the number computed to three decimals without rounding obtained when the selected actual valuation of a school district divided by the total wealth pupil units is divided by the statewide average selected actual valuation per total wealth pupil unit as computed by the commissioner in accordance with the provisions of this section. Such statewide average selected actual valuation per total wealth pupil unit shall be established each year by the commissioner using the selected actual valuation computed under paragraph c of subdivision one of this section. Such statewide average shall be transmitted to the school districts. Such statewide average shall be rounded to the nearest hundredth and shall include the selected actual valuation and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data.

b. (1) "Alternate pupil wealth ratio" shall mean the number computed to three decimals without rounding obtained when the adjusted gross income of a school district for the calendar year two years prior to the calendar year in which the base year began divided by the total wealth pupil units of such district is divided by the statewide adjusted gross income per total wealth pupil unit. Such statewide average gross income

per pupil shall be established each year by the commissioner and shall be transmitted to school districts. Such statewide average shall be rounded to the nearest hundredth and shall include the adjusted gross income and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data.

(2) "Alternate pupil wealth ratio for total foundation aid" shall mean the number computed to three decimals without rounding obtained when the selected adjusted gross income of a school district for the calendar year two years prior to the calendar year in which the base year began divided by the total wealth pupil units of such district is divided by the statewide selected adjusted gross income per total wealth pupil unit. Such statewide average selected adjusted gross income per pupil shall be established each year by the commissioner and shall be transmitted to school districts. Such statewide average shall be rounded to the nearest hundredth and shall include the selected adjusted gross income and total wealth pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data.

c. (1) "Combined wealth ratio" shall mean the number computed to three decimals without rounding obtained when fifty per centum of the pupil wealth ratio is added to fifty per centum of the alternate pupil wealth ratio.

(2) "Combined wealth ratio for total foundation aid" shall mean the number computed to three decimals without rounding obtained when fifty per centum of the pupil wealth ratio for total foundation aid is added to fifty per centum of the alternate pupil wealth ratio for total foundation aid.

d. "Income wealth index" shall mean the number computed to three decimals without rounding obtained when the adjusted gross income of a school district for the calendar year two years prior to the calendar year in which the base year began divided by the total wealth foundation pupil units of such district is divided by the statewide adjusted gross

income per total wealth foundation pupil units. Such statewide average gross income per pupil shall be established each year by the commissioner and shall be transmitted to school districts. For the purposes of this paragraph, the income data shall be computed in accordance with paragraph h of subdivision one of this section. Such statewide average shall be rounded to the nearest hundredth and shall include the adjusted gross income and total wealth foundation pupil units of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data. The adjusted gross income of a central high school district shall equal the sum of the adjusted gross income of each of its component school districts.

e. Building aid ratios. The aid ratio to be used in determining building aid apportionments to any school district pursuant to this section shall be computed in the following manner:

(1) The actual valuation of such district shall be divided by its resident weighted average daily attendance as computed pursuant to this section to determine its actual valuation per resident pupil.

(2) The commissioner shall determine the state average actual valuation per pupil in resident weighted average daily attendance for the preceding school year using the latest single year actual valuation computed under paragraph c of subdivision one of this section. The commissioner shall transmit such state average to the school districts. Such statewide average shall be rounded to the nearest hundredth and shall include the actual valuation and resident weighted average daily attendance of all school districts eligible for aid pursuant to this section except central high school districts. For the purposes of calculating such statewide average the data for the city school district of the city of New York shall be citywide data.

(3) The resident weighted average daily attendance wealth ratio shall mean the actual valuation per resident pupil of the school district divided by such state average actual valuation per pupil, carried to three decimal places without rounding.

(4) The building aid ratio shall be computed by subtracting from one the product obtained by multiplying the resident weighted average daily

attendance wealth ratio by fifty-one percent. Such aid ratio shall be expressed as a decimal carried to three places without rounding, but shall not be less than zero.

(5) The additional building aid ratio for low income wealth school districts shall be the product obtained by multiplying the state sharing ratio by one and two hundred sixty-three thousandths (1.263).

f. The board of cooperative educational services aid ratio shall equal the greater of: (1) an amount equal to one minus the quotient expressed as a decimal to three places without rounding of eight mills divided by the tax rate of the local district computed upon the actual valuation of taxable property, as determined pursuant to subdivision one of this section, expressed in mills to the nearest tenth as determined by the commissioner, provided, however, that where services are provided to a school district which is included within a central high school district or to a central high school district, such amount shall equal one minus the quotient expressed as a decimal to three places without rounding of three mills divided by the tax rates, expressed in mills to the nearest tenth, of such districts, as determined by the commissioner or (2) an amount computed by subtracting from one the product obtained by multiplying the resident weighted average daily attendance wealth ratio by fifty-one percent. Such aid ratio shall be expressed as a decimal carried to three places without rounding but shall not be less than thirty-six percent and shall not be greater than ninety percent.

g. Computation of the state sharing ratio. The state sharing ratio shall be the higher of:

(1) a value computed by subtracting from one and thirty-seven hundredths the product obtained by multiplying the combined wealth ratio by one and twenty-three hundredths; or

(2) a value computed by subtracting from one the product obtained by multiplying the combined wealth ratio by sixty-four hundredths, provided however, that for the purpose of computing the state sharing ratio for total foundation aid, the tier two value shall be computed by subtracting from one the product obtained when multiplying the combined wealth ratio by six hundred sixteen thousandths (0.616) and such values shall be computed using the combined wealth ratio for total foundation

aid in place of the combined wealth ratio; or

(3) a value computed by subtracting from eighty hundredths the product obtained by multiplying the combined wealth ratio by thirty-nine hundredths; or

(4) a value computed by subtracting from fifty-one hundredths the product obtained by multiplying the combined wealth ratio by twenty-two hundredths, provided, however, that for the purpose of computing the state sharing ratio for total foundation aid, the tier four value shall be computed by subtracting from fifty-one hundredths the product obtained by multiplying the combined wealth ratio by one hundred seventy-three thousandths and such values shall be computed using the combined wealth ratio for total foundation aid in place of the combined wealth ratio, and, for high need school districts, as determined pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", such values shall be multiplied by one hundred five percent.

Such result shall be expressed as a decimal carried to three places without rounding, but shall not be greater than ninety hundredths nor less than zero, provided, however, that for the purpose of computing the state sharing ratio for total foundation aid in the two thousand twenty-four--two thousand twenty-five school year, such result shall not be greater than ninety-one hundredths (0.91), and that for the purpose of computing the state sharing ratio for total foundation aid in the two thousand twenty-five--two thousand twenty-six school year and thereafter, such result shall not be greater than ninety-three hundredths (0.93).

4. Total foundation aid.

In addition to any other apportionment pursuant to this chapter, a school district, other than a special act school district as defined in subdivision eight of section four thousand one of this chapter, shall be eligible for total foundation aid equal to the product of total aidable foundation pupil units multiplied by the district's selected foundation

aid, which shall be the greater of five hundred dollars ($500) or foundation formula aid. Total aidable foundation pupil units shall be calculated pursuant to paragraph g of subdivision two of this section. For the purposes of calculating aid pursuant to this subdivision, aid for the city school district of the city of New York shall be calculated on a citywide basis.

a. Foundation formula aid. Foundation formula aid shall equal the remainder when the expected minimum local contribution is subtracted from the product of the foundation amount, the regional cost index, and the pupil need index, or: (foundation amount x regional cost index x pupil need index)- expected minimum local contribution.

(1) The foundation amount shall reflect the average per pupil cost of general education instruction in successful school districts, as determined by a statistical analysis of the costs of special education and general education in successful school districts, provided that the foundation amount shall be adjusted annually to reflect the percentage increase in the consumer price index as defined by paragraph hh of subdivision one of this section, provided that for the two thousand twenty-four--two thousand twenty-five school year, the percentage increase in the consumer price index shall be deemed to be two and eight-tenths percent (0.028).

(2) The regional cost index shall reflect an analysis of labor market costs based on median salaries in professional occupations that require similar credentials to those of positions in the education field, but not including those occupations in the education field, provided that the regional cost indices for the two thousand seven--two thousand eight school year and thereafter shall be as follows:

Labor Force Region	Index
Capital District	1.124
Southern Tier	1.045
Western New York	1.091
Hudson Valley	1.314
Long Island/NYC	1.425
Finger Lakes	1.141
Central New York	1.103
Mohawk Valley	1.000

North Country 1.000

Provided that in the two thousand twenty-five--two thousand twenty-six school year and thereafter, the regional cost index for Westchester county shall be 1.351.

(3) The pupil need index shall equal the sum of one plus the extraordinary needs percent, provided, however, that the pupil need index shall not be less than one nor more than two. The extraordinary needs percent shall be calculated pursuant to paragraph w of subdivision one of this section.

(4) The expected minimum local contribution shall equal the lesser of (i) the product of (A) the quotient arrived at when the selected actual valuation is divided by total wealth foundation pupil units, multiplied by (B) the product of the local tax factor, multiplied by the income wealth index, or (ii) the product of (A) the product of the foundation amount, the regional cost index, and the pupil need index, multiplied by (B) the positive difference, if any, of one minus the state sharing ratio for total foundation aid. The local tax factor shall be established by May first of each year by determining the product, computed to four decimal places without rounding, of ninety percent multiplied by the quotient of the sum of the statewide average tax rate as computed by the commissioner for the current year in accordance with the provisions of paragraph e of subdivision one of section thirty-six hundred nine-e of this part plus the statewide average tax rate computed by the commissioner for the base year in accordance with such provisions plus the statewide average tax rate computed by the commissioner for the year prior to the base year in accordance with such provisions, divided by three. The income wealth index shall be calculated pursuant to paragraph d of subdivision three of this section, provided, however, that for the purposes of computing the expected minimum local contribution the income wealth index shall not be less than sixty-five percent (0.65) and shall not be more than two hundred percent (2.0). The selected actual valuation shall be calculated pursuant to paragraph c of subdivision one of this section. Total wealth foundation pupil units shall be calculated pursuant to paragraph h of subdivision two of this section.

(5) For the purposes of this subdivision, "total foundation aid" shall

be equal to the product of the total aidable foundation pupil units multiplied by the district's selected foundation aid.

b. Notwithstanding any other provision of law to the contrary, for the two thousand seven--two thousand eight school year and thereafter, the additional amount payable to each school district pursuant to this subdivision in the current year as total foundation aid, after deducting the total foundation aid base, shall be deemed a state grant in aid identified by the commissioner for general use for purposes of section seventeen hundred eighteen of this chapter.

c. Public excess cost aid setaside. Each school district shall set aside from its total foundation aid computed for the current year pursuant to this subdivision an amount equal to the product of: (i) the difference between the amount the school district was eligible to receive in the two thousand six--two thousand seven school year pursuant to or in lieu of paragraph six of subdivision nineteen of this section as such paragraph existed on June thirtieth, two thousand seven, minus the amount such district was eligible to receive pursuant to or in lieu of paragraph five of subdivision nineteen of this section as such paragraph existed on June thirtieth, two thousand seven, in such school year, and (ii) the sum of one and the percentage increase in the consumer price index for the current year over such consumer price index for the two thousand six--two thousand seven school year, as defined by paragraph hh of subdivision one of this section, provided that the percentage increase in the consumer price index for the two thousand twenty-four--two thousand twenty-five school year over such consumer price index for the two thousand six--two thousand seven school year shall be deemed to be fifty-four and one-tenth percent (0.541). Notwithstanding any other provision of law to the contrary, the public excess cost aid setaside shall be paid pursuant to section thirty-six hundred nine-b of this part.

d. For the two thousand fourteen--two thousand fifteen through two thousand twenty-eight--two thousand twenty-nine school years a city school district of a city having a population of one million or more may use amounts apportioned pursuant to this subdivision for afterschool

programs.

e. Community schools aid set-aside. Each school district shall set aside from its total foundation aid computed for the current year pursuant to this subdivision an amount equal to the sum of (i) the amount, if any, set forth for such district as "COMMUNITY SCHL AID (BT1617)" in the data file produced by the commissioner in support of the enacted budget for the two thousand sixteen--two thousand seventeen school year and entitled "SA161-7", (ii) the amount, if any, set forth for such district as "COMMUNITY SCHL INCR" in the data file produced by the commissioner in support of the executive budget request for the two thousand seventeen--two thousand eighteen school year and entitled "BT171-8", (iii) the amount, if any, set forth for such district as "COMMUNITY SCHOOLS INCREASE" in the data file produced by the commissioner in support of the executive budget for the two thousand eighteen--two thousand nineteen school year and entitled "BT181-9", and (iv) the amount, if any, set forth for such district as "19-20 COMMUNITY SCHOOLS INCR" in the data file produced by the commissioner in support of the executive budget for the two thousand nineteen--two thousand twenty school year and entitled "BT192-0". Each school district shall use such "COMMUNITY SCHL AID (BT1617)" amount to support the transformation of school buildings into community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal and/or other services to students and their families, including but not limited to providing a community school site coordinator, or to support other costs incurred to maximize students' academic achievement. Each school district shall use such "COMMUNITY SCHL INCR" amount to support the transformation of school buildings into community hubs to deliver co-located or school linked academic, health, mental health services and personnel, after-school programming, dual language programs, nutrition, counseling, legal and/or other services to students and their families, including but not limited to providing a community school site coordinator and programs for English language learners, or to support other costs incurred to maximize students' academic achievement, provided however that a school district whose "COMMUNITY SCHL INCR" amount exceeds one million dollars ($1,000,000) shall use an amount equal to the greater of one hundred fifty thousand

dollars ($150,000) or ten percent of such "COMMUNITY SCHL INCR" amount to support such transformation at schools with extraordinary high levels of student need as identified by the commissioner, subject to the approval of the director of the budget. Each school district shall use such "COMMUNITY SCHOOLS INCREASE" to support the transformation of school buildings into community hubs to deliver co-located or school linked academic, health, mental health services and personnel, after-school programming, dual language programs, nutrition, counseling, legal and/or other services to students and their families, including but not limited to providing a community school site coordinator and programs for English language learners, or to support other costs incurred to maximize students' academic achievement. Each school district shall use such "19-20 COMMUNITY SCHOOLS INCR" to support the transformation of school buildings into community hubs to deliver co-located or school linked academic, health, mental health services and personnel, after-school programming, dual language programs, nutrition, trauma informed support, counseling, legal and/or other services to students and their families, including but not limited to providing a community school site coordinator and programs for English language learners, or to support other costs incurred to maximize students' academic achievement.

f. Foundation aid payable in the two thousand twenty-five--two thousand twenty-six school year. Notwithstanding any provision of law to the contrary, foundation aid payable in the two thousand twenty-five--two thousand twenty-six school year shall equal the greater of total foundation aid or the product of one and two hundredths (1.02) multiplied by the foundation aid base.

* g. Foundation aid payable in the two thousand twenty-six--two thousand twenty-seven school year. Notwithstanding any provision of law to the contrary, foundation aid payable in the two thousand twenty-six--two thousand twenty-seven school year shall equal the greater of total foundation aid or the product of one and two hundredths (1.02) multiplied by the foundation aid base.

* NB Effective July 1, 2026

5. Public high cost excess cost aid. A school district having a pupil

with a disability of school age for whom the cost, as approved by the commissioner, of appropriate special services or programs exceeds the lesser of ten thousand dollars or four times the expense per pupil without limits shall be entitled to an additional apportionment for each such child computed by multiplying the district's excess cost aid ratio by the amount by which such cost exceeds three times the district's expense per pupil without limits.

a. For the purpose of this subdivision:

(1) Expense per pupil for the purposes of this subdivision shall be not less than two thousand dollars and not more than the greater of seven thousand one hundred ten dollars or the statewide average of such expense per pupil. Such statewide average expense per pupil shall be computed and rounded to the nearest fifty dollars by the commissioner using the expense and pupils as estimated by school districts or as determined by the commissioner for use in determining the expense per pupil of the district pursuant to paragraph f of subdivision one of this section for all districts eligible for aid pursuant to this section. For the purposes of calculating such statewide expense per pupil, the data for the city school district of the city of New York shall be city-wide data.

(2) The excess cost aid ratio shall be computed by subtracting from one the product obtained by multiplying fifty-one per centum by the combined wealth ratio. This aid ratio shall be expressed as a decimal carried to three places without rounding, but not less than twenty-five percent.

b. Notwithstanding section thirty-six hundred nine-a of this part, the apportionment provided for in this subdivision shall be paid pursuant to section thirty-six hundred nine-b of this part.

5-a. Supplemental public excess cost aid. For the two thousand seven--two thousand eight school year, a school district having a pupil with a disability of school age shall be entitled to an additional apportionment computed as follows:

a. Total excess cost amount per pupil shall equal the product of the

expense per pupil computed pursuant to subparagraph one of paragraph a of subdivision five of this section and the excess cost aid ratio, which shall be computed pursuant to subparagraph two of paragraph a of subdivision five of this section.

b. Basic excess cost amount shall equal the product of the total excess cost amount per pupil and the resident weighted supplemental pupils with disabilities computed pursuant to subparagraph five of paragraph i of subdivision one of this section.

c. Integrated settings excess cost amount shall equal the product of the total excess cost amount per pupil and the integrated settings weighted pupils with disabilities computed pursuant to subparagraph six of paragraph i of subdivision one of this section.

d. Declassification support services amount. (1) Declassification support services shall mean services for teachers and pupils in the first year that a pupil moves from a special education program to a full-time regular education program. Services to pupils shall be provided on a regular basis and may include, but not be limited to psychological, social work, speech and language services and noncareer counseling services provided by qualified professional personnel as defined in regulations of the commissioner. Services for teachers of such pupils may include the assistance of teacher aides or consultation with appropriate personnel. When a committee on special education determines that a pupil no longer needs special education services and is ready for a full-time regular education program, such committee shall identify and recommend the appropriate declassification support services for the first year in the regular education program.

(2) The declassification support services amount shall be equal to fifty percent of the total excess cost amount per pupil multiplied by the number of such pupils in the base year.

(3) Declassification support services shall not be eligible for an apportionment pursuant to section nineteen hundred fifty of this chapter.

(4) The commissioner shall adopt regulations to implement the provisions of this paragraph.

e. Total supplemental public excess cost amount shall be equal to the sum of the basic excess cost aid amount, the integrated settings excess cost amount, the declassification support services amount and the public high cost excess cost aid computed pursuant to subdivision five of this section for the current year.

f. The supplemental public excess cost aid base shall equal for the two thousand seven--two thousand eight school year, the amount the school district was eligible to receive in the two thousand six--two thousand seven school year pursuant to or in lieu of paragraph six of former subdivision nineteen of this section.

g. Supplemental public excess cost aid shall equal the product of ninety-one hundredths and the positive difference, if any, of:

(1) the difference of the total supplemental excess cost amount minus the supplemental public excess cost aid base, minus (2) the positive difference of the district's total foundation aid minus the product of one hundred three percent and the total foundation aid base.

h. Notwithstanding section thirty-six hundred nine-a of this part, the apportionment provided for in this subdivision shall be paid pursuant to section thirty-six hundred nine-b of this part.

For the two thousand eight--two thousand nine school year, each school district shall be entitled to an apportionment equal to the product of fifteen percent and the additional apportionment computed pursuant to this subdivision for the two thousand seven--two thousand eight school year. For the two thousand nine--two thousand ten school year and thereafter each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "SUPPLEMENTAL PUB EXCESS COST" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910".

6. Apportionment for capital outlays and debt service for school

building purposes. Any apportionment to a school district pursuant to this subdivision shall be based upon base year approved expenditures for capital outlays incurred prior to July first, two thousand one from its general fund, capital fund or reserved funds and current year approved expenditures for debt service, including debt service for refunding bond issues eligible for an apportionment pursuant to paragraph g of this subdivision and lease or other annual payments to the New York city educational construction fund created by article ten of this chapter or the city of Yonkers educational construction fund created by article ten-B of this chapter which have been pledged to secure the payment of bonds, notes or other obligations issued by the fund to finance the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of combined occupancy structures, or for lease or other annual payments to the New York state urban development corporation created by chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, pursuant to agreement between such school district and such corporation relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building, or for annual payments to the dormitory authority pursuant to any lease, sublease or other agreement relating to the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise provide for school district capital facilities or school district capital equipment made under the provisions of section sixteen hundred eighty of the public authorities law, or for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for educational facilities of a city school district under the provisions of section sixteen of chapter six hundred five of the laws of two thousand, or for payments, pursuant to any assignment authorized by section twenty-seven hundred ninety-nine-tt of the public authorities law, of debt service in furtherance of funding the five-year educational facilities capital plan of the city of New York school district or related debt service costs and expenses as set forth in such section, for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, design, reconstruction,

rehabilitation, improvement, furnishing and equipping of, or otherwise providing for projects authorized pursuant to the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, design, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for projects authorized pursuant to the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for projects authorized pursuant to the Yonkers city school district facilities modernization program act, or for lease, lease-purchase or other annual payments to another school district or person, partnership or corporation pursuant to an agreement made under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, provided that the apportionment for such lease or other annual payments under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, other than payments under a lease-purchase agreement or an equivalent agreement, shall be based upon approved expenditures in the current year. Approved expenditures for capital outlays from a school district's general fund, capital fund or reserved funds that are incurred on or after July first, two thousand two, and are not aidable pursuant to subdivision six-f of this section, shall be aidable as debt service under an assumed amortization established pursuant to paragraphs e and j of this subdivision. In any such case approved expenditures shall be only for new construction, reconstruction, purchase of existing structures, for site purchase and improvement, for new garages, for original equipment, furnishings, machinery, or apparatus, and for professional fees and other costs incidental to such construction or reconstruction, or purchase of existing structures. In the case of a lease or lease-purchase agreement entered pursuant to section four

hundred three-b, subdivision eight of section twenty-five hundred three or subdivision six of section twenty-five hundred fifty-four of this chapter, approved expenditures for the lease or other annual payments shall not include the costs of heat, electricity, water or other utilities or the costs of operation or maintenance of the leased facility. An apportionment shall be available pursuant to this subdivision for construction, reconstruction, rehabilitation or improvement in a building, or portion thereof, being leased by a school district only if the lease is for a term of at least ten years subsequent to the date of the general construction contract for such construction, reconstruction, rehabilitation or improvement. Each school district shall prepare a five year capital facilities plan, pursuant to regulations developed by the commissioner for such purpose, provided that in the case of a city school district in a city having a population of one million inhabitants or more, such facilities plan shall comply with the provisions of section twenty-five hundred ninety-p of this chapter and this subdivision. Such plan shall include, but not be limited to, a building inventory, and estimated expense of facility needs, for new construction, additions, alterations, reconstruction, major repairs, energy consumption and maintenance by school building, as appropriate. Such plan shall consider the incorporation of design principles and strategies, pursuant to guidance issued by the commissioner, as part of a comprehensive approach to provide a safe, secure and healthy school environment. Such five year plan shall include a priority ranking of projects and shall be amended if necessary to reflect subsequent on-site evaluations of facilities conducted by state supported contractors.

a. For capital outlays for such purposes first incurred on or after July first, nineteen hundred sixty-one and debt service for such purposes first incurred on or after July first, nineteen hundred sixty-two, the actual approved expenditures less the amount of civil defense aid received pursuant to the provisions of section thirty-five of chapter seven hundred eighty-four of the laws of nineteen hundred fifty-one as amended shall be allowed for purposes of apportionment under this subdivision but not in excess of the following schedule of cost allowances:

(1) For new construction and the purchase of existing structures, the cost allowances shall be based upon the rated capacity of the building or addition and a basic per pupil allowance of up to six thousand three hundred seventy-five dollars adjusted monthly by a statewide index reflecting changes in the cost of labor and materials since July first, nineteen hundred ninety-two, established by the commissioner of labor, modified by an annual county or multi-county labor market composite wage rate, established by the commissioner of labor in consultation with the commissioner, for July first of the base year, commencing July first, nineteen hundred ninety-seven for general construction contracts awarded on or after July first, nineteen hundred ninety-eight, indexed to the median of such county or multi-county rates, but not less than one. Such base allowance shall apply to a building or an addition housing grades prekindergarten through six and shall be adjusted for a building or an addition housing grades seven through nine by a factor of one and four-tenths, for a building or an addition housing grades seven through twelve by a factor of one and five-tenths, for a building or addition housing special education programs by a factor of two, except that where such building or addition is connected to, or such space is located within, a public school facility housing programs for nondisabled pupils, as approved by the commissioner, a factor of three shall be used. Rated capacity of a building or an addition shall be determined by the commissioner based on space standards and other requirements for building construction specified by the commissioner. Such assigned capacity ratings shall include, in addition to those spaces used for the instruction of pupils, those spaces which are used for elementary and secondary school libraries, cafeterias, prekindergarten instructional rooms, teachers' conference rooms, gymnasiums and auditoriums. For new construction projects approved on or after July first, two thousand, by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more, such rated capacity for new buildings and additions constructed to replace existing buildings that, in the judgment of the commissioner, have not been adequately maintained and have not reached their projected useful life shall be reduced by the commissioner by an amount proportional to the

remaining unused portion of the useful life of the existing buildings, provided however that the commissioner may waive such requirement upon a finding that replacement of the existing building is necessary to protect the health and safety of students or staff, that reconstruction and modernization of the existing building would not adequately address such health and safety problems, and that the need to replace the building was not caused by failure to adequately maintain the building. If the commissioner of labor resets the statewide index reflecting changes in the costs of labor and materials since July first, nineteen hundred ninety-two, the commissioner shall adopt regulations to supersede the basic per pupil allowance of up to six thousand three hundred seventy-five dollars to the imputed allowance in effect at that time.

(2) Where a school district has expenditures for site purchase, grading or improvement of the site, original furnishings, equipment, machinery or apparatus, or professional fees, or other incidental costs, the cost allowances for new construction and the purchase of existing structures may be increased by the actual expenditures for such purposes but by not more than the product of the applicable cost allowance established pursuant to subparagraph one of this paragraph and twenty per centum for school buildings or additions housing grades prekindergarten through six and by not more than the product of such cost allowance and twenty-five per centum for school buildings or additions housing grades seven through twelve and by not more than the product of such cost allowance and twenty-five per centum for school buildings or additions housing special education programs as approved by the commissioner.

(3) Cost allowances for reconstructing or modernizing structures shall not exceed one hundred per centum of the cost allowances for the equivalent new construction over the projected useful life of the building, to be determined in accordance with the regulations of the commissioner. Reconstruction projects shall reasonably meet the criteria established for new construction, including but not limited to energy, fire, personal safety and space per pupil standards.

(4) The commissioner shall promulgate regulations prescribing the methodology for establishing a multi-year cost allowance for the purpose of computation of building aid to school districts and a procedure for

school districts to appeal the determination that a building has not been adequately maintained, as required by subparagraphs one and three of this paragraph. Such methodology shall include the development of a building replacement cost allowance schedule for the replacement of major building systems of a building over its projected useful life and the construction of new buildings and additions for projects that have been approved on or after July first, two thousand by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more. For purposes of this subdivision, "major building systems" shall mean the electrical, plumbing, heating, ventilation and air conditioning systems, and the roof and other major structural elements of a school building.

(5) For costs relating to the construction, acquisition, reconstruction or leases of any school building project conducted by or on behalf of a city school district in a city having a population of one million inhabitants or more, where a general construction contract has been awarded or a purchase or lease agreement was executed on or after July first, two thousand four, the cost allowance for such project shall include: (a) construction and incidental costs where such costs are associated with multistory construction necessitated by substandard site sizes, site security costs, difficulties with delivery of construction supplies, increased fire resistence and fire suppression costs, and (b) site acquisition, environmental remediation and building demolition costs, provided, however, that costs which are eligible for an apportionment pursuant to this subparagraph on or before July first, two thousand six shall be deemed to be debt service for the two thousand five--two thousand six school year on new bonds and capital notes aidable in July following the current year pursuant to clause (b) of subparagraph one of paragraph f of this subdivision.

On or before January first, two thousand nine, the commissioner shall report to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee on the projects which received funding pursuant to the provisions of this subparagraph, and the overall implementation of this subparagraph.

(6) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for reconstruction or modernizing of no more than eight projects pursuant to chapter five hundred thirty-three of the laws of two thousand fourteen, multi-year cost allowances for each project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.

(7) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for three new construction projects and for the equipping of such projects authorized pursuant to chapter three hundred fifty-five of the laws of two thousand sixteen, multi-year cost allowances for each project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.

(8) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for the renovation and equipping of the Syracuse Science, Technology, Engineering, Arts and Mathematics high school authorized for operation by the Syracuse city school district the building aid units assigned to this project shall reflect a building aid enrollment of one thousand students and multi-year cost allowances for the project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.

(9) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for reconstruction or modernizing of no more than six projects pursuant to chapter four hundred sixteen of the laws of two thousand seven, as amended, enacting the third phase of the city of Rochester school facilities modernization program act, multi-year cost allowances for each project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner

than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.

(10) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for the renovation and equipping of the Leonardo da Vinci high school authorized for operation by the city school district of the city of Buffalo the building aid units assigned to this project shall reflect a building aid enrollment of four hundred twenty students.

(11) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for reconstruction or modernizing of the STEM at Blodgett middle school, the Delaware Primary school, the Syracuse Latin school, the Lincoln middle school, the Roberts Pre-k-8 school, the Seymour Dual Language Academy and the Webster elementary school pursuant to a chapter of the laws of two thousand twenty-one enacting the third phase of the city of Syracuse cooperative school reconstruction act, multi-year cost allowances for each project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.

(12) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for construction, reconstruction or modernizing of no more than one project by the Binghamton city school district, multi-year cost allowances for the project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.

(13) (a) Renewable energy projects shall be considered part of the cost allowances calculated by the commissioner pursuant to this subparagraph.

(b) For the purposes of determining eligible cost allowances pursuant to this subparagraph, renewable energy projects shall include: (i) solar photovoltaic or thermal systems, whether ground-mounted or roof-mounted; (ii) geothermal systems; and (iii) other systems, as defined in subdivision one of section sixty-six-p of the public service law, which may be considered appropriate by the commissioner and the New York state

energy research and development authority. Renewable energy projects may not include capital expenses allowable under subdivision seven of this section.

(c) Ground-mounted renewable energy projects shall be sited to minimize impacts on athletic fields, outdoor educational spaces, and natural areas serving the school.

(d) The portion of project costs attributable to system capacity that, when combined with other renewable energy projects, if any, exceeds one hundred ten percent of the building's baseline energy consumption shall not constitute an aidable expense. Baseline energy consumption shall be calculated using a methodology as determined by the commissioner, in consultation with the New York state energy research and development authority, which shall consider historic energy consumption.

b. (1) The apportionment for school building purposes to any district shall be determined by adding the amount of its current year approved expenditures for lease or other annual payments under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, other than payments under a lease-purchase agreement or an equivalent agreement, plus the amount of its current year approved expenditures under an assumed amortization for capital outlays for school building purposes from its general fund, capital fund or from a reserve fund to the amount of its current year approved expenditures for debt service for such purposes and multiplying the sum by its aid ratio. Expenditures made for computer equipment, including original purchase and installation of hardware, conduit, wiring, and powering of hardware installations in computer classrooms, or for building or campuswide local area network systems and in-building elements of other wide area networks, including the original purchase and installation of conduit, wiring, and powering of hardware installations, may be included in approved expenditures for building aid pursuant to this paragraph on the approval of the commissioner regardless of any minimum cost requirement that may be applied to other approved expenditures pursuant to this section. Such equipment expenses claimed for aid under this subdivision shall not be claimed for aid under any other provisions of this chapter. Provided further that any

lead remediation expense required pursuant to section eleven hundred ten of the public health law, where such expense is reimbursable from another state or federal source, shall not be an approved expenditure for purposes of this subdivision.

(2) Additional apportionment for certain school building projects. (i) Eligibility. All school building projects (a) approved by the voters of the school district or (b) approved by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more or (c) in the case of a construction emergency project, approved by the board of education of any school district or by the chancellor in a city school district in a city having a population of one million or more, for projects approved on or after July first, nineteen hundred ninety-eight, shall be eligible for an additional apportionment pursuant to this subparagraph to the extent that expenditures for such projects are otherwise aidable pursuant to this subdivision, provided that where such projects are leases, such projects would only be aidable pursuant to this subdivision following the approval of the voters of the school district if entered into pursuant to section four hundred three-b of the education law, and provided that for all such projects so approved on or after July first, two thousand, expenditures directly related to swimming pools shall not be eligible for such additional apportionment, and further provided that for the purposes of this subdivision a construction emergency project shall mean a school construction project approved on or after July first, two thousand, to remediate emergency situations which arise in public school buildings and threaten the health and/or safety of building occupants, as a result of the unanticipated discovery of asbestos or other hazardous substances during construction work on a school or significant damage caused by a fire, snow storm, ice storm, excessive rain, high wind, flood or similar catastrophic event which results in the necessity for immediate repair.

(ii) Apportionment. The apportionment pursuant to this subparagraph shall equal the product of such eligible approved expenses determined in accordance with the provisions of clause (i) of this subparagraph and this section and the incentive decimal computed for use in the year in which the project was approved. The incentive decimal shall equal the

positive remainder resulting when the district's building aid ratio selected pursuant to paragraph c of this subdivision is subtracted from the enhanced building aid ratio. The enhanced building aid ratio shall equal the sum of the building aid ratio selected for use in the current year pursuant to paragraph c of this subdivision and one-tenth, computed to three decimals without rounding, but not more than (a) ninety-eight hundredths for a high need school district, as defined pursuant to regulations of the commissioner, for all school building projects approved by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more, on or after July first, two thousand five, or (b) ninety-five hundredths for any other school building project or school district, nor less than one-tenth.

c. (1) For aid payable in the school year nineteen hundred ninety-three--ninety-four and earlier, any school district may compute aid under the provisions of this subdivision, or under subdivision six of section thirty-six hundred one-a of this article, using the building aid ratio computed for use in the current year or the aid ratio computed for use in any year commencing with the nineteen hundred eighty-one--eighty-two school year as computed by the commissioner based on data on file with the education department as of July first, nineteen hundred ninety-six, and; provided that, school districts who are eligible for aid under paragraph f of subdivision fourteen of this section may compute aid under the provisions of this subdivision using the aid ratio so computed for the reorganized district or the highest of the aid ratios so computed for any of the individual school districts which existed prior to the date of the reorganized school district.

(2) (a) For aid payable in the school years nineteen hundred ninety-four--ninety-five and thereafter for all school building projects approved by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more, before July first, two thousand, any school district may compute aid under the

provisions of this subdivision using the building aid ratio computed for use in the current year or the aid ratio computed for use in any year commencing with the nineteen hundred eighty-one--eighty-two school year as such earlier aid ratios are computed by the commissioner based on data on file with the education department on or before July first of the third school year following the school year in which aid is first payable; provided that, school districts who are eligible for aid under paragraph f of subdivision fourteen of this section may compute aid under the provisions of this subdivision using the aid ratio so computed for the reorganized district or the highest of the aid ratios so computed for any of the individual school districts which existed prior to the date of the reorganized school district.

(b) For aid payable in the school years two thousand--two thousand one and thereafter for all school building projects approved by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more, on or after July first, two thousand, any school district shall compute aid under the provisions of this subdivision using the sum of the high-need supplemental building aid ratio, if any, computed pursuant to clause (c) of this subparagraph and the greater of (i) the building aid ratio computed for use in the current year; or (ii) a building aid ratio equal to the difference of the aid ratio that was used or that would have been used to compute an apportionment pursuant to this subdivision in the nineteen hundred ninety-nine--two thousand school year as such aid ratio is computed by the commissioner based on data on file with the department on or before July first of the third school year following the school year in which aid is first payable, less one-tenth; or (iii) for all such school building projects approved by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more, on or after July first, two thousand and on or before June thirtieth, two thousand four, for any school district for which the pupil wealth ratio is greater than two and five-tenths in the school year in which such school building project was approved by the voters of

the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more and for which the alternate pupil wealth ratio is less than eighty-five hundredths in such school year, and for all such school building projects approved by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more, on or after July first, two thousand five and on or before June thirtieth, two thousand eight, for any school district for which the pupil wealth ratio was greater than two and five-tenths in the two thousand--two thousand one school year and for which the alternate pupil wealth ratio was less than eighty-five hundredths in the two thousand--two thousand one school year, the additional building aid ratio; provided that, school districts who are eligible for aid under paragraph f of subdivision fourteen of this section may compute aid under the provisions of this subdivision using the difference of the highest of the aid ratios so computed for the reorganized district or the highest of the aid ratios so computed for any of the individual school districts which existed prior to the date of the reorganized school district less one-tenth.

(c) For aid payable in the school years two thousand five--two thousand six and thereafter for all school building projects approved by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in city school district in a city having a population of one million or more, on or after July first, two thousand five, high need school districts, as defined pursuant to regulations of the commissioner, may compute aid under the provisions of this subdivision using the high-need supplemental building aid ratio, which shall be the lesser of (A) the product, computed to three decimals without rounding, of the greater of the building aid ratios computed pursuant to subclauses i, ii and iii of clause (b) of this subparagraph multiplied by five percent, or (B) the positive remainder of ninety-eight one-hundredths less the greater of the building aid ratios computed pursuant to subclauses i, ii and iii of clause (b) of this

subparagraph.

d. Additional apportionment of building aid for structural inspection of school buildings. In addition to the foregoing apportionments made to a school district under the provisions of this subdivision, the commissioner is hereby authorized to apportion to any school district an amount in accordance with this subdivision for structural inspections of school buildings conducted pursuant to sections four hundred nine-d and four hundred nine-e of this chapter and the regulations of the commissioner implementing such sections. The amount of such apportionment shall equal the product of the building aid ratio defined pursuant to paragraph c of this subdivision and the actual approved expenses incurred by the district in the base year for each school building so inspected by a licensed architect or licensed professional engineer, provided that the amount of such apportionment shall not exceed the structural inspection aid ceiling. For inspections conducted in the nineteen hundred ninety-two--ninety-three school year, the structural inspection aid ceiling shall be ten thousand dollars. For inspections conducted in the nineteen hundred ninety-three--ninety-four school year and thereafter, the inspection aid ceiling shall be ten thousand dollars plus an amount computed by the commissioner in accordance with regulations adopted for such purpose, on the basis of an index number reflecting changes in the costs of labor and materials from July first, nineteen hundred ninety-three.

e. (1) Apportionments payable for the nineteen hundred ninety-three--ninety-four through the two thousand one--two thousand two school years to the city school district of the city of New York. (a) For the purposes of calculating the apportionment payable to the city school district of the city of New York pursuant to this subdivision for the nineteen hundred ninety-three--ninety-four through the two thousand one--two thousand two school years, current year approved expenditures for debt service shall mean expenditures for debt service that would be incurred during the current year based on an assumed amortization for a period of thirty years of the total approved costs relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building, and based on an assumed rate of annual interest

applied to such amortization, both to be established by the commissioner pursuant to this subparagraph.

(b) The commissioner shall establish an assumed amortization for a period of thirty years commencing with the date of the award of a general contract by the school construction authority of the city of New York, or by another body or official designated by law, relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building within the city school district of the city of New York. Such assumed amortization shall provide for equal monthly payments of principal and interest based on an interest rate established by the commissioner for such purpose for the school year during which such general contract is awarded. Such estimated average interest rate and such actual average interest rate shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth.

(c) By the first day of September of the current year the comptroller of the city of New York shall provide to the commissioner an analysis, as prescribed by the commissioner, of the actual average interest rate applied to all capital debt incurred by the city of New York and the New York city transitional finance authority for school purposes during the base year and of the estimated average interest rate applied to all capital debt to be incurred by the city of New York and the New York city transitional finance authority for school purposes during the current year. Upon approval by the commissioner such actual average interest rate shall be established as the interest rate applicable to the base year for the purposes of this subparagraph and subparagraph two of this paragraph, and such estimated average interest rate shall be tentatively established as the interest rate applicable to the current year, except that all apportionments of aid payable during the current year based on such estimated average interest rate shall be recalculated in the following year and adjusted as appropriate based on the appropriate actual average interest rate then established by the commissioner.

(d) By the first day of November, nineteen hundred ninety-six the chancellor of the city school district of the city of New York shall provide to the commissioner an analysis of any outstanding debt of the city of New York which had originally been incurred by such city or its subdivisions for capital projects related to school buildings of the

city school district of the city of New York for which general construction contracts were awarded prior to July first, nineteen hundred eighty-eight. Such analysis shall include the total principal amount borrowed, the total capital expenditures included in such principal for capital projects related to school buildings of the city school district of the city of New York for which general construction contracts were awarded prior to July first, nineteen hundred eighty-eight, the ratio of such capital expenditures to such total principal expressed as a decimal to five places without rounding and the annual principal and interest payment scheduled for each year remaining in the amortization of such principal as of July first, nineteen hundred ninety-six for all such borrowings reported to the department on the "SA 121 Form Building Expenses Worksheet, 1995-96 State Aid" bearing a run date of July tenth, nineteen hundred ninety-five which list shall constitute the maximum principal outstanding and eligible for aid pursuant to the provisions of this paragraph. Notwithstanding any other provision of this subdivision, for aids payable in the nineteen hundred ninety-six--ninety-seven school year and thereafter, the approved debt service included in such principal and interest payments for the purposes of calculating an apportionment pursuant to this subdivision shall equal the product of: (i) five tenths; (ii) the principal and interest payments scheduled for the current year as reported in such analysis; and (iii) the ratio of such capital expenditures to such total principal as reported in such analysis.

(2) Apportionments payable for the two thousand two--two thousand three school year and thereafter to the city school district of the city of New York.

(a) For the purposes of calculating the apportionment payable to the city school district of the city of New York pursuant to this subdivision for the two thousand two--two thousand three school year and thereafter, current year approved expenditures for debt service shall mean expenditures for debt service, including expenditures for any lease-purchase or other annual payments under a lease-purchase agreement or the equivalent that are eligible for aid under the opening paragraph of this subdivision, that would be incurred during the current year based on:

(i) an assumed amortization to be established by the commissioner

pursuant to this subparagraph for a period of thirty years of the total approved costs relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building for which a general construction contract was awarded on or after the first day of July, two thousand two, and

(ii) an assumed amortization to be established by the commissioner pursuant to this subparagraph of any assumed unpaid principal, or the equivalent amount in the case of a lease-purchase agreement or its equivalent, remaining as of the first day of July, two thousand two pursuant to subparagraph one of this paragraph. Each such amortization shall be based on an assumed rate of annual interest applied to such amortization to be established by the commissioner pursuant to this subparagraph and pursuant to clause (c) of subparagraph one of this paragraph.

(b)(i) For approved costs relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building for which a general construction contract was awarded on or after the first day of July, two thousand two, the commissioner shall establish an assumed amortization for a period of thirty years commencing on the date of receipt by the commissioner of a certification by the district that such general construction contract has been awarded by the school construction authority of the city of New York, or by another body or official designated by law, relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building within the city school district of the city of New York. Such assumed amortization shall provide for equal semiannual payments of principal and interest based on an interest rate established by the commissioner for such purpose for the school year during which such certification was received. Such estimated average interest rate and such actual average interest rate shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth.

(ii) For any assumed unpaid principal or the equivalent amount in the case of a lease-purchase agreement or its equivalent, remaining as of the first day of July, two thousand two pursuant to subparagraph one of this paragraph, the commissioner shall establish a new assumed amortization commencing on such date for the unexpired term of the original assumed amortization as of such date. Such assumed amortization

shall provide for equal semiannual payments of principal and interest based on the interest rate applied to the original amortization as established by the commissioner pursuant to subparagraph one of this paragraph. Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand nine--two thousand ten school year and thereafter, the total apportionment for such current year approved expenditures for debt service shall not exceed the estimated apportionment as computed based on the estimated current year approved expenditures for debt service on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on November fifteenth of the base year, and the positive remainder, if any, of such apportionment less such estimated apportionment shall not be an apportionment payable in the current year, but shall be deemed to be an apportionment payable for debt service on new bonds and capital notes aidable in July following the current year as defined in clause (b) of subparagraph one of paragraph f of this subdivision. Such estimate shall be done in consultation with the commissioner.

(3) Apportionments payable to a school district other than the city school district of the city of New York for any debt service related to projects approved by the commissioner on or after the later of the first day of December, two thousand one or thirty days after the date upon which this subparagraph shall have become a law or for any debt service related to projects approved by the commissioner prior to such date where a bond, capital note or bond anticipation note is first issued on or after such date to fund such project or for lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement entered into on or after such date that are eligible for aid under the opening paragraph of this subdivision.

(a) For the purposes of calculating the apportionments payable to a school district other than the city school district of the city of New York pursuant to this subdivision for any debt service related to projects approved by the commissioner on or after the later of the first day of December, two thousand one or thirty days after the date upon which this subparagraph shall have become a law, or for any debt service related to projects approved by the commissioner prior to such date

where a bond, capital note or bond anticipation note is first issued on or after such date to fund such project or for lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement entered into on or after the later of the first day of December, two thousand one or thirty days after the date upon which this subparagraph shall have become a law that are eligible for aid under the opening paragraph of this subdivision, current year approved expenditures for debt service shall mean debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed related to any such approved project, for a period of:

(i) thirty years if the project is for the construction or acquisition of a new school building,

(ii) twenty years if the project is for the construction of an addition to a school building or for the reconstruction, rehabilitation or improvement of a school building for which a period of probable usefulness of twenty or more years is assigned pursuant to the local finance law, and

(iii) fifteen years if the project is for the reconstruction, rehabilitation or improvement of a school building for which a period of probable usefulness of less than twenty years is assigned pursuant to the local finance law.

Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand three--two thousand four school year, for any project which is eligible for an apportionment pursuant to this subparagraph, but which did not yet have a certification that a general construction contract had been awarded for such project by the district on file with the commissioner as of February fifteenth, two thousand three, such debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed shall not be current year approved expenditures for debt

service, but shall be deemed to be debt service on new bonds and capital notes aidable in July following the current year pursuant to clause (b) of subparagraph one of paragraph f of this subdivision.

Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand four--two thousand five school year, for any project which is eligible for an apportionment pursuant to this subparagraph, but which did not yet have a certification that a general construction contract had been awarded for such project by or on behalf of the district on file with the commissioner as of February fifteenth of the base year, such debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed shall not be current year approved expenditures for debt service, but shall be deemed to be debt service on new bonds and capital notes aidable in July following the current year pursuant to clause (b) of subparagraph one of paragraph f of this subdivision.

Provided, however, that, notwithstanding any provision of law to the contrary, for aid payable in the two thousand seven--two thousand eight school year and thereafter, for any project which is eligible for an apportionment pursuant to this subparagraph, but which did not yet have a certification that a general construction contract had been awarded for such project by or on behalf of the district on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on November fifteenth of the base year, such debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the approved project costs to be financed shall not be current year approved expenditures for debt service, but shall be deemed to be debt service on new bonds and capital notes aidable in July

following the current year pursuant to clause (b) of subparagraph one of paragraph f of this subdivision.

(b) Such assumed amortization for a project approved by the commissioner on or after the later of the first day of December, two thousand one or thirty days after the date upon which this subdivision shall have become a law and prior to the first day of July, two thousand eleven or for any debt service related to projects approved by the commissioner prior to such date where a bond, capital note or bond anticipation note is first issued on or after the first day of December, two thousand one to fund such projects, shall commence: (i) eighteen months after such approval or (ii) on the date of receipt by the commissioner of a certification by the district that a general construction contract has been awarded for such project by the district, whichever is later, and such assumed amortization for a project approved by the commissioner on or after the first day of July, two thousand eleven shall commence: (iii) eighteen months after such approval or (iv) on the date of receipt by the commissioner of both the final certificate of substantial completion of the project issued by the architect or engineer and the final cost report for such project, whichever is later or (v) upon the effective date of a waiver based on a finding by the commissioner, pursuant to a process set forth by the commissioner, that the district is unable to submit a final certificate of substantial completion for the project and/or complete the final cost report because of circumstances beyond the control of the district, which shall include but shall not be limited to the inability of the district to complete a complex project within eighteen months. Such assumed amortization shall provide for equal semiannual payments of principal and interest based on an interest rate established pursuant to subparagraph five of this paragraph for such purpose for the school year during which such certification is received. The first installment of obligations issued by the school district in support of such projects may mature not later than the dates established pursuant to sections 21.00 and 22.10 of the local finance law.

(c) Definitions. For purposes of this paragraph and subdivision thirty-nine of section sixteen hundred eighty of the public authorities law:

(i) "the state share of a school construction project" shall mean the

product of: (A) the difference of the total approved cost of such project less the approved cost of such project to be funded pursuant to subdivision six-f of this section and subdivisions ten and twelve of section thirty-six hundred forty-one of this article, multiplied by (B) the building aid ratio applicable to such project pursuant to paragraph c of this subdivision;

(ii) "the local share of a school construction project" shall mean the difference of the total approved cost of such project, less the sum of: (A) the approved cost of such project to be funded through subdivision six-f of this section and subdivisions ten and twelve of section thirty-six hundred forty-one of this article, and (B) the state share of such school construction project;

(iii) "refinancing costs attributable to refinancing the state share of a school construction project for purposes of retroactive amortization" shall mean the sum of: (A) that portion of the approved fees and other charges of refinancing, as defined in subparagraph one of paragraph h of this subdivision, which are determined by the commissioner to be reasonable in accordance with guidelines approved by the director of the budget, and which are fixed charges that will not vary by the amount of principal and additional principal to be refunded and (B) the product of: (1) the total amount of such approved fees and other charges of refinancing which are not fixed charges and which are determined by the commissioner to be reasonable in accordance with guidelines approved by the director of the budget, and (2) the percentage of the principal of the refunding bond that is attributable to refinancing of the state share of a school construction project pursuant to subparagraph four of this paragraph, less (C) the amount of such approved costs included in the principal of a refunding bond issued by the school district or by the dormitory authority of the state of New York to refund obligations of the school district subject to subparagraph four of this paragraph which is necessary to provide for the payment of the principal, redemption premiums, and interest due on the refunded obligations of the school district to their stated maturities or if such bonds are to be called, to the call date. Provided, however, that such expenditures shall be incurred for refunding bonds issued on or before July first, two thousand five and that such expenditures result from the refunding of outstanding

obligations subject to an assumed amortization pursuant to this subparagraph for facilities which were eligible for building aid, and for which the annual aid apportionment payable in the two thousand two--two thousand three and/or two thousand three--two thousand four school years for approved expenditures for debt service are subsequently reduced as a result of the application of assumed amortization to unpaid principal outstanding as of July first, two thousand two, and further provided that the gross dollar savings over the life of the obligation shall be less than the approved fees and other charges of refinancing as defined in subparagraph one of paragraph h of this subdivision, but only to the extent that such amounts are not otherwise eligible for aid pursuant to this subdivision;

(iv) "additional principal attributable to the refunding of bonds" shall mean the amount of approved expenses included in the principal of a refunding bond issued by the school district, or issued by the dormitory authority of the state of New York to refund obligations of the school district subject to subparagraph four of this paragraph, which is necessary to provide for the payment of the principal, redemption premiums, and interest due on the refunded obligations of the school district to their stated maturities or if such bonds are to be called, to the call date; and

(v) "additional principal attributable to the refunding of bonds to refinance the state share of a school construction project for purposes of retroactive amortization" shall mean the percentage of the additional principal attributable to the refunding of bonds that is necessary to refinance the state share of a school construction project pursuant to subparagraph four of this paragraph.

(4) Apportionments payable for the two thousand two--two thousand three school year and thereafter to a school district other than the city school district of the city of New York or a school district constituted pursuant to chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven as amended, for any debt service still outstanding as of the first day of July, two thousand two that has not been subject to an assumed amortization pursuant to subparagraph three of this paragraph or for lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement having an unexpired term on such date.

(a) For the purposes of calculating the apportionments payable to a school district other than the city school district of the city of New York pursuant to this subdivision for the two thousand two--two thousand three school year and thereafter for any debt service still outstanding as of the first day of July, two thousand two that has not been subject to an assumed amortization pursuant to subparagraph three of this paragraph or for lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement having an unexpired term on such date, current year approved expenditures for debt service shall mean debt service or lease-purchase or other annual payments under a lease-purchase agreement or an equivalent agreement that would be incurred during the current year based on an assumed amortization to be established by the commissioner pursuant to this subparagraph of the sum of

(i) any assumed or actual unpaid principal, or the equivalent amount in the case of a lease-purchase agreement or its equivalent, remaining as of the first day of July, two thousand two pursuant to an existing amortization or any unpaid principal of a bond anticipation note as of the first day of July, two thousand two, plus

(ii) the approved expenditures for the refunding of bonds that are otherwise eligible for an apportionment pursuant to this subdivision, as such expenditures are defined in subparagraph two of paragraph g of this subdivision, provided that such refunding bonds are issued on or before July first, two thousand five, less the sum of the refinancing costs attributable to refinancing the state share of a school construction project for purposes of retroactive amortization plus the additional principal attributable to the refunding of bonds, as such terms are defined in subclauses (iii) and (iv) of clause (c) of subparagraph three of this paragraph, for a period equal to the greater of:

(i) the remaining maximum useful life of the project, or projects associated with such obligation, as determined by the commissioner based on data submitted by the school district, or

(ii) the remaining term of the bond, bond anticipation note, or lease-purchase agreement.

(b) Such assumed amortization of any assumed or actual unpaid principal, or the equivalent amount in the case of a lease-purchase agreement or its equivalent, remaining as of the first day of July, two

thousand two for a project that has not been subject to an assumed amortization pursuant to subparagraph three of this paragraph, shall commence on the first day of July, two thousand two, and shall provide for equal semiannual payments of principal and interest based on an interest rate established by the commissioner for such purpose for the two thousand two--two thousand three school year.

(c) Any school district eligible for an apportionment pursuant to this subparagraph shall be eligible for an additional apportionment equal to the sum of the refinancing costs attributable to refinancing the state share of a school construction project for purposes of retroactive amortization plus the additional principal attributable to the refunding of bonds to refinance the state share of a school construction project for purposes of retroactive amortization, as such terms are defined in subclauses (iii) and (v) of clause (c) of subparagraph three of this paragraph.

(d) Any school district that issues debt after July first, two thousand two for the funding of the approved costs of projects eligible for an apportionment pursuant to this subparagraph shall be eligible for an additional apportionment calculated pursuant to the provisions of this subdivision, where the assumed amortization shall be based upon such approved costs and the remaining useful life shall be the remaining period over which the apportionments calculated pursuant to clause (a) of this subparagraph are to be paid.

(5) (a) Calculation of interest rates for the city school districts of the cities of Buffalo, Rochester, Syracuse and Yonkers. (i) By the first day of September of the current year, or by the date prescribed by the commissioner for the two thousand one--two thousand two school year, the chief fiscal officer of each of the cities of Buffalo, Rochester, Syracuse and Yonkers shall provide to the commissioner an analysis, as prescribed by the commissioner, of the actual average interest rate applied to all capital debt incurred by such city related to school construction purposes during the base year not including debt issued by the dormitory authority for the benefit of any school district and of the estimated average interest rate applied to all capital debt to be incurred by such city related to school construction purposes during the current year not including debt issued by the dormitory authority for the benefit of any school district. Such interest rates shall be

expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth. Except as otherwise provided in items (ii), (iii) and (iv) of this clause, the interest rate of such city applicable to the base year for the purposes of this subparagraph shall be the actual average interest rate of such city in the base year, and the estimated average interest rate shall be tentatively established as the interest rate of such city applicable to the current year, except that all apportionments of aid payable during the current year based on such estimated average interest rate shall be recalculated in the following year and adjusted as appropriate based on the appropriate actual average interest rate then established pursuant to this clause provided, however, that in any year in which such city has not incurred debt related to serial bonds or sinking fund bonds as defined in sections 21.00 and 22.10, respectively, of the local finance law, issued for school construction purposes, the assumed interest rate calculated pursuant to clause (b) of this subparagraph shall be tentatively established as the interest rate of such city applicable to the projects approved by the commissioner in such year, except that all apportionments of aid payable based on such interest rate for each such project shall be recalculated following the submission of a final cost report for such project and adjusted as appropriate based on the appropriate actual average interest rate applicable to the debt issued to fund such project, and provided further that where such city has entered into an agreement with the dormitory authority of the state of New York to finance debt related to school construction that is subject to subparagraph four of this paragraph or has entered into an agreement with the dormitory authority of the state of New York for the purpose of financing a school construction project that is subject to subparagraph three of this paragraph, the interest rate applicable to the obligations issued by the dormitory authority of the state of New York for such purpose shall be the interest rate established for such city applicable to such debt.

(ii) Notwithstanding the provisions of item (i) of this clause, where such city has entered into an agreement with the state of New York municipal bond bank agency pursuant to subdivision one of section twenty-four hundred thirty-five-a of the public authorities law and subdivision (b) of section sixteen of chapter six hundred five of the

laws of two thousand, or an agreement with the Erie county industrial development agency for projects described in subdivision (b) of section sixteen of such chapter six hundred five, to finance school renovation, rehabilitation or reconstruction that is subject to subparagraph three of this paragraph, the lesser of: (A) the interest rate actually applicable to each series of obligations originally issued to finance each phase of project costs approved by the commissioner, by the state of New York municipal bond bank agency or by the Erie county industrial development agency for such purpose (without regard to any refunding of such obligations); or (B) the interest rate that would have been applicable to each series of obligations originally issued to finance each phase of project costs approved by the commissioner, by the state of New York municipal bond bank agency (without regard to any refunding of such obligations) if the project had been financed through such agency, as certified to the commissioner by the executive director of the state of New York municipal bond bank agency, shall be the interest rate established for such city applicable for purposes of calculating the assumed amortization for such approved project costs pursuant to clause (b) of subparagraph three of this paragraph.

For projects approved by the commissioner in any school year in which capital debt is incurred by either the state of New York municipal bond bank agency or the Erie county industrial development agency to refund debt related to school renovation, rehabilitation or reconstruction of or on behalf of the school district, where such school renovation, rehabilitation or reconstruction qualifies for apportionment pursuant to subparagraph three of this paragraph, by the first day of September of the current year, the chief fiscal officer of such city shall provide to the commissioner an analysis, as prescribed by the commissioner, of the actual average interest rate applied to all capital debt incurred to finance or refund debt related to school renovation, rehabilitation or reconstruction that qualifies for apportionment pursuant to subparagraph three of this paragraph by either the state of New York municipal bond bank agency or the Erie county industrial development agency during the base year and of the estimated average interest rate applied to all capital debt incurred to finance or refund debt related to school renovation, rehabilitation or reconstruction that is subject to

subparagraph three of this paragraph by either the state of New York municipal bond bank agency or the Erie county industrial development agency during the current year. Such interest rates shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth. The interest rate established for such city applicable to projects first approved in such year shall be tentatively established as the interest rate computed pursuant to this clause for the current year, except that all apportionments of aid payable during the current year based on such estimated average interest rate shall be recalculated in the following year and adjusted as appropriate based on the appropriate actual average interest rate then established pursuant to this clause and shall be the interest rate established for such city applicable for purposes of calculating the assumed amortization for project costs approved during the current year pursuant to clause (b) of subparagraph three of this paragraph.

(iii) Notwithstanding the provisions of item (i) of this clause, where such city has entered into an agreement with the state of New York municipal bond bank agency pursuant to subdivision one of section twenty-four hundred thirty-five-a of the public authorities law and subdivision (a) of section fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, or an agreement with the city of Syracuse industrial development agency for projects authorized pursuant to the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, to finance school rehabilitation or reconstruction that is subject to subparagraph three of this paragraph, the lesser of: (A) the net interest cost as defined by the commissioner, applicable to each series of obligations originally issued by the state of New York municipal bond bank agency or the city of Syracuse industrial development agency for such purpose, without regard to any refunding of such obligations; or (B) such net interest cost, as defined by the commissioner that would have been applicable to each series of obligations originally issued to finance each phase of project costs approved by the commissioner, by the state of New York municipal bond bank agency, without regard to any refunding of such obligations, if the project had been financed through such agency, as certified to the commissioner by the executive director

of the state of New York municipal bond bank agency, shall be the interest rate established for such city applicable for purposes of calculating the assumed amortization for such approved project costs pursuant to clause (b) of subparagraph three of this paragraph.

For projects approved by the commissioner in any school year in which capital debt is incurred by either the state of New York municipal bond bank agency or the city of Syracuse industrial development agency to refund debt related to school renovation, rehabilitation or reconstruction of or on behalf of the school district, where such school renovation, rehabilitation or reconstruction qualifies for apportionment pursuant to subparagraph three of this paragraph, by the first day of September of the current year, the chief fiscal officer of such city shall provide to the commissioner an analysis, as prescribed by the commissioner, of the actual average interest rate applied to all capital debt incurred to finance or refund debt related to school renovation, rehabilitation or reconstruction that qualifies for apportionment pursuant to subparagraph three of this paragraph by either the state of New York municipal bond bank agency or the city of Syracuse industrial development agency during the base year and of the estimated average interest rate applied to all capital debt incurred to finance or refund debt related to school renovation, rehabilitation or reconstruction that is subject to subparagraph three of this paragraph by either the state of New York municipal bond bank agency or the city of Syracuse industrial development agency during the current year. Such interest rates shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth. The interest rate established for such city applicable to projects first approved in such year shall be tentatively established as the interest rate computed pursuant to this clause for the current year, except that all apportionments of aid payable during the current year based on such estimated average interest rate shall be recalculated in the following year and adjusted as appropriate based on the appropriate actual average interest rate then established pursuant to this clause and shall be the interest rate established for such city applicable for purposes of calculating the assumed amortization for project costs approved during the current year pursuant to clause (b) of subparagraph three of this paragraph.

(iv) Notwithstanding the provisions of item (i) of this clause, where such city or city school district has entered into an agreement with the county of Monroe industrial development agency or the dormitory authority of the state of New York, for projects authorized pursuant to the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, to finance school rehabilitation or reconstruction that is subject to subparagraph three of this paragraph, the lesser of: (A) the net interest cost, as defined by the commissioner, applicable to each series of bonds or bond anticipation notes issued by the county of Monroe industrial development agency or the dormitory authority of the state of New York for such purpose, without regard to any refunding of such obligations; or (B) such net interest cost, as defined by the commissioner, that would have been applicable to each series of obligations originally issued to finance each phase of project costs approved by the commissioner, by the Monroe industrial development agency or the dormitory authority of the state of New York, without regard to any refunding of such obligations, if the project had been financed through such agency or the dormitory authority of the state of New York, as certified to the commissioner by the executive director of the Monroe industrial development agency or the executive director of the dormitory authority of the state of New York, shall be the interest rate established for such city applicable for purposes of calculating the assumed amortization for such approved project costs pursuant to clause (b) of subparagraph three of this paragraph. For projects approved by the commissioner in any school year in which capital debt is incurred by either the dormitory authority of the state of New York or the Monroe industrial development agency to refund debt related to school renovation, rehabilitation or reconstruction of or on behalf of the school district, where such school renovation, rehabilitation or reconstruction qualifies for apportionment pursuant to subparagraph three of this paragraph, by the first day of September of the current year, the chief fiscal officer of such city shall provide to the commissioner an analysis, as prescribed by the commissioner, of the actual average interest rate applied to all capital debt incurred to finance or refund debt related to school renovation, rehabilitation or reconstruction that qualifies for apportionment pursuant to subparagraph

three of this paragraph by either the dormitory authority of the state of New York or the city of Monroe industrial development agency during the base year and of the estimated average interest rate applied to all capital debt incurred to finance or refund debt related to school renovation, rehabilitation or reconstruction that is subject to subparagraph three of this paragraph by either the dormitory authority of the state of New York or the Monroe industrial development agency during the current year. Such interest rates shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth. The interest rate established for such city applicable to projects first approved in such year shall be tentatively established as the interest rate computed pursuant to this clause for the current year, except that all apportionments of aid payable during the current year based on such estimated average interest rate shall be recalculated in the following year and adjusted as appropriate based on the appropriate actual average interest rate then established pursuant to this clause and shall be the interest rate established for such city applicable for purposes of calculating the assumed amortization for project costs approved during the current year pursuant to clause (b) of subparagraph three of this paragraph.

(v) Notwithstanding the provisions of item (i) of this clause, where such city or city school district has entered into an agreement with the state of New York municipal bond bank agency pursuant to subdivision one of section twenty four hundred thirty-five-a of the public authorities law and section sixteen of the Yonkers city school district joint schools construction and modernization act, or an agreement with the city of Yonkers industrial development agency for projects authorized pursuant to the Yonkers city school district joint schools construction and modernization act, to finance debt related to school rehabilitation or reconstruction of school buildings or construction of new school buildings that is subject to subparagraph three of this paragraph, the lesser of: (A) the net interest cost, as defined by the commissioner, applicable to the obligations issued by the state of New York municipal bond bank agency or the city of Yonkers industrial development agency for such purpose; or (B) such net interest cost, as defined by the commissioner, that would have been applicable to bonds issued by the state of New York municipal bond bank agency if the project had been

authorized to be financed and had been financed through such entity, as certified to the commissioner by the executive director of the state of New York municipal bond bank agency, shall be the interest rate established for such city applicable to such debt.

(b) Calculation of interest rates for school districts other than the city school districts of the cities of Buffalo, Rochester, Syracuse, Yonkers and New York. By the first day of September of the current year, or by the date prescribed by the commissioner for the two thousand one--two thousand two school year, each school district, other than the city school districts of the cities of Buffalo, Rochester, Syracuse, Yonkers and New York, shall provide to the commissioner in a format prescribed by the commissioner such information as the commissioner shall require for all capital debt incurred by such school district during the preceding school year relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building, not including debt issued by the dormitory authority. Based on such reported amortizations and a methodology prescribed by the commissioner in regulations, the commissioner shall compute an assumed interest rate that shall equal the average of the interest rates applied to all such debt issued during the preceding school year. The assumed interest rate shall be tentatively established as the interest rate of each such school district applicable to the current year for the purposes of this subparagraph and shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth except that all apportionments of aid payable during the current year based on such assumed interest rate shall be recalculated in the following year and adjusted as appropriate based on the appropriate assumed interest rate then established pursuant to this clause, provided, however, that where such school district has entered into an agreement with the dormitory authority of the state of New York to refinance debt issued by such school district that is subject to subparagraph four of this paragraph or has entered into an agreement with the dormitory authority of the state of New York for the purpose of financing a school construction project that is subject to subparagraph three of this paragraph, the interest rate applicable to the obligations issued by the dormitory authority of the state of New York for such purpose shall be the interest rate established for each such school district applicable

to such debt.

(c) At the end of each ten year segment of an assumed amortization established pursuant to subparagraphs two, three and four of this paragraph, or in the two thousand seventeen--two thousand eighteen school year in the case of assumed amortizations whose ten year segment ends prior to such school year, the commissioner shall revise the remaining scheduled semiannual payments of the outstanding principal and interest of such assumed amortization, other than the outstanding principal and interest of refunding bonds where the district can demonstrate to the commissioner that it is precluded by state or federal law, rule or regulation from refinancing such outstanding principal and interest, based on the interest rates applicable for the current year if the difference of the interest rate upon which the existing assumed amortization is based minus such interest rate applicable for the current year is equal to or greater than one quarter of one-one hundredth. Provided however, in the case of assumed amortization whose ten year segment ended prior to the two thousand seventeen--two thousand eighteen school year the next ten year segment shall be deemed to commence with the two thousand seventeen--two thousand eighteen school year. The department shall notify school districts of projects subject to the provisions of this clause by no later than December first next preceding the school year in which the assumed amortization is scheduled to be revised pursuant to this clause.

(d) Notwithstanding any other law, rule or regulation to the contrary, any interest rate calculated under this subdivision shall take into account any federal subsidy payments made or to be made to the applicable school district or an issuer on behalf of the school district under the terms of a federally authorized debt instrument which have the effect of reducing the actual interest costs incurred by the school district or an issuer on behalf of the school district over the life of such capital debt, irrespective of any federal government right of set-off.

(6) Notwithstanding any other provisions of this paragraph, where a school district can demonstrate to the satisfaction of the commissioner extenuating circumstances that a waiver is warranted for an existing amortization or an existing lease-purchase agreement or equivalent agreement as of the first day of July, two thousand two, the

commissioner may consult with the dormitory authority of the state of New York and may grant a waiver consistent with guidelines developed in consultation with the director of the division of the budget and shared with the chairs of the senate finance committee and the assembly ways and means committee, to make adjustments, including, but not limited to: (i) the period of assumed amortization to equal the period of the existing amortization, (ii) the interest rate applied to such amortization to equal the actual average interest rate applied to the existing amortization, and/or (iii) the annual assumed payments of debt service to equal the aidable payments of debt service under the existing amortization and provided further that where a school district can demonstrate to the commissioner that it is precluded by state or federal law, rule or regulation from refinancing such outstanding principal and interest, clause (iii) of this subparagraph shall apply.

(7) For aid payable in the two thousand two--two thousand three school year, school districts shall provide, on or before the fifteenth day of January, two thousand two, such data as the commissioner shall deem necessary to estimate the apportionment payable under assumed amortization pursuant to subparagraph four of this paragraph, in such form as the commissioner shall determine. Such data shall be provided for each project for which the district will make a debt service payment that is aidable pursuant to this subdivision in the current school year and for each project for which such district expects to make a debt service payment that will be aidable pursuant to this subdivision in the following school year.

(8) Notwithstanding any other provision of the law to the contrary, where, during the period of assumed amortization relating to a project for the construction, acquisition, reconstruction, rehabilitation or improvement of a school building, the school building is sold or ownership is otherwise transferred to an entity other than the school district or city and such transfer results in the building no longer being operated by the school district as a public elementary or secondary school that is not independent or autonomous, the district shall, within sixty days of the transfer of ownership, notify the commissioner of such sale or transfer, and shall provide such additional information about the sale or transfer as the commissioner may require, in a form prescribed by the commissioner, and the commissioner shall

re-compute the building aid, if any, payable for such project pursuant to this subparagraph, except to the extent such re-computation would conflict with the provisions of section twenty-seven hundred ninety-nine-tt of the public authorities law. The commissioner shall deduct the revenues received by the school district or city as a result of such sale or transfer from the approved total project cost and, based on such adjusted project cost, establish a new assumed amortization for the remaining useful life of the project under the applicable provisions of this paragraph.

f. (1) As used in this subdivision and in section thirty-six hundred nine-a of this article the following terms shall be defined as follows:

(a) "Debt service on bond anticipation notes aidable in July following the current year" shall mean current year debt service expenditures for bond anticipation notes issued in the current school year.

(b) "Debt service on new bonds and capital notes aidable in July following the current year" shall mean current year debt service expenditures for bonds and/or capital notes issued in the current school year.

(2) Notwithstanding any inconsistent provisions of this subdivision, the amount of current year approved expenditure for debt service for bond anticipation notes and for bonds and capital notes issued during the current year for school building purposes pursuant to paragraph b of this subdivision shall not be greater than the estimate of such expenditures as reported to the commissioner by the school district on or before November fifteenth of the current year. For aid payable in the nineteen hundred ninety-six--ninety-seven school year and thereafter, any excess of actual expenditures for such debt service for bond anticipation notes and such bonds or capital notes incurred in the base year, within the limitations imposed pursuant to paragraph i of this subdivision, over such estimate of base year expenditures as reported to the commissioner by the school district on or before November fifteenth of the base year shall be considered approved expenditures for lease or other annual payments under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, other than payments under a lease-purchase agreement or an

equivalent agreement, for school building purposes.

(3) (a) For the purposes of this subparagraph the following terms shall be defined as follows:

(i) "First issue date" shall mean the date on which the school district issued an initial obligation in the form of a bond anticipation note, a bond or a capital note for the purpose of financing one or more approved building projects for which a combined annual claim of aidable debt service as defined in regulations of the commissioner, is submitted to the commissioner.

(ii) "First contract date" shall mean the date by which: (A) the school district certifies to the commissioner that construction activities related to the erection, construction, reconstruction or alteration of a school building have commenced, or that the purchase of a school building has been made under one or more of the approved building projects included in a combined annual claim of aidable debt service; and (B) that one or more payments for such construction activities or purchase, including incidental costs have been made by the school district in a total amount equal to or greater than ten percent of the principal value upon which the combined annual claim of aidable debt service is based. Such certification shall be in a form and of a content as prescribed by the commissioner.

(iii) "Principal value" shall mean the sum of the original principal amounts of all obligations issued by the school district for the purpose of financing one or more approved building projects for which a combined annual claim of aidable debt service is submitted to the commissioner, less any such principal that has been refinanced.

(iv) "Approved project cost" shall mean the sum of approved project costs of all approved building projects for which a combined annual claim of aidable debt service is submitted to the commissioner.

(v) "Final redemption date" shall mean the date by which the school district will have repaid all principal borrowed for the purpose of financing one or more approved building projects for which a combined annual claim of aidable debt service is submitted to the commissioner.

(b) For aids payable in the two thousand--two thousand one school year, and thereafter, notwithstanding any inconsistent provisions of this subdivision, except for any project to which paragraph e of this subdivision applies, the amount of approved expenditures incurred during

the current school year for debt service for bond anticipation notes, bonds and capital notes having a related first issue date on or after July first, two thousand shall equal the product of the actual expenditures incurred during the current school year for debt service for each such bond anticipation note, bond or capital note, less any accrued interest or premiums received by the district, and the applicable bond percent.

(c) The applicable bond percent shall equal: (i) the quotient of the approved project cost for contracts awarded on or before June thirtieth of the current school year divided by the principal value, or (ii) if the first issue date is more than ninety days prior to the first contract date, the product of: (A) one minus the quotient of the number of days elapsed between the first issue date and the first contract date divided by the number of days elapsed between the first issue date and the final redemption date and (B) the quotient of the approved project cost for contracts awarded on or before June thirtieth of the current school year divided by the principal value, provided that, if upon review of documentation submitted by a school district the commissioner determines that the debt was issued by a city having a population of one hundred twenty-five thousand or more, as part of a mixed borrowing including both school purposes and other municipal purposes or, that a school district, due to circumstances beyond its control, issued bond anticipation notes, bonds or capital notes more than ninety days prior to the first contract date, the commissioner may compute the applicable bond percent pursuant to item (i) of this clause. The applicable bond percent shall be expressed as a decimal to five places without rounding.

g. Eligibility criteria for aid for refunding of bonds. (1) To be eligible for any apportionment of aid pursuant to this subdivision for approved expenditures for the refunding of bonds to refinance school construction, reconstruction or purchase of existing structures or for expenditures incidental to such refunding of bonds the following requirements shall be met:

(i) the refunding shall be in accordance with section 90.10 of the local finance law;

(ii) the bonds to be refunded shall have been issued exclusively to finance school construction, reconstruction or purchase of existing

structures;

(iii) the issuance of refunding bonds shall result in a net present value savings to both the school district and the state, provided, however, that the gross dollar savings over the life of the bond shall exceed the approved fees and other charges of refinancing as defined in subparagraph one of paragraph h of this subdivision, except in the case of the refunding of bonds with unpaid principal outstanding as of the first day of July, two thousand two subject to assumed amortization pursuant to subparagraph four of paragraph e of this subdivision, for facilities eligible for building aid, and for which the annual aid apportionment payable in the two thousand two--two thousand three and two thousand three--two thousand four school years for approved expenditures for debt service are subsequently reduced as a result of the application of assumed amortization to such unpaid principal; and

(iv) for any refunding of bonds for which a refunding bond resolution is approved after April first, nineteen hundred ninety-four, the board of education or trustees shall certify that the intention of the school district to accept proposals for the refunding of bonds has been announced in at least one regular public meeting of such board and that all such proposals received have been discussed in a second public meeting of the board held no sooner than fourteen days after such announcement.

(2) For the purposes of subparagraph three of this paragraph, approved expenditures for the refunding of bonds shall mean any amount included in the principal of the refunding bond issue of a school district, or of the dormitory authority of the state of New York to refund obligations of a school district for purposes of subparagraph four of paragraph e of this subdivision, that represents the unmatured interest on the bonds to be refunded to and including either the date or dates such bonds were to mature or the date or dates set for redemption prior to their maturities, plus the redemption premiums, if any, payable on the bonds to be refunded on the redemption date or dates, plus the approved fees and other charges of refinancing as defined in subparagraph one of paragraph h of this subdivision.

(3) Approved expenditures for the refunding of bonds as defined in subparagraph two of this paragraph shall be excluded from the calculation of any ratio of allowable expense to principal that may be

used to determine approved debt service expense.

h. Additional apportionment of building aid for approved fees and other charges and expenses related to the issuance of refinancing bonds. (1) For the purposes of this subdivision approved fees and other charges of refinancing shall include the costs and expenses incidental to the issuance of refunding bonds by a school district, or by the dormitory authority of the state of New York to refund obligations of a school district for purposes of subparagraph four of paragraph e of this subdivision, which are eligible for an apportionment pursuant to paragraph g of this subdivision, the costs of the development of the refunding financial plan and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holders.

(2) Notwithstanding any inconsistent provisions of this subdivision, school districts shall also be eligible for an apportionment pursuant to this subdivision in an amount equal to the product of the aid ratio used for building aid in the current year as defined in paragraph c of this subdivision and the base year approved fees and other charges of refinancing as defined in subparagraph one of this paragraph, but only to the extent such costs and expenses are not paid from the proceeds of the refunding bonds and are not otherwise eligible for aid pursuant to this subdivision, provided however, that in the case of the refunding of bonds subject to an assumed amortization pursuant to subparagraph four of paragraph e of this subdivision for facilities which were eligible for building aid, provided that such refunding bonds are issued on or before the first day of July, two thousand five and for which the annual aid apportionment payable in the two thousand two--two thousand three and/or two thousand three--two thousand four school years for approved expenditures for debt service are subsequently reduced as a result of the application of assumed amortization to unpaid principal outstanding as of July first, two thousand two, and further provided that the gross dollar savings over the life of the bond shall be less than the approved fees and other charges of refinancing as defined in subparagraph one of this paragraph, such apportionment shall be equal to such base year approved fees and other charges of refinancing, but only to the extent such costs and expenses are not paid from the proceeds of the refunding

bonds and are not otherwise eligible for aid pursuant to this subdivision.

i. Approved expenditures for debt service. (1) Bond anticipation notes. Except as otherwise provided in subparagraph four of this paragraph, for purposes of the apportionment payable pursuant to this subdivision in the nineteen hundred ninety-six--ninety-seven school year and thereafter to a school district other than to the city school district of the city of New York, except for any project to which paragraph e of this subdivision applies, approved expenditures for debt service on bond anticipation notes relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building, including but not limited to the balance of principal outstanding as of July first, nineteen hundred ninety-six which was funded during the nineteen hundred ninety-five--ninety-six school year from proceeds of the sale of bond anticipation notes by a school district, shall mean actual approved expenditures for principal and interest related to the financing of a school construction project through bond anticipation notes; except that:

(i) such expenditures shall not include expenditures for principal on such notes during the first twenty-three months following the original issuance of such notes; and

(ii) such expenditures shall not include expenditures for principal or interest on bond anticipation notes issued or reissued after the issuance of a certificate of substantial completion for such project, or expenditures for principal made during the school year in excess of the minimum principal payment required under the local finance law.

(2) Bonds and capital notes. (i) For purposes of the apportionment payable pursuant to this subdivision in the nineteen hundred ninety-six--ninety-seven school year and thereafter to a school district other than to the city school district of the city of New York, approved expenditures for debt service on bonds, capital notes and any other long-term local obligations relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building, shall mean actual approved expenditures for principal and interest related to the financing of a school construction project through such local obligations except as provided pursuant to clause (ii) of this

subparagraph or subparagraph four of this paragraph or paragraph e of this subdivision; provided that, to be eligible for aid on debt service pursuant to this subdivision, such bonds, capital notes or other local obligations issued on or after August first, nineteen hundred ninety-six, or, in the case of a small city school district, on or after November fifteenth, nineteen hundred ninety-six, shall provide for substantially level debt service or principal as defined in paragraph d of section 21.00 of the local finance law; and

(A) be amortized for a period of not less than fifteen years, including any period of amortization on related bond anticipation notes, in the case of local obligations issued to finance new construction and the purchase of existing structures; or

(B) be amortized for a period of not less than ten years, including any period of amortization on related bond anticipation notes, in the case of local obligations issued to finance the reconstruction, rehabilitation or improvement of existing school buildings.

(ii) Notwithstanding any inconsistent provisions of this clause, any actual principal or interest expenditures related to the issuance of a local obligation to finance new construction for a term of less than fifteen years or reconstruction for a term of less than ten years, as specified in clause (i) of this subparagraph, shall not be used in the calculation of the apportionment payable pursuant to this subdivision, provided, however, that aidable approved expenditures for debt service shall be calculated pursuant to the provisions of this clause, as follows:

(A) for new construction and the purchase of existing structures, current year approved expenditures for debt service shall mean expenditures for principal and interest expense that would be incurred during the current year based on an assumed amortization for a period of fifteen years, or the actual term of the obligation issued by the school district, whichever is greater, of any outstanding principal and/or principal payments not previously aided at the time of issue of the obligation that represents costs approved by the commissioner including any period of amortization on related bond anticipation notes. Such assumed amortization shall commence with the date of the award of a general contract by the school district for such new construction or purchase, the date the district was placed on assumed amortization by

the commissioner, or the date upon which the district selected an assumed amortization pursuant to subparagraph four of this paragraph, whichever shall last occur, and shall be based on an assumed rate of annual interest applied to such amortization, as determined by the commissioner pursuant to subparagraph three of this paragraph for the month in which a general contract is awarded for such project; and

(B) for reconstruction, rehabilitation or improvement of existing school buildings, current year approved expenditures for debt service shall mean expenditures for principal and interest expense that would be incurred during the current year based on an assumed amortization for a period of ten years, or the actual term of the obligation issued by the school district, whichever is greater, of any outstanding principal and/or principal payments not previously aided that represents costs approved by the commissioner including any period of amortization on related bond anticipation notes. Such assumed amortization shall commence with the date of the award of a general contract by the school district for such new construction or purchase, the date the district was placed on actual amortization by the commissioner, or the date upon which the district selected an assumed amortization pursuant to subparagraph four of this paragraph, whichever shall last occur, and shall be based on an assumed rate of annual interest applied to such amortization, as determined by the commissioner pursuant to subparagraph three of this paragraph for the month in which a general contract is awarded for such project.

(3) By the fifteenth day of each month, beginning on August fifteenth, nineteen hundred ninety-six, the commissioner shall determine the prevailing interest rate for the preceding month based on a nationally recognized and accepted index of municipal bond yields reported for such preceding month, in accordance with a methodology prescribed by the commissioner and approved by the director of the budget.

(4) Notwithstanding any other provision of this paragraph to the contrary, in the case of projects eligible for an apportionment pursuant to subparagraph one of this paragraph during the nineteen hundred ninety-six--ninety-seven school year, and projects of small city school districts whether or not eligible for such an apportionment during such school year, for the purpose of the apportionment payable pursuant to this subdivision or subdivision six-b of this section during the

nineteen hundred ninety-six--ninety-seven school year and thereafter to a school district other than to the city school district of the city of New York, for the construction, acquisition, reconstruction, rehabilitation or improvement of a school building, such school district shall have the option of selecting to receive aid based on actual expenditures pursuant to subparagraph one or clause (i) of subparagraph two of this paragraph; or based on an assumed amortization pursuant to clause (ii) of subparagraph two of such paragraph. Such selection shall be made on or before the time of submission of a project to the commissioner for final approval or November fifteenth, nineteen hundred ninety-seven, whichever shall occur later. Provided, however, any such school district selecting to receive aid based on actual expenditures pursuant to subparagraph one or clause (i) of subparagraph two of this paragraph, but not meeting all requirements of such provisions, shall have their aid for debt service computed under an assumed amortization pursuant to clause (ii) of subparagraph two of this paragraph, and provided further that any adjustments resulting from a required computation under clause (ii) of subparagraph two of this paragraph shall apply to the next payment due for such project.

(5) Notwithstanding any inconsistent provisions of this paragraph, for the purpose of calculating an apportionment pursuant to this subdivision:

(i) current approved expenditures for debt service for energy performance contracts authorized pursuant to section 9-103 of the energy law shall mean approved debt service incurred by a school district under such contract during the current school year related to the financing of such construction, acquisition, reconstruction, rehabilitation or improvement of any school building, provided that as a condition of eligibility for aid:

A. The amortization period shall not exceed the term of the energy performance contract.

B. Any state building aid attributable to such project shall be excluded in determining the cost savings under the energy performance contract.

C. The energy performance contractor shall guarantee recovery of contract costs from energy savings realized by the school district during the term of the energy performance contract, which shall not exceed twenty-five years.

(ii) notwithstanding any inconsistent provisions of this paragraph, for aid payable in the two thousand two--two thousand three school year and thereafter, approved expenditures for debt service for energy performance contracts shall be based on assumed amortization where required by paragraph e of this subdivision.

(iii) current year approved expenditures for debt service for the purchase of computer equipment shall mean expenditures for principal and interest expense incurred by a school district during the current year for financing of the purchase of computer equipment eligible for aid pursuant to paragraph b of this subdivision, provided that the payment of aid shall be based on an assumed period of amortization which shall equal the period of probable usefulness applicable to the acquisition of such equipment under section 11.00 of the local finance law and on an assumed rate of annual interest determined pursuant to subparagraph three of this paragraph for the month in which the purchase contract was executed; and

(iv) current year approved expenditures for debt service for any other expenditures that are aidable pursuant to this subdivision and involve an object or purpose for which the period of probable usefulness under section 11.00 of the local finance law is less than ten years shall mean expenditures for principal and interest expense incurred by a school district during the current year for the contracting of indebtedness for such object or purpose, provided that the payment of aid shall be based on an assumed period of amortization equal to such period of probable usefulness and on an assumed rate of annual interest determined pursuant to subparagraph three of this paragraph for the month in which the financing agreement was executed.

j. Assumed amortization for capital outlays. For aid payable in the two thousand three--two thousand four school year and thereafter, the apportionment to a school district for approved expenditures for capital outlays from its general fund, capital fund or reserved funds pursuant to this subdivision shall be based upon an assumed amortization

established pursuant to the applicable provisions of subparagraph two, three, or four of paragraph e of this subdivision, as modified by this paragraph, whether or not the school district issues debt for such expenditures. Notwithstanding any provisions of subparagraph two, three, or four of paragraph e of this subdivision to the contrary:

(1) For approved expenditures for capital outlay incurred by the city school district of the city of New York on or after July first, two thousand two that are related to projects for which a general construction contract was first awarded by the school construction authority of the city of New York, or by another body or official designated by law, prior to the first day of July, two thousand two, such amortization shall commence (i) eighteen months after January first, two thousand three; or (ii) on the date of receipt by the commissioner of a certification by the district that a general construction contract has been awarded for such project, whichever is later; and the quotient, calculated to the nearest whole dollar without rounding, of (A) the positive remainder of the approved expenditures of such project to be funded through capital outlay less the total amount of approved expenditures for capital outlay incurred before July first, two thousand two, divided by (B) the positive remainder, computed to the nearest year without rounding, of the new term of the assumed amortization established pursuant to item (ii) of clause (b) of subparagraph two of paragraph e of this subdivision as of July first, two thousand three, less twelve months shall be deemed to be the current year approved expenditures for debt service for the purposes of such paragraph.

(2) Approved expenditures for capital outlay incurred by the city school district of the city of New York that are related to projects for which a general construction contract was first awarded on or after the first day of July, two thousand two, shall be deemed approved expenditures for debt service included in the assumed amortization for the project pursuant to subparagraph two of paragraph e of this subdivision.

(3) For approved expenditures for capital outlay incurred by a school district other than the city school district of the city of New York on or after July first, two thousand two that are related to projects approved by the commissioner prior to the first day of July, two

thousand two, such amortization shall commence: (i) eighteen months after January first, two thousand three; or (ii) on the date of receipt by the commissioner of a certification by the district that a general construction contract has been first awarded for such project by the district, whichever is later, and the quotient, calculated to the nearest whole dollar without rounding, of (A) the positive remainder of the approved cost of such project to be funded through capital outlay less the total amount of approved expenditures for capital outlay incurred before July first, two thousand two, divided by (B) the positive remainder, computed to the nearest year without rounding, of the remaining maximum useful life of the project as determined by the commissioner pursuant to item (i) of clause (a) of subparagraph four of paragraph e of this subdivision as of July first, two thousand one, less twelve months, shall be deemed to be the current year approved expenditures for debt service for the purposes of such paragraph.

(4) Approved expenditures for capital outlay incurred by a school district other than the city school district of the city of New York that are related to projects approved by the commissioner on or after the first day of July, two thousand two, shall be deemed approved expenditures for debt service included in an assumed amortization for the project pursuant to subparagraph three of paragraph e of this subdivision.

k. Final cost report penalties. (1) All acts done and proceedings heretofore had and taken, or caused to be had and taken, by school districts and by all its officers or agents relating to or in connection with final building cost reports required to be filed with the commissioner for approved building projects for which a certificate of substantial completion was issued on or after April first, nineteen hundred ninety-five, and where a final cost report was not submitted by June thirtieth of the school year in which the certificate of substantial completion of the project was issued by the architect or engineer, or six months after issuance of such certificate, whichever was later, and all acts incidental thereto are hereby legalized, validated, ratified and confirmed, notwithstanding any failure to comply with the approval and filing provisions of the education law or any other law or any other statutory authority, rule or regulation, in

relation to any omission, error, defect, irregularity or illegality in such proceedings had and taken.

(2) The commissioner is hereby directed to consider the approved costs of the aforementioned projects as valid and proper obligations of such school districts and shall not recover on or after July first, two thousand thirteen any penalty arising from the late filing of a final cost report, provided that any amounts already so recovered on or after July first, two thousand thirteen shall be deemed a payment of moneys due for prior years pursuant to paragraph c of subdivision five of section thirty-six hundred four of this part and shall be paid to the appropriate district pursuant to such provision, provided that:

(a) such school district submitted the late or missing final building cost report to the commissioner;

(b) such cost report is approved by the commissioner;

(c) all state funds expended by the school district, as documented in such cost report, were properly expended for such building project in accordance with the terms and conditions for such project as approved by the commissioner; and

(d) the failure to submit such report in a timely manner was an inadvertent administrative or ministerial oversight by the school district, and there is no evidence of any fraudulent or other improper intent by such district.

6-a. Additional apportionments of building aid for school districts educating pupils residing on Indian reservations. In addition to the apportionments made to a school district under the provisions of subdivision six of this section, the commissioner is hereby authorized to apportion to any school district, which the commissioner deems to be providing educational services for a significant number of pupils residing on an Indian reservation, an amount calculated by the commissioner to represent the actual per pupil cost within the cost allowance assigned to Indian pupils as the contribution of the state on behalf of pupils residing on an Indian reservation. Such apportionment shall be payable after approval by the commissioner of final plans for a construction project approved by the commissioner for such purpose. Any such apportionment shall be made upon such terms and conditions as the commissioner shall approve.

6-b. Building aid for joint facilities. a. Two or more school districts eligible for operating aid pursuant to this section, other than a city school district in a city with one hundred twenty-five thousand inhabitants or more, that enter into an agreement in accordance with section one hundred nineteen-o of the general municipal law and this subdivision, may receive building aid pursuant to this subdivision for approved expenditures for the construction or reconstruction of one or more single site joint facilities. To be eligible for such aid, the general contracts for the project shall have been awarded on or after July first, nineteen hundred ninety-three, and the project and joint agreement shall have been approved by the commissioner. For participating school districts in which the school budget is subject to voter approval, the joint agreement shall be subject to voter approval.

b. To be eligible for building aid for the joint facility, the joint agreement shall designate the board of education of the school district in which such single site joint facility will be located as the lead district, provided that where such facility will occupy adjoining sites in more than one participating district any district in which a part of the facility is situated may be designated as the lead district. Notwithstanding any other provision of law, the lead district shall be authorized to contract indebtedness for the purpose of the joint project pursuant to the local finance law as if the entire project was conducted solely by the lead district. The joint agreement shall designate the district or districts that will operate, maintain and/or manage the joint facility. The lead district shall serve as fiscal agent for all participating districts for the purpose of claiming and receiving building aid pursuant to subdivision six of this section. The joint agreement shall include a lease agreement between the lead district and all other participating districts whereby all parties agree to lease the facility for a term not less than the period within which all bonds or notes issued to finance the project will mature. Participating districts shall not be eligible for an apportionment pursuant to any provision of this chapter for any lease expense incurred for the joint facility and such expense shall not be included in the approved operating expense of any such district, provided, however, that nothing shall prohibit the

inclusion of a district's share of the net administrative, operation and maintenance costs of the joint project in the district's approved operating expense. The joint agreement shall provide for a credit of the state aid received by the lead district for the joint project against the expenses of such project and shall provide a method of allocating the net cost of the joint facility to the participating districts, distributing (i) the gross cost based on each district's share of the use of the facility, and (ii) the state aid based on each district's aid ratio and use-share of the aidable expense.

c. Upon approval of the joint agreement, the lead district shall be eligible for an apportionment pursuant to subdivision six of this section as if the joint project was conducted solely by such lead district; provided, however, that the building aid ratio used in computing such aid shall be the sum of the product for each of the participating districts of the district's building aid ratio selected pursuant to paragraph c of subdivision six of this section for aid payable in the current year multiplied by the district's share of the use of the facility.

d. Where the lead district reorganizes with some or all other districts participating in the joint agreement subsequent to approval of the joint agreement, such reorganized district shall be eligible for reorganization incentive aid pursuant to subparagraph one of paragraph c as modified by paragraph i, both of subdivision fourteen of this section for expenditures for any debt service for indebtedness outstanding after the effective date of such reorganization that were incurred for the financing of construction of the joint facility so long as such facility continues to be used by such reorganized district, as if the joint facility had been constructed by the reorganized district subsequent to reorganization.

e. Notwithstanding the provisions of section thirty-six hundred nine-a of this article, aid for joint projects shall be paid in accordance with a schedule established by the commissioner and approved by the director of the budget.

6-c. a. Building aid for metal detectors, and safety devices for electrically operated partitions, room dividers and doors. In addition to the apportionments payable to a school district pursuant to subdivision six of this section, the commissioner is hereby authorized to apportion to any school district additional building aid pursuant to this subdivision for its approved expenditures in the base year for the purchase of stationary metal detectors, security cameras, safety devices for electrically operated partitions and room dividers required pursuant to section four hundred nine-f of this chapter, or other security devices approved by the commissioner that increase the safety of students and school personnel, provided, however, that funds apportioned to school districts pursuant to this section shall not supplant funds for existing district expenditures or for existing contractual obligations of the district for stationary metal detectors, security cameras, partition and room divider safety devices, or security devices. Portable or hand held metal detectors shall not be eligible for aid pursuant to this subdivision. Such additional aid shall equal the product of the building aid ratio computed for use in the current year pursuant to paragraph c of subdivision six of this section and the actual approved expenditures incurred in the base year pursuant to this subdivision, provided that the limitations on cost allowances prescribed by paragraph a of subdivision six of this section shall not apply. The commissioner shall annually prescribe a special cost allowance for metal detectors, and security cameras, and the approved expenditures shall not exceed such cost allowance. The commissioner shall annually prescribe a special cost allowance for partition and room divider safety devices, and the approved expenditures shall not exceed such cost allowance.

b. For projects approved by the commissioner authorized to receive additional building aid pursuant to this subdivision for the purchase of stationary metal detectors, security cameras or other security devices approved by the commissioner that increase the safety of students and school personnel, provided that for purposes of this paragraph such other security devices shall be limited to electronic security systems and hardened doors, and provided that for projects approved by the commissioner on or after the first day of July two thousand thirteen such additional aid shall equal the product of (i) the building aid

ratio computed for use in the current year pursuant to paragraph c of subdivision six of this section plus ten percentage points, except that in no case shall this amount exceed one hundred percent, and (ii) the actual approved expenditures incurred in the base year pursuant to this subdivision, provided that the limitations on cost allowances prescribed by paragraph a of subdivision six of this section shall not apply, and provided further that any projects aided under this paragraph must be included in a district's school safety plan. The commissioner shall annually prescribe a special cost allowance for metal detectors, and security cameras, and the approved expenditures shall not exceed such cost allowance.

6-e. Additional apportionment of building aid for building condition surveys of school buildings. In addition to the apportionments payable to a school district pursuant to subdivision six of this section, the commissioner is hereby authorized to apportion to any school district additional building aid in accordance with this subdivision for its approved expenses in the base year for building condition surveys of school buildings that are conducted pursuant to this subdivision and subdivision four of section thirty-six hundred forty-one of this article. The amount of such apportionment shall equal the product of the building aid ratio defined pursuant to paragraph c of subdivision six of this section and the actual approved expenses incurred by the district in the base year for each school building so inspected, provided that the amount of such apportionment shall not exceed the building condition survey aid ceiling. For surveys conducted in the nineteen hundred ninety-eight--ninety-nine school year, the building condition aid ceiling shall be twenty cents gross per square foot of floor area. For surveys conducted in the nineteen hundred ninety-nine--two thousand school year and thereafter, the inspection aid ceiling shall be twenty cents gross per square foot of floor area, plus an amount computed by the commissioner in accordance with regulations adopted for such purpose, on the basis of an index number reflecting changes in the costs of labor and materials from July first, nineteen hundred ninety-eight.

6-f. Additional apportionment of building aid for certain projects. a. In addition to the apportionment payable to a school district pursuant

to subdivision six of this section, the commissioner is hereby authorized to apportion to any school district additional building aid in the amount equal to the product of its approved expenditures in the base year for capital outlays from the district's general fund, capital fund or reserved funds that are incurred on or after July first, two thousand two for an eligible school construction project as defined in paragraph b of this subdivision, and the district's applicable building aid ratio as defined pursuant to paragraph c of subdivision six of this section. Approved expenditures for capital outlays for eligible school construction projects that are eligible for an apportionment pursuant to this subdivision shall not be eligible for aid pursuant to subdivision six of this section.

b. For the purposes of this subdivision, an "eligible school construction project" shall mean a school construction project that is entirely funded from capital outlays and:

(1) has a total project cost of one hundred thousand dollars or less; provided however, that for any district, no more than one project shall be eligible pursuant to this subparagraph for an apportionment within the same school year; and/or

(2) is a construction emergency project to remediate emergency situations which arise in public school buildings and threaten the health and/or safety of building occupants, as a result of the unanticipated discovery of asbestos or other hazardous substances during construction work on a school or significant damage caused by a fire, snow storm, ice storm, excessive rain, high winds, flood or a similar catastrophic event which results in the necessity for immediate repair.

6-g. Charter schools facilities aid. a. The city school district of the city of New York, upon documenting that it has incurred total aggregate expenses of forty million dollars or more pursuant to subparagraph five of paragraph (e) of subdivision three of section twenty-eight hundred fifty-three of this chapter, shall be eligible for an apportionment pursuant to this subdivision for its annual approved expenditures for the lease of space for charter schools incurred in the base year in accordance with paragraph (e) of subdivision three of section twenty-eight hundred fifty-three of this chapter.

b. The apportionment shall equal the product of (1) the sum of:

for aid payable for expenses incurred pursuant to subparagraph five of paragraph (e) of subdivision three of section twenty-eight hundred fifty-three of this chapter where the charter school prevails on appeal, the annual approved expenses incurred by the city school district pursuant to such subparagraph five multiplied by

(2) six-tenths.

c. For purposes of this subdivision, the approved expenses attributable to a lease by a charter school of a privately owned site shall be the lesser of the actual rent paid under the lease or the maximum cost allowance established by the commissioner for leases aidable under subdivision six of this section.

d. Notwithstanding any provision of law to the contrary, amounts apportioned pursuant to this subdivision shall not be included in: (1) the allowable growth amount computed pursuant to paragraph dd of subdivision one of this section, (2) the preliminary growth amount computed pursuant to paragraph ff of subdivision one of this section, and (3) the allocable growth amount computed pursuant to paragraph gg of subdivision one of this section, and shall not be considered, and shall not be available for interchange with, general support for public schools.

6-h. Building aid for testing and filtering of potable water systems for lead contamination. In addition to the apportionments payable to a school district pursuant to subdivision six of this section, the commissioner is hereby authorized to apportion to any school district additional building aid pursuant to this subdivision for its approved expenditures, otherwise ineligible for building aid, in the base year for the testing of potable water systems required pursuant to section eleven hundred ten of the public health law, provided that such expenses for testing of potable water systems are not reimbursable from another state or federal source. The commissioner is also authorized to apportion to any school district additional building aid pursuant to

this subdivision for its approved expenditures, otherwise ineligible for building aid, in the base year for the installation of filters and/or other effective remedial measures for immediate remediation in cases where a finding of lead contamination is made pursuant to such section and verified by confirmatory sampling, provided that the cost of installation of such filters and/or other effective remedial measures shall be deemed an approved expenditure only if (i) such installation and/or other effective remedial measures have been approved or reviewed by a professional with expertise in the field of water quality and remediation and (ii) such cost is incurred prior to July first, two thousand nineteen. Such aid shall equal the product of the building aid ratio defined pursuant to paragraph c of subdivision six of this section and the actual approved expenditures incurred in the base year pursuant to this subdivision. Commencing in the two thousand nineteen--two thousand twenty school year and every year thereafter, additional building aid pursuant to this subdivision shall include approved expenses for testing of potable water systems for lead contamination pursuant to section eleven hundred ten of the public health law, provided that such expenses for testing of potable water systems are not reimbursable from another state or federal source.

6-i. Building aid and the New York state energy research and development authority P-12 schools: clean green schools initiative. 1. For aid payable in the school years two thousand twenty-two--two thousand twenty-three and thereafter, notwithstanding any provision of law to the contrary, the apportionment to any district under subdivision six, six-a, six-b, six-c, six-e, six-f, or six-h of this section for capital outlays for school building projects for energy efficiency shall not exclude grants authorized pursuant to the New York state energy research and development authority P-12 schools: clean green schools initiative from aidable expenditures, provided that the sum of apportionments for these projects calculated pursuant to subdivision six, six-a, six-b, six-c, six-e, six-f, or six-h of this section and such grants shall not exceed the actual project expenditures.

2. The New York state energy research and development authority shall provide a list of energy efficiency grants awarded to each school

district to the commissioner no later than one month prior to the end of each calendar year and each school year. This list shall include the capital construction project or projects funded by the grants, the award amounts of each individual project grant, the district receiving such grants, the schools receiving such grants, the date on which the grant was received, and any other information necessary for the calculation of aid pursuant to subdivision six, six-a, six-b, six-c, six-e, six-f, or six-h of this section.

7. Apportionment for pupil transportation. a. In addition to the foregoing apportionment, there shall be apportioned to any school district for pupil transportation, the lesser of ninety per centum or the state share of its approved transportation expense for the base year. The state share shall equal the sum of the transportation sparsity adjustment and the transportation aid ratio, but not less than six and one-half percent. The transportation aid ratio shall equal the greater of (i) the product of one and two hundred sixty-three thousandths multiplied by the state sharing ratio, (ii) an aid ratio computed by subtracting from one and one hundredth the product computed to three decimals without rounding obtained by multiplying the resident weighted average daily attendance wealth ratio by forty-six percent, where such aid ratio shall be expressed as a decimal carried to three places without rounding or (iii) excluding cities with a population of more than one million, an aid ratio computed by subtracting from one and one hundredth the product computed to three decimal places without rounding obtained by multiplying the number computed to three decimals without rounding obtained when the quotient of actual valuation of a school district, as defined in paragraph c of subdivision one of this section, divided by the sum of the resident public school district enrollment, the resident nonpublic school district enrollment and the additional public school enrollment of the school district for the year prior to the base year is divided by the statewide average actual valuation per the sum of such total resident public school district enrollment, nonpublic school district enrollment and additional public school enrollment of all school districts eligible for an apportionment pursuant to this section except central high school districts as computed by the commissioner using the latest single year actual

valuation computed under paragraph c of subdivision one of this section, by forty-six percent, where such ratio shall be expressed as a decimal carried to three decimal places without rounding. The computation of such statewide average shall include the actual valuation of all school districts eligible for an apportionment pursuant to this section except central high school districts. The transportation sparsity adjustment shall equal the quotient of: the positive remainder of twenty-one minus the district's public school enrollment for the year prior to the base year per square mile, divided by three hundred seventeen and eighty-eight hundredths. Approved transportation expense shall be the sum of the approved transportation operating expense and the approved transportation capital, debt service and lease expense of the district. Approved transportation expense shall not be aidable pursuant to section nineteen hundred fifty of this chapter.

b. (1) For the purposes of this apportionment, approved transportation operating expense shall be the actual expenditure incurred by a school district and approved by the commissioner (i) for those items of transportation operating expense allowable under subdivision one of section thirty-six hundred twenty-three-a of this article for regular aidable transportation of pupils as such terms are defined in sections thirty-six hundred twenty-one and thirty-six hundred twenty-two-a of this article, and (ii) for those items of transportation operating expense allowable under subdivision one of section thirty-six hundred twenty-three-a of this article for the transportation required or authorized pursuant to article eighty-nine of this chapter, and (iii) for providing monitors on school buses for students with disabilities, and (iv) for transportation operating expenses allowable under section thirty-six hundred twenty-three-a of this article for the transportation of homeless children authorized by paragraph c of subdivision four of section thirty-two hundred nine of this chapter, provided that the total approved cost of such transportation shall not exceed the amount of the total cost of the most cost-effective mode of transportation.

(2) Notwithstanding any inconsistent provisions of this article, in computing the apportionment payable to a school district in a city with a population in excess of one million inhabitants pursuant to this subdivision, approved transportation expense for public service

transportation shall not include any expenditures to the New York City Metropolitan Transportation Authority for public service transportation nor shall such expense be included in approved operating expense.

c. For the purposes of computing this apportionment for the two thousand five--two thousand six school year and thereafter, approved transportation capital, debt service, and lease expense shall be the amount computed based upon an assumed amortization determined pursuant to paragraph e of this subdivision for an expenditure incurred by a school district and approved by the commissioner for those items of transportation capital, debt service and lease expense allowable under subdivision two of section thirty-six hundred twenty-three-a of this article for: (i) the regular aidable transportation of pupils, as such terms are defined in sections thirty-six hundred twenty-one and thirty-six hundred twenty-two-a of this article, (ii) the transportation of children with disabilities pursuant to article eighty-nine of this chapter, and (iii) the transportation of homeless children pursuant to paragraph c of subdivision four of section thirty-two hundred nine of this chapter, provided that the total approved cost of such transportation shall not exceed the amount of the total cost of the most cost-effective mode of transportation. Approvable expenses for the purchase of school buses shall be limited to the actual purchase price, or the expense as if the bus were purchased under state contract, whichever is less. If the commissioner determines that no comparable bus was available under state contract at the time of purchase, the approvable expenses shall be the actual purchase price or the state wide median price of such bus in the most recent base year in which such median price was established with an allowable year to year CPI increase as defined in subdivision fourteen of section three hundred five of this chapter; whichever is less. Such median shall be computed by the commissioner for the purposes of this subdivision.

d. In determining approved transportation operating expense for district-owned transportation and approved transportation capital, debt service and lease expense pursuant to paragraphs b, c and e of this subdivision and part two of this article, the commissioner shall make a deduction from the total transportation expense for the transportation

of nonallowable pupils, and for that portion of the total annual mileage of district-owned school buses that is not aidable because it is not included in the total annual allowable mileage as defined in section thirty-six hundred twenty-one of this article, provided that such calculations shall be made pursuant to regulations of the commissioner, and further provided that such regulations shall provide for an exclusion of pupil miles for transportation provided on a space-available basis to pupils attending an approved universal prekindergarten program pursuant to section thirty-six hundred two-e of this article that does not result in additional transportation costs.

e. In determining approved transportation capital, debt service and lease expense for aid payable in the two thousand five--two thousand six school year and thereafter, the commissioner, after applying the provisions of paragraph c of this subdivision to such expense, shall establish an assumed amortization pursuant to this paragraph to determine the approved capital, debt service and lease expense of the school district that is aidable in the current year, whether or not the school district issues debt for such expenditures, subject to any deduction pursuant to paragraph d of this subdivision. Such assumed amortization shall be for a period of five years, and for the two thousand twenty-two--two thousand twenty-three school year and thereafter such assumed amortization for zero-emission school buses as defined in section thirty-six hundred thirty-eight of this article and related costs pursuant to paragraph f of subdivision two of section thirty-six hundred twenty-three-a of this article shall be for a period of eight years, and shall commence twelve months after the school district enters into a purchase contract or lease of the school bus, charging station, hydrogen fueling station, or equipment, or a general contract for the construction, reconstruction, lease or purchase of a transportation storage facility or site in an amount less than ten thousand dollars. Such assumed amortization shall provide for equal semiannual payments of principal and interest based on an assumed interest rate established by the commissioner pursuant to this paragraph. By the first day of September of the current year commencing with the two thousand five--two thousand six school year, each school district shall provide to the commissioner in a format prescribed by the

commissioner such information as the commissioner shall require for all capital debt incurred by such school district during the preceding school year for expenses allowable pursuant to subdivision two of section thirty-six hundred twenty-three-a of this article. Based on such reported amortizations and a methodology prescribed by the commissioner in regulations, the commissioner shall compute an assumed interest rate that shall equal the average of the interest rates applied to all such debt issued during the preceding school year. The assumed interest rate shall be the interest rate of each such school district applicable to the current year for the purposes of this paragraph and shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth.

8. a. Program approval requirements. Any school district receiving an additional apportionment pursuant to subdivision ten of this section for pupils in career education programs or a payment in lieu of such apportionment or having a public excess cost aid setaside pursuant to subdivision four of this section shall use the total funds attributable to such pupils for locally administered programs for such pupils in accordance with regulations issued by the commissioner. Such regulations shall provide for the use of such funds in the manner determined by the commissioner to be the most educationally advantageous for such pupils. The commissioner shall require the submission of such reports as are necessary to assure accountability for the use of such funds. A district which spends any part of its total annual apportionment attributable to such pupils in an unauthorized manner in the base year shall have its current year apportionment reduced by the amount of such unauthorized expenditures in the base year.

b. District plans of service. Any school district receiving an additional apportionment pursuant to subdivision ten of this section for pupils in career education programs or a payment in lieu of such apportionment or having a public excess cost aid setaside pursuant to subdivision four of this section shall keep on file and make available for public inspection and review by the commissioner an acceptable plan of service describing the student outcomes expected from implementation of the proposed plan, provided that such plan may be incorporated into a

school district's district-wide comprehensive plan. The plan of service of a school district receiving an additional apportionment pursuant to this section for pupils with disabilities shall also describe how such district intends to ensure that all instructional materials to be used in the schools of such district will be made available in a usable alternative format for each student with a disability and for each student who is a qualified individual with a disability, at the same time as such instructional materials are available to non-disabled students, provided that such plan may incorporate by reference the alternative format plans developed pursuant to subdivision twenty-nine-a of section sixteen hundred four, subdivision four-a of section seventeen hundred nine, subdivision seven-a of section twenty-five hundred three or subdivision seven-a of section twenty-five hundred fifty-four of this chapter. Such plans shall be in a form prescribed by the commissioner, and except as heretofore provided, shall have the content prescribed by the commissioner. The commissioner may, from time to time, require amendments of such plans as deemed to be necessary and appropriate to further the educational welfare of the pupils involved.

9. Aid for conversion to full day kindergarten. School districts may make available full day kindergarten programs for all children wishing to attend such programs.

a. For aid payable in the two thousand seven--two thousand eight school year and thereafter, school districts which provided any half-day kindergarten programs or had no kindergarten programs in the nineteen hundred ninety-six--ninety-seven school year and in the base year, and which have not received an apportionment pursuant to this paragraph in any prior school year, shall be eligible for aid equal to the product of the district's selected foundation aid calculated pursuant to subdivision four of this section multiplied by the positive difference resulting when the full day kindergarten enrollment of children attending programs in the district in the base year is subtracted from such enrollment in the current year.

b. Notwithstanding the provisions of paragraph a of this subdivision, school districts that have received an apportionment pursuant to this

subdivision in a prior school year shall be eligible for an apportionment where the department grants a waiver upon cause satisfactory to the department, including but not limited to, satisfactory demonstration of significant economic hardship that would impact the school district's ability to provide full day kindergarten for all children wishing to attend such programs. No school district may be granted such a waiver more than once.

c. Notwithstanding the provisions of paragraph a of this subdivision, school districts receiving an apportionment pursuant to paragraph a of this subdivision in the two thousand eighteen--two thousand nineteen or two thousand nineteen--two thousand twenty school year shall be eligible for (A) an apportionment in the following school year equal to the product of sixty-five percent multiplied by the aid received by the district pursuant to paragraph a of this subdivision in the prior school year, and (B) an apportionment in the school year after the following year equal to the product of thirty-five percent multiplied by the aid received by the district pursuant to paragraph a of this subdivision in the year preceding the prior year.

10. Special services aid for large city school districts and other school districts which were not components of a board of cooperative educational services in the base year. a. The city school districts of those cities having populations in excess of one hundred twenty-five thousand and any other school district which was not a component of a board of cooperative educational services in the base year shall be entitled to an apportionment under the provisions of this section.

b. (1) Aid for career education. There shall be apportioned to such city school districts and other school districts which were not components of a board of cooperative educational services in the base year for pupils in selected grades in attendance in career education programs as such programs are defined by the commissioner, subject for the purposes of this paragraph to the approval of the director of the budget, an amount for each such pupil to be computed by multiplying the career education aid ratio by three thousand nine hundred dollars for aid payable in the two thousand twenty-four--two thousand twenty-five

school year and prior and four thousand one hundred dollars thereafter. Such aid will be payable for weighted pupils attending career education programs operated by the school district and for weighted pupils for whom such school district contracts with boards of cooperative educational services to attend career education programs operated by a board of cooperative educational services. Weighted pupils for the purposes of this paragraph shall mean the sum of the attendance of students in selected grades in career education sequences in trade, industrial, technical, agricultural or health programs plus the product of sixteen hundredths multiplied by the attendance of students in selected grades in career education sequences in business and marketing as defined by the commissioner in regulations. The career education aid ratio shall be computed by subtracting from one the product obtained by multiplying fifty-nine percent by the combined wealth ratio. This aid ratio shall be expressed as a decimal carried to three places without rounding, but not less than thirty-six percent. For purposes of this subparagraph, "selected grades" shall be grades ten through twelve for aid payable in the two thousand twenty-four--two thousand twenty-five school year and prior, and shall be grades nine through twelve for aid payable in the two thousand twenty-five--two thousand twenty-six school year and thereafter.

(2) Any school district that receives aid pursuant to this paragraph shall be required to use such amount to support career education programs in the current year.

(3) A board of education which spends less than its local funds as defined by regulations of the commissioner for career education in the base year during the current year shall have its apportionment under this subdivision reduced in an amount equal to such deficiency in the current or a succeeding school year, provided however that the commissioner may waive such reduction upon determination that overall expenditures per pupil in support of career education programs were continued at a level equal to or greater than the level of such overall expenditures per pupil in the preceding school year.

c. Computer administration aid for large city school districts and any other school district which was not a component of a board of cooperative educational services in the base year. The city school

districts of those cities having populations in excess of one hundred twenty-five thousand inhabitants and any other school district which was not a component of a board of cooperative educational services in the base year shall be eligible for an apportionment in accordance with the provisions of this subdivision. Such districts shall be entitled to an additional apportionment computed by multiplying the lesser of (1) expenses for approved computer services in the base year or (2) the maximum allowable expense equal to the product of sixty-two dollars and thirty cents and the enrollment of pupils attending the public schools of such district in the base year, by the computer expenses aid ratio. The computer expenses aid ratio shall be computed by subtracting from one the product obtained by multiplying fifty-one per centum by the combined wealth ratio. This aid ratio shall be expressed as a decimal carried to three places without rounding, but shall not be less than thirty per centum. Expenses for approved computer services in the base year up to the maximum allowable expense shall not be used to claim aid pursuant to any other provisions of this section.

d. Aid for academic improvement. There shall be apportioned to such city school districts and other school districts which were not components of a board of cooperative educational services in the base year, an amount per pupil for each pupil eligible for aid pursuant to paragraph b of this subdivision to be computed by multiplying the career education aid ratio computed pursuant to such paragraph b of this subdivision by the sum of (1) one hundred dollars plus (2) the quotient of one thousand dollars divided by the lesser of one or the combined wealth ratio. Aid for academic improvement shall be unrestricted general aid available to support any academic programs of the school district.

e. Career education data collection. Beginning in the two thousand seventeen--two thousand eighteen school year the commissioner shall collect data from school districts receiving aid under this subdivision on the number of students in the base year that are in grade nine and enrolled in career education courses in trade/industrial education, technical education, agricultural education, health occupations education, business and marketing education, family and consumer science education, and technology education programs in a manner prescribed by

the commissioner.

11. Employment Preparation Education Programs. a. School districts and boards of cooperative educational services (BOCES) providing approved programs shall be eligible for aid in accordance with the provisions of this subdivision for the attendance of persons twenty-one years of age or over who have not received a high school diploma or a high school equivalency diploma recognized by New York State who attend employment preparation education programs provided by such school districts or BOCES, which programs lead to a high school diploma or high school equivalency diploma as defined in regulations of the commissioner, even if such persons attend regular day school classes with permission of the board of education; provided that such programs are provided in accordance with a plan of service approved by the commissioner in accordance with the provisions of paragraph f of this subdivision. Such programs may operate between July first and June thirtieth of a school year. Whenever a person enrolls in a program approved pursuant to this subdivision offered by a BOCES or in a school district other than their district of residence, the program provider shall send a notice of such enrollment to the persons district of residence, and shall issue a new notice if such person moves from one district to another. In the event that the cost of a program approved and provided in accordance with the provisions of this subdivision exceeds all sources of funds, other than tax levy revenues, which are available to defray such expenses, the school district or BOCES providing such program shall determine an excess cost per contact hour provided during the base year, and then shall determine the local share of such excess costs for each school district whose residents were served by such program by multiplying such base year hours by the excess cost per contact hour, and such local share shall be a charge against each such district, payable within forty-five days. Notwithstanding the provisions of section nineteen hundred fifty of this chapter, a BOCES shall be authorized to provide a program pursuant to this subdivision in the same manner as a school district.

a-1. Notwithstanding the provisions of paragraph a of this subdivision, for aid payable in the school years two thousand--two

thousand one through two thousand nine--two thousand ten, and two thousand eleven--two thousand twelve through two thousand twenty-six--two thousand twenty-seven, the commissioner may set aside an amount not to exceed two million five hundred thousand dollars from the funds appropriated for purposes of this subdivision for the purpose of serving persons twenty-one years of age or older who have not been enrolled in any school for the preceding school year, including persons who have received a high school diploma or high school equivalency diploma but fail to demonstrate basic educational competencies as defined in regulation by the commissioner, when measured by accepted standardized tests, and who shall be eligible to attend employment preparation education programs operated pursuant to this subdivision.

b. Employment preparation education hours. For the purpose of computing an apportionment under the provisions of this subdivision, the employment preparation education hours shall be the total hours of instruction given by a teacher to all students enrolled in such approved programs between July first and June thirtieth of the current year. For nontraditional modes of instruction, the commissioner may establish methods of determining contact hours of instruction to be counted for state aid purposes in accordance with regulations adopted for such purpose.

c. Employment preparation education aid ceiling. The employment preparation education aid ceiling for the purposes of this subdivision shall be the statewide average expense per pupil, as computed pursuant to subdivision five of this section for aid payable in the current year, divided by one thousand. Such result shall be computed to two decimals without rounding.

d. Employment preparation education aid ratio. The employment preparation education aid ratio for the purposes of this subdivision shall be determined by subtracting from one the product of the pupil wealth ratio and forty per centum. The aid ratio shall be expressed as a decimal to three places without rounding but shall not be less than forty per centum. In the case of a BOCES, such aid ratio shall be determined by computing a pupil wealth ratio for the BOCES using the

aggregate actual valuation and total wealth pupil units for all component districts of such BOCES, but shall not be less than the greater of forty per centum or the product of eighty-five per centum and the highest such aid ratio determined for a component school district of such BOCES.

e. Employment preparation education apportionment. In addition to any other aid payable under this section, the apportionment pursuant to this subdivision shall be the product obtained when the employment preparation education hours are multiplied by the aid per contact hour which shall equal the product of the employment preparation program aid ceiling and the employment preparation education aid ratio computed to two decimals, rounded, as calculated based on data on file with the commissioner on May fifteenth of the base year. Notwithstanding the provisions of section thirty-six hundred nine-a of this part, the payment of such apportionment shall be based upon reports required by the commissioner for the periods ending December thirty-first, and June thirtieth of each school year; payments for the first reporting period shall be made after April first, based on claims on file by March first, provided that the total of all such payments shall not exceed twenty-five percent of the amount for such school year, with the approved amount of such claims reduced on a pro rata basis if necessary; the remainder of any payments due for the first period plus any payments due for the rest of the school year shall be paid after October first, based on claims on file by September fifteenth, provided that the total of such payments shall not exceed the total amount of ninety-six million dollars ($96,000,000) for such school year, with the approved amount of such claims reduced on a pro rata basis if necessary, provided that the total of such payment for services provided to persons who received a high school diploma or a high school equivalency diploma recognized by New York state shall not exceed the total amount set aside for such purpose pursuant to paragraph a-one of this subdivision in any such school year, with the approved amount of such claims reduced on a pro rata basis if necessary; and aid paid pursuant to this paragraph shall not be included in the computation of the district expenditure need as defined in such section thirty-six hundred nine-a of this part. The employment preparation education apportionment for the city school

district of the city of New York shall be computed only for the city as a whole.

f. Approved application. All school districts and BOCES desiring to operate an aidable program pursuant to this subdivision shall complete an application, including a budget by program component. Such application shall be in a form prescribed by the commissioner and shall be submitted not later than May fifteenth of each school year. Within forty-five days of such deadline, and upon evaluation of such applications, the commissioner shall notify school districts and BOCES of those portions of such application that will be aidable in the school year ahead after making a determination that approval of such application will assure maximum effectiveness, geographic availability and lack of duplication of such programs, support for educational initiatives, and compliance with required program and fiscal reporting requirements. No aid shall be payable pursuant to this subdivision unless the application is approved by the commissioner.

g. No school district may receive under the provisions of this subdivision an amount which when added to all other state and federal aid received by such school district for the purposes of this subdivision, including tuition paid to the school district for such program, exceeds the entire cost of such program in that year. Notwithstanding any other provision of this section to the contrary, in the event that the total revenue received exceeds the entire cost of such program, any state aid payable to the district in the following year shall be reduced in the amount of such excess.

h. Attendance of students in such approved programs shall not be included in any other attendance counts of this section and shall not generate aid under any other provision of this section or under section nineteen hundred fifty of this chapter.

12. Academic enhancement aid. a. A school district that as of April first of the base year has been continuously identified as a district in need of improvement for at least five years shall, for the two thousand eight--two thousand nine school year, be entitled to an additional

apportionment equal to the positive remainder, if any, of (a) the lesser of fifteen million dollars or the product of the total foundation aid base, as defined by paragraph j of subdivision one of this section, multiplied by ten percent (0.10), less (b) the positive remainder of (i) the sum of the total foundation aid apportioned pursuant to subdivision four of this section and the supplemental educational improvement grants apportioned pursuant to subdivision eight of section thirty-six hundred forty-one of this article, less (ii) the total foundation aid base.

b. For the two thousand nine--two thousand ten through two thousand fourteen--two thousand fifteen school years, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "EDUCATION GRANTS, ACADEMIC EN" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

c. For the two thousand fifteen--two thousand sixteen year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2014-15 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand fourteen--two thousand fifteen school year and entitled "SA141-5", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

d. For the two thousand sixteen--two thousand seventeen school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2015-16 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand fifteen--two thousand sixteen school year and entitled "SA151-6", and such apportionment shall be deemed to satisfy the state

obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

e. For the two thousand seventeen--two thousand eighteen school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2016-17 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand sixteen--two thousand seventeen school year and entitled "SA161-7", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

f. For the two thousand eighteen--two thousand nineteen school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2017-18 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand seventeen--two thousand eighteen school year and entitled "SA171-8", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

g. For the two thousand nineteen--two thousand twenty school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2018-19 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand eighteen--two thousand nineteen school year and entitled "SA181-9", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

h. For the two thousand twenty--two thousand twenty-one school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2019-20 ESTIMATED AIDS" in the school aid computer

listing produced by the commissioner in support of the budget for the two thousand nineteen--two thousand twenty school year and entitled "SA192-0", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

i. For the two thousand twenty-one--two thousand twenty-two school year through the two thousand twenty-six--two thousand twenty-seven school year, each school district shall be entitled to an apportionment equal to the amount set forth for such school district as "ACADEMIC ENHANCEMENT" under the heading "2020-21 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand twenty--two thousand twenty-one school year and entitled "SA202-1", and such apportionment shall be deemed to satisfy the state obligation to provide an apportionment pursuant to subdivision eight of section thirty-six hundred forty-one of this article.

13. Youth incarcerated in county correctional facilities apportionment. a. In addition to any other apportionment under this section, a school district shall be eligible for an apportionment for current year educational services provided between July first and June thirtieth to youth incarcerated in correctional facilities maintained by a county or the city of New York or in a youth shelter, as defined in paragraph f of subdivision seven of section thirty-two hundred two of this chapter, pursuant to subdivision seven of section thirty-two hundred two of this chapter. Such apportionment shall not exceed the sum of the following: (i) for programs which operate between September first and June thirtieth, the product of the district's expense per pupil and the number of pupils in full-time equivalent attendance as defined in regulations of the commissioner multiplied by one hundred twenty-five per centum plus (ii) for programs which operate between July first and June thirtieth, the product of the district's expense per pupil and the number of pupils in full-time equivalent attendance, multiplied by one hundred fifty per centum. Such apportionment shall be in accordance with regulations promulgated by the commissioner and approved by the director of the budget and shall be the lesser of the

amount computed pursuant to this paragraph or the actual amount expended by the district for such approved educational services and approved administrative costs as reported to the commissioner provided, however, that the minimum allocation in any school year for a school district providing educational services to such children shall be fifteen thousand dollars. The educational costs for these children shall not be otherwise aidable or reimbursable under any provision of law; provided, however, that a city school district which operates an academy or an alternative high school at such a facility, may elect to receive applicable aid pursuant to other provisions of this section in lieu of any aid under this subdivision.

b. Notwithstanding the provisions of section thirty-six hundred nine-a of this part, the payment of such apportionment shall be based on reports required by the commissioner for the periods ending November thirtieth, March thirty-first and June thirtieth of each school year. For the city school district of the city of New York, computations made pursuant to this subdivision shall be computed on a city-wide basis.

d. The commissioner shall adopt regulations to implement the provisions of this subdivision.

14. Limitations on the apportionment. The apportionment to any school district during any school year shall be subject to the following provisions:

a. District subject to reorganization. (1) No apportionments pursuant to subdivision six of this section shall be paid to any school district which is scheduled for reorganization pursuant to the state plan for school district reorganization, unless there shall have been compliance with this paragraph.

(2) In order to obtain an apportionment under subdivision six of this section for a district scheduled for reorganization and not reorganized, such district shall file with the commissioner a formal written application therefor, (a) showing (i) inadequacy or obsolescence of present facilities, and (ii) that such construction for which such apportionment is sought would be capable of substantial educational use

by the reorganized district in case the reorganization under the existing plan of reorganization is effected, and that it will provide more efficient and more economical educational facilities for such reorganized district in the best educational interests of the children in the reorganized school district or (b) showing that such district has adopted a resolution or resolutions in accordance with sections eighteen hundred one through eighteen hundred three of this chapter in favor of such reorganization and is being prevented from reorganizing by the action of another district which is part of the same plan of reorganization. The commissioner shall within ninety days grant such apportionment or deny such apportionment with leave to the district to petition for a formal hearing. Such hearing shall be held pursuant to the procedures provided in subdivision three of section three hundred fourteen of this chapter.

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

(b) Upon receipt of such application, the chancellor shall appoint a committee of three members of the regents, one of whom shall be a regent whose judicial district includes all or part of the areas affected. The committee of regents shall review the proposed amendment or confirmation

of the state plan. In the event the committee is unable to resolve the differences between the commissioner and such school districts, it shall within sixty days from the date of the appointment of such committee, make an order reversing, affirming, or modifying, wholly or in part, such preliminary finding of the commissioner and amending or confirming the state plan setting forth the committee's findings and conclusions which shall be based exclusively on the evidence presented at the commissioner's hearing and any additional evidence presented at the committee's review. The committee shall have the discretion to permit additional evidence to be presented by any party. The commissioner shall serve a copy of such order upon the clerk or in the event there is no clerk, the trustee or trustees of the school districts located in the affected area or areas.

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

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

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

(4) Notwithstanding the provisions of subparagraphs one through three of this paragraph, any such district which has qualified for an apportionment for school building purposes, under laws in effect prior to the date this act takes effect, shall receive an apportionment under subdivision six of this section; and provided, further, that no new apportionment shall be paid and the commissioner shall not approve any

new expenditures for school building purposes in any such district after such date, except where the commissioner has made a determination as herein provided.

(5) Nothing herein provided shall prevent a school district which has heretofore been denied an apportionment subsequent to July first, nineteen hundred sixty-two from making an application hereunder, except that any such apportionment which may be granted shall not be retroactive beyond July first, nineteen hundred sixty-two.

c. Incentive building aid for reorganized districts. (1) Notwithstanding the provisions of this section, whenever two or more school districts are scheduled for reorganization pursuant to section three hundred fourteen of this chapter and whenever after July first, nineteen hundred sixty-five all such school districts so scheduled do reorganize, and

(i) whenever such proposed reorganization includes at least two school districts, each of which maintains its own high school, or

(ii) where such proposed reorganization includes only one school district maintaining its own high school, whenever in such case such proposed reorganization, in addition to such school district maintaining its own high school, includes at least nine other school districts, or

(iii) whenever such proposed reorganization includes at least two central school districts, or

(iv) where such proposed reorganization includes at least one school district maintaining its own high school and, in addition thereto, includes at least one school district employing eight or more teachers, or

(v) where such proposed reorganization includes a city school district, and in addition thereto, includes at least seven other school districts, or

(vi) where such proposed reorganization includes at least two school districts employing eight or more teachers forming a central high school district pursuant to section nineteen hundred thirteen of this chapter, beginning with July first, nineteen hundred sixty-five or the first school year of operation as a reorganized district after such date, such reorganized school district shall be entitled to an additional apportionment of twenty-five per centum of the sum of: (A) its

apportionment as provided in subdivision six of this section whenever such apportionment is computed on the basis of its approved base year expenditures for capital outlay from its general, capital, or a reserve fund incurred prior to July first, two thousand one, or on the basis of its approved base year expenditures for capital outlay from its general, capital or a reserve fund incurred in the two thousand one--two thousand two school year and computed pursuant to subdivision six of this section as if such expenditures were aidable under such subdivision, and current year approved expenditures for debt service for school building purposes and (B) its apportionment as provided in subdivision six of this section, the general contracts for which shall have been awarded on or after the date this act takes effect and prior to July first, two thousand ten, or prior to July first, two thousand twelve where such general contracts are for projects with complete final plans and specifications filed for approval with the commissioner prior to July first, two thousand ten, or within ten years from the effective date of reorganization, whichever is later as provided in subdivision six of this section, and which said sum shall be payable for and during the terms of any indebtedness created for the purpose of financing such construction or other facility as aforesaid, provided however, that in no event may the total apportionment under this paragraph, under subdivision twelve of section thirty-six hundred forty-one of this article, and under subdivisions six and six-f of this section for any project exceed the product of (1) ninety-eight percent for a high need school district, as defined pursuant to guidelines of the commissioner for the two thousand five--two thousand six school year, for all school building projects approved by the voters of the school district or by the board of education of a city school district in a city with more than one hundred twenty-five thousand inhabitants, and/or the chancellor in a city school district in a city having a population of one million or more, on or after July first, two thousand five, or ninety-five per cent for any other school building project or school district, multiplied by (2) the sum of the base year approved expenditures for capital outlay for school building purposes from the general fund, capital fund or from a reserve fund, and current year approved expenditures for debt service for such purposes for such project.

(2) Notwithstanding any provisions of this paragraph and paragraph d

of this subdivision to the contrary, the commissioner is hereby authorized, in addition to any other state aid apportionments to which such district may be entitled under the provisions of this chapter, to make the additional reorganization incentive aid payments provided by such paragraphs, in the amounts, and in the manner provided therein, to central school district number one of the towns of Brookhaven and Smithtown, Suffolk county, as if such newly reorganized district were included in the various categories of reorganization referred to in such paragraphs.

(4) In the event a school district is eligible for incentive building aid and again reorganizes pursuant to a new plan of reorganization established by the commissioner, and where such new reorganization shall again become eligible for incentive building aid, no project of such district shall be entitled to more than one such additional twenty-five percent apportionment. The latest date provided in this paragraph for the awarding of general contracts shall also apply to any school district subject to chapter five hundred eighty-eight of the laws of nineteen hundred sixty-six as amended, notwithstanding such date provided in such chapter.

d. Incentive operating aid for reorganized districts. Notwithstanding the provisions of paragraphs a through c of this subdivision, whenever two or more school districts are scheduled for reorganization pursuant to section three hundred fourteen of this chapter, and whenever after July first, two thousand seven, all such school districts so scheduled do reorganize in accordance with the provisions of such section three hundred fourteen, as amended by chapter seven hundred forty-five of the laws of nineteen hundred sixty-five, and

(1) whenever such proposed reorganization includes at least two school districts, each of which maintains its own high school, or

(2) where such proposed reorganization includes only one school district maintaining its own high school, whenever in such case such proposed reorganization, in addition to such school district maintaining its own high school, includes at least nine other school districts, or

(3) whenever such proposed reorganization includes at least two central school districts, or

(4) where such proposed reorganization includes at least one school

district maintaining its own high school and, in addition thereto, includes at least one school district employing eight or more teachers, or

(5) where such proposed reorganization includes a city school district, and in addition thereto, includes at least seven other school districts, or

(6) where such reorganization includes at least two school districts employing eight or more teachers forming a central high school district pursuant to section nineteen hundred thirteen of this chapter.

(7) such reorganized district shall be entitled to an apportionment equal to an additional percent of the apportionment computed in accordance with the provisions of paragraph d-1 of this subdivision; but in no case shall the sum of such apportionment under this paragraph plus the total operating aid base as defined in this subdivision be more than a total of ninety-five per centum of the year prior to the base year approved operating expense; for a period of five years beginning with the first school year of operation as a reorganized district such additional percent shall be forty percent; and thereafter such additional forty percent apportionment to such district shall be reduced by four percentage points each year, beginning with the sixth school year of operation as a reorganized district, and continuing until such additional forty percent apportionment is eliminated; provided, however, that the total apportionment to such reorganized district, beginning with the first school year of operation as a reorganized district, and for a period of fifteen years thereafter, shall be not less than the sum of all apportionments computed in accordance with the provisions of this paragraph plus the apportionment computed in accordance with the provisions of paragraph d-1 of this subdivision that each component school district was entitled to receive and did receive during the last school year preceding such first year of operation. In the event a school district is eligible for incentive operating aid and again reorganizes pursuant to a new plan or reorganization established by the commissioner, and where such new reorganization is again eligible for incentive operating aid, the newly created school district shall be entitled to receive incentive operating aid pursuant to the provisions of this paragraph, based on all school districts included in any such reorganization, provided, however, that incentive operating aid payments

due because of any such former reorganization shall cease.

d-1. For purposes of paragraph d of this subdivision, "total operating aid base" shall mean the apportionment computed for the 2006-07 school year, based on data on file with the commissioner as of the date upon which an electronic data file was created for the purposes of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter on February fifteenth, provided further that for school districts which reorganize on or after July first, two thousand twenty-four, for purposes of paragraph d of this subdivision, "total operating aid base" shall mean the total foundation aid base, as defined pursuant to paragraph j of subdivision one of this section, calculated as of the effective date of the reorganization.

f. For school districts which reorganize on or after July first, nineteen hundred eighty-three, the percent increase in apportionment pursuant to paragraph c of this subdivision shall be thirty provided that such school districts meet all other requirements of the provisions of such paragraph c. All other requirements of paragraph c shall apply. School districts which receive an apportionment under this paragraph shall not be eligible for an apportionment under paragraph c or e of this subdivision.

g. Whenever a school district is dissolved and portions of such former district are added to more than one school district, each such school district to which territory is added shall in the first year only in which such district educates pupils from such former district be entitled to an additional apportionment under the provisions of this paragraph, which apportionment shall be computed in accordance with regulations of the commissioner under one of the following subparagraphs:

(1) the pupils received by each such district as a result of receiving such new territory shall be added to all of the pupil counts used to compute operating aid for such district, or

(2) if such receiving district is receiving aid under an option other than formula aid for such year, the additional aid shall be computed by dividing the operating aids base for such year by the pupil count used

for computing formula operating aid such district might otherwise have received, and by multiplying such result by the number of additional pupils received from such dissolved district who are then residents of such receiving district.

j. For school districts which reorganize on or after July first, nineteen hundred ninety-two, the percent increase in apportionment pursuant to paragraph c of this subdivision shall be thirty provided that such school districts meet all other requirements of the provisions of such paragraph c. All other requirements of paragraph c shall apply. School districts which receive an apportionment under this paragraph shall not be eligible for an apportionment under paragraph c, e or f of this subdivision.

15. Voluntary interdistrict urban-suburban transfer program aid. a. A school district which accepts pupils from another school district in accordance with a voluntary interdistrict urban-suburban transfer program designed to reduce racial isolation which is approved by the commissioner in accordance with regulations adopted by him for such purpose shall be eligible for aid pursuant to this subdivision.

b. Definitions. (1) "Transfer pupil count" shall mean the public school district enrollment in the current year through such program.

(2) "Increase in aid" shall mean the product of thirty-six and one-half percent (0.365) and the positive remainder resulting when the total foundation aid base is subtracted from the current year total foundation aid as defined in subdivision four of this section.

(3) "Aid paid per pupil" shall mean the aid computed in the current year pursuant to subdivision four of this section divided by the total aidable foundation pupil units for total foundation aid, computed pursuant to paragraph g of subdivision two of this section.

(4) "Formula pupil margin" shall mean the increase in aid divided by aid paid per pupil.

(5) "Excess transfer pupils" shall mean the positive remainder resulting when the formula pupil margin is subtracted from the transfer pupil count.

(6) "Per pupil aid differential" shall mean the positive remainder

resulting when the aid paid per pupil for such school district is subtracted from the aid paid per pupil for the transfer pupil's district of residence.

c. In addition to any other aid computed under this section, such school district shall be eligible to receive, for each excess transfer pupil, an amount equal to the selected foundation aid for such district computed pursuant to subdivision four of this section.

d. For the purposes of computing transportation aid pursuant to subdivision seven of this section, the approved cost of the transportation of pupils in a voluntary interdistrict transfer program approved by the commissioner shall be used in computing approved transportation expense.

e. In addition to any other aid computed under this section, such school district shall be eligible to receive an amount equal to the per pupil aid differential multiplied by the transfer pupil count.

16. High tax aid. Each school district shall be eligible to receive a high tax aid apportionment in the two thousand eight--two thousand nine school year, which shall equal the greater of (i) the sum of the tier 1 high tax aid apportionment, the tier 2 high tax aid apportionment and the tier 3 high tax aid apportionment or (ii) the product of the apportionment received by the school district pursuant to this subdivision in the two thousand seven--two thousand eight school year, multiplied by the due-minimum factor, which shall equal, for districts with an alternate pupil wealth ratio computed pursuant to paragraph b of subdivision three of this section that is less than two, seventy percent (0.70), and for all other districts, fifty percent (0.50). Each school district shall be eligible to receive a high tax aid apportionment in the two thousand nine--two thousand ten through two thousand twelve--two thousand thirteen school years in the amount set forth for such school district as "HIGH TAX AID" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910". Each school district shall be eligible to

receive a high tax aid apportionment in the two thousand thirteen--two thousand fourteen through two thousand twenty-six--two thousand twenty-seven school year equal to the greater of (1) the amount set forth for such school district as "HIGH TAX AID" under the heading "2008-09 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the budget for the two thousand nine--two thousand ten school year and entitled "SA0910" or (2) the amount set forth for such school district as "HIGH TAX AID" under the heading "2013-14 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget for the 2013-14 fiscal year and entitled "BT131-4".

a. Definitions. (1) "Residential real property tax levy" shall mean the school tax levy imposed on residential property, including condominium properties, in the year commencing in the calendar year two years prior to the calendar year in which the base year began. The final update of such data shall be reported by the commissioner of taxation and finance to the commissioner by February fifteenth of the base year. The commissioner of taxation and finance shall adopt regulations as appropriate to assure the appropriate collection, classification and reporting of such data for the purposes of paying state aid to the schools.

(2) "Adjusted gross income" shall mean the adjusted gross income of a school district as used in computation of the district's alternate pupil wealth ratio pursuant to paragraph b of subdivision three of this section, provided, however, that for the computation of apportionments pursuant to this subdivision, the adjusted gross income of a central high school district shall not equal the sum of the adjusted gross income of each of its component school districts; and provided, further, that commencing in calendar year two thousand twenty-two, New York state lottery and video lottery gaming individual prizes in excess of one million dollars that when aggregated exceeds twenty-five percent of a district's adjusted gross income shall be excluded from a district's adjusted gross income for the year. The commissioner of taxation and finance shall determine the amount of this exclusion based on the annual report of New York state lottery and video lottery gaming individual prizes in excess of one million dollars produced by the gaming

commission pursuant to paragraph three of subdivision c of section sixteen hundred four of the tax law.

(3) "Tax effort ratio" shall mean the quotient of the district's residential real property tax levy divided by the district's adjusted gross income computed to five decimals without rounding.

(4) "Tier 1 eligible school district" shall mean any school district in which (i) the income wealth index, as computed pursuant to paragraph d of subdivision three of this section, is less than two and one-half, and (ii) the expense per pupil, as computed pursuant to paragraph f of subdivision one of this section, is greater than the statewide average expense per pupil as computed pursuant to subdivision five of this section, and (iii) the tax effort ratio is greater than three and two-tenths percent (0.032). For the two thousand eight--two thousand nine school year, for the purpose of computing aid pursuant to this subdivision, the statewide average expense per pupil shall be ten thousand six hundred fifty dollars.

(5) "Tier 2 eligible school district" shall mean any school district in which the tax effort ratio is greater than five percent.

(6) "Tier 3 eligible school district" shall mean any school district in which (i) the quotient of (a) the actual valuation of the school district divided by its total wealth pupil units computed pursuant to subparagraph one of paragraph a of subdivision three of this section, divided by (b) the adjusted gross income of a school district divided by its total wealth pupil units computed pursuant to subparagraph one of paragraph b of subdivision three of this section, is greater than four and sixty-two hundredths (4.62), (ii) the combined wealth ratio computed pursuant to subparagraph one of paragraph c of subdivision three of this section is less than six, and (iii) the regional cost index determined pursuant to subparagraph two of paragraph a of subdivision four of this section is greater than one and three-tenths (1.3).

b. Tier 1 high tax aid apportionment. For any tier 1 eligible school district, the tier 1 high tax aid apportionment shall be the greater of (1) the product of the public school district enrollment of the district in the base year, as computed pursuant to subparagraph two of paragraph n of subdivision one of this section, multiplied by the product of four hundred fifty dollars multiplied by the state sharing ratio, or (2) one

hundred thousand dollars.

c. Tier 2 high tax aid apportionment. For any tier 2 eligible school district, the tier 2 high tax aid apportionment shall be the product of (i) the public school district enrollment of the district in the base year, as computed pursuant to subparagraph two of paragraph n of subdivision one of this section, multiplied by (ii) one hundred eighty-one thousandths (0.181) multiplied by (iii) the positive difference, if any, of the expense per pupil, as computed pursuant to paragraph f of subdivision one of this section, less ten thousand six hundred sixty dollars, multiplied by (iv) an aid ratio computed by subtracting from one the product obtained by multiplying the alternate pupil wealth ratio computed pursuant to subparagraph one of paragraph b of subdivision three of this section by sixty percent, provided, however, that such aid ratio shall not be less than zero nor greater than one, multiplied by (v) the regional cost index.

d. Tier 3 high tax aid apportionment. For any tier 3 eligible school district, the tier 3 high tax aid apportionment shall be the product of (i) the public school district enrollment of the district in the base year, as computed pursuant to subparagraph two of paragraph n of subdivision one of this section, multiplied by (ii) fifty-two dollars, multiplied by (iii) the regional cost index.

17. Gap elimination adjustment. a. Notwithstanding any other provision of law to the contrary, the commissioner shall reduce payments due to each district for the two thousand eleven--two thousand twelve school year and thereafter pursuant to section thirty-six hundred nine-a of this article by an amount equal to the gap elimination adjustment computed for such district, and such amount shall be deducted from moneys apportioned for the purposes of payments made pursuant to such section thirty-six hundred nine-a and if the reduction is greater than the sum of the amounts available for such deductions, the remainder of the reduction shall be withheld from payments scheduled to be made to the district pursuant to section thirty-six hundred nine-a for the following school year, and provided further that an amount equal to the amount of such deduction shall be deemed to have been paid to the

district pursuant to this section for the school year in which such deduction is made. The commissioner shall compute such gap elimination adjustment and shall provide a schedule of such reduction in payments to the state comptroller, the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee.

b. The gap elimination adjustment for the two thousand eleven--two thousand twelve school year shall be computed as follows, based on an updated electronic date file containing actual and estimated data relating to apportionments due and owing during the current school year and projections of such apportionments for the following school year to school districts and boards of cooperative educational services from the general support for public schools, growth and boards of cooperative educational services appropriations produced pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter on February fifteenth of the base year. The gap elimination adjustment for a district shall equal the lesser of the district's percentage reduction and its TGFE check, provided, however, that in the case of a district with a tax effort ratio greater than four percent (0.04) and a combined wealth ratio for total foundation aid computed pursuant to subparagraph two of paragraph c of subdivision three of this section that is less than one and five-tenths (1.5), the gap elimination adjustment for a district shall equal the lesser of the percentage reduction, the TGFE check and the tax effort reduction, and further provided that in the case of a school district, other than a city school district of a city having a population in excess of one hundred twenty-five thousand, with (A) an administrative efficiency ratio of less than one and eight-tenths percent (0.018) and (B) an administrative expense per pupil of less than three hundred forty-eight dollars ($348), the gap elimination adjustment shall be reduced by an amount equal to the administrative efficiency restoration, and further provided that, where applicable, the gap elimination adjustment shall be reduced by an amount equal to the sum of the needs-based restoration plus the low wealth-high tax effort restoration plus the enrollment adjustment award.

(i) The percentage reduction shall be the sum of (A) the product of the total aid for adjustment, multiplied by six and four-tenths percent

(0.064), and (B) the product of four thousand four hundred dollars ($4,400) multiplied by the reduction factor, multiplied by the public school district enrollment for the base year computed pursuant to subparagraph two of paragraph n of subdivision one of this section, provided, however, that such percentage reduction shall not be less than the product of nine and one-half percent (0.095) multiplied by such total aid for adjustment, and not more than the product of twenty-one and four-tenths percent (0.214) multiplied by such total aid for adjustment.

(ii) The tax effort reduction shall be the product of the total aid for adjustment, multiplied by the quotient of twenty-three percent (0.23) divided by the quotient of the tax effort ratio computed pursuant to subparagraph three of paragraph a of subdivision sixteen of this section divided by four and two hundred forty-seven thousandths percent (0.04247), provided, however, that such tax effort reduction shall not be less than the product of thirteen percent (0.13) multiplied by such total aid for adjustment, and not more than the product of twenty-three percent (0.23) multiplied by such total aid for adjustment.

(iii) The TGFE check shall be the product of the TGFE percentage and the total general fund expenditures of such district in the base year.

(iv) The administrative efficiency restoration shall be the product of seventy-five dollars ($75), multiplied by the state sharing ratio, multiplied by the total aidable foundation pupil units computed pursuant to paragraph g of subdivision two of this section for the purposes of computing total foundation aid.

(v) The needs-based restoration shall be the sum of (A) the product of the needs-based grant, multiplied by the public school district enrollment for the base year computed pursuant to subparagraph two of paragraph n of subdivision one of such section thirty-six hundred two of this part, plus (B) in the case of any district for which the quotient of the Limited English proficient count for the base year computed pursuant to paragraph o of subdivision one of this section divided by the public school district enrollment for the base year computed pursuant to subparagraph two of paragraph n of subdivision one of this section, exceeds thirteen percent (0.13), the product of the total aid for adjustment multiplied by seventy-five hundredths of a percent (0.0075).

(vi) The low wealth-high tax effort restoration shall be, for any school district with a tax effort ratio greater than six percent (0.06) and a combined wealth ratio for total foundation aid that is less than seven-tenths (0.7), the product of one hundred dollars ($100.00) multiplied by the public school district enrollment for the base year computed pursuant to subparagraph two of paragraph n of subdivision one of this section.

(vii) The enrollment adjustment award shall be the product of five hundred dollars ($500.00) multiplied by the enrollment increase for any eligible school district. An eligible school district shall be a school district (A) with a combined wealth ratio for total foundation aid less than three (3.0) and an enrollment increase greater than or equal to forty-five, where, (B) for such school district, either the enrollment increase is greater than one percent (0.01) of the public school district enrollment for the base year or the combined wealth ratio for total foundation aid is less than two (2.0). The enrollment increase shall be as the positive difference of the estimated public school district enrollment for the current year computed pursuant to subparagraph two of paragraph n of subdivision one of this section less the public school district enrollment for the base year computed pursuant to subparagraph two of paragraph n of subdivision one of this section.

(viii) For the purposes of such computation, (A) "total aid for adjustment" shall mean the sum of the amounts set forth for each school district as "FOUNDATION AID", "FULL DAY K CONVERSION", BOCES + SPECIAL SERVICES", "HIGH COST EXCESS COST", "PRIVATE EXCESS COST", "HARDWARE & TECHNOLOGY", "SOFTWARE, LIBRARY, TEXTBOOK", "TRANSPORTATION INCL SUMMER", "OPERATING REORG INCENTIVE", "CHARTER SCHOOL TRANSITIONAL", "ACADEMIC ENHANCEMENT", "HIGH TAX AID" AND "SUPPLEMENTAL PUB EXCESS COST" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget proposal for the two thousand eleven--two thousand twelve school year;

(B) "the state sharing ratio" shall mean the state sharing ratio computed for total foundation aid computed pursuant to paragraph g of subdivision three of this section, but not less than ten percent (0.10); and

(C) "reduction factor" shall mean the product of the positive remainder of one less the three-year average free and reduced price lunch percent computed pursuant to subparagraph (ii) of paragraph p of subdivision one of this section, multiplied by the combined wealth ratio for total foundation aid computed pursuant to subparagraph two of paragraph c of subdivision three of section thirty-six hundred two of this part; and

(D) "needs-based grant" shall mean, (1) in the case of a district determined to be a high need school district pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", having a need-resource category of three or four, sixty-one dollars ($61.00), and (2) in the case of a district determined to be an average need school district pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", having a need-resource category of five, fifty-four dollars ($54.00).

(E) "administrative efficiency ratio" shall mean the quotient of the sum of the expenditures related to the board of education, including expenditures for the board of education, the district clerk's office, the district meeting, auditing service, the treasurer's office, the tax collector's office, legal services and the school census, plus expenditures for central administration, including expenditures for the chief school officer, the business office, the purchasing office, the personnel office, the records management officer, public information and services, fees for fiscal agents and undistributed indirect costs, divided by the total expenditures charged by a district to the general, debt service, and special aid funds, excluding transfers from the general fund to the debt service and special aid funds, based on expenditures reported by the district for the school year two years prior to the base year, based on data on file for an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the executive budget request; and

(F) "administrative expense per pupil" shall mean the quotient of the

sum of the expenditures related to the board of education, including expenditures for the board of education, the district clerk's office, the district meeting, auditing service, the treasurer's office, the tax collector's office, legal services and the school census, plus expenditures for central administration, including expenditures for the chief school officer, the business office, the purchasing office, the personnel office, the records management officer, public information and services, fees for fiscal agents and undistributed indirect costs, charged by a district to the general, debt service, and special aid funds, based on expenditures reported by the district for the school year two years prior to the base year, divided by the public school district enrollment for the base year computed pursuant to subparagraph two of paragraph n of subdivision one of this section based on data on file for an electronic data file used to produce the school aid computer listing produced by the commissioner in support of the executive budget request; and

(G) "TGFE percentage" shall mean,

(1) in the case of a district determined to be a high-need school district pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708",

(a) in the case of a city school district in a city with a population in excess of one million inhabitants, four and five hundred thirty-seven thousandths percent (0.04537),

(b) in the case of a city school district in a city with a population of more than two hundred fifty thousand inhabitants and less than one million inhabitants according to the two thousand federal census, four and one-tenth percent (0.041),

(c) in the case of a city school district in a city with a population of more than two hundred ten thousand inhabitants and less than two hundred fifty thousand inhabitants according to the two thousand federal census, four and thirteen hundredths percent (0.0413),

(d) in the case of a city school district in a city with a population of more than one hundred seventy thousand inhabitants and less than two hundred ten thousand inhabitants according to the two thousand federal

census, five and ninety-seven hundredths percent (0.0597),

(e) in the case of a city school district in a city with a population of more than one hundred thousand inhabitants and less than one hundred seventy thousand inhabitants according to the two thousand federal census, five and fifty-three hundredths percent (0.0553),

(f) in the case of any other such school district which has a three-year average free and reduced price lunch percent greater than seventy-five percent (0.75) and which has an administrative efficiency ratio less than one and fifty-five hundredths percent (0.0155), four and nine hundredths percent (0.0409), and

(g) for all other such school districts, six and eight-tenths percent (0.068), or

(2) in the case of all other school districts, eleven percent (0.11).

d. The gap elimination adjustment restoration amount for the two thousand twelve--two thousand thirteen school year for a school district shall be computed based on data on file with the commissioner and in the database used by the commissioner to produce an updated electronic data file in support of the enacted budget for the two thousand twelve--two thousand thirteen state fiscal year, and shall equal the sum of (i) the greater of:

(A) the product of (1) the product of the extraordinary needs index multiplied by two hundred twenty-three dollars and eighty cents, computed to two decimal places without rounding, multiplied by (2) the state sharing ratio computed pursuant to paragraph g of subdivision three of this section multiplied by (3) the public school district enrollment for the base year, calculated pursuant to subparagraph two of paragraph n of subdivision one of this section, where the extraordinary needs index shall be the quotient of the extraordinary needs percent for the district computed pursuant to paragraph w of subdivision one of this section divided by forty-eight hundredths; or

(B) for any district with a GEA/TGFE ratio greater than one, where the GEA/TGFE ratio shall be the quotient of the gap elimination adjustment for the two thousand eleven--two thousand twelve school year for the district divided by the total general fund expenditures of such district in the base year, divided by the quotient of the statewide total gap elimination adjustment for the two thousand eleven--two thousand twelve

school year divided by total general fund expenditures in the base year, the product of (1) the product of the GEA/TGFE ratio multiplied by ninety dollars, computed to two decimal places without rounding, multiplied by (2) the state sharing ratio computed pursuant to paragraph g of subdivision three of this section multiplied by (3) the public school district enrollment for the base year, calculated pursuant to subparagraph two of paragraph n of subdivision one of this section; or

(C) the product of two and nine hundred fifty-six one-thousandths of a percent (0.02956) multiplied by the gap elimination adjustment for the two thousand eleven--two thousand twelve school year; or

(D) the product of (1) the positive difference, if any, of one and thirty-seven one-hundredths (1.37) minus the product of the combined wealth ratio computed pursuant to subparagraph one of paragraph c of subdivision three of this section multiplied by one and one-half (1.5), but not more than one, multiplied by (2) the public school district enrollment for the base year, calculated pursuant to subparagraph two of paragraph n of subdivision one of this section, multiplied by (3) four hundred seventy-three dollars and seventy cents; or

(E) for any district with a tax effort ratio computed pursuant to subparagraph three of paragraph a of subdivision sixteen of this section that is greater than four and four-tenths (4.4) and a combined wealth ratio computed pursuant to subparagraph one of paragraph c of subdivision three of this section that is less than one and one-half (1.5), the product of (1) the state sharing ratio computed pursuant to paragraph g of subdivision three of this section multiplied by (2) the public school district enrollment for the base year, calculated pursuant to subparagraph two of paragraph n of subdivision one of this section, multiplied by (3) three hundred nine dollars and thirty cents;

but shall be no greater than the product of twenty-five percent and the gap elimination adjustment for the two thousand eleven--two thousand twelve school year for the district, and (ii) the Limited English proficiency restoration which shall be apportioned to city school districts of cities with a population in excess of one hundred twenty-five thousand and less than one million. For any such city school district with a limited English proficiency ratio greater than or equal to four percent and less than five percent, the limited English proficiency restoration shall equal the product of the limited English

proficiency restoration base multiplied by seven tenths. For any such city school district with a limited English proficiency ratio greater than or equal to five percent, the limited English proficiency restoration shall equal the product of the limited English proficiency restoration base multiplied by two and two tenths. For any such city school district with a limited English proficiency ratio less than four percent, the limited English proficiency restoration shall equal the product of the limited English proficiency restoration base multiplied by one and seventy-five hundredths.

(A) for the purposes of computations pursuant to this subparagraph (1) "limited English proficiency ratio" shall mean the quotient of (a) the product of the limited English proficiency count computed pursuant to paragraph o of subdivision one of this section multiplied by fifty percent, divided by (b) public school district enrollment for the base year computed pursuant to subparagraph two of paragraph n of subdivision one of this section;

(2) "limited English proficiency restoration base" shall mean the product of the amount set forth for such school district as "TOTAL" under the heading "2011-12 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the enacted budget for the 2012-13 school year and entitled "SA121-3" multiplied by eleven hundredths of one percent.

(e) The gap elimination adjustment restoration amount for the two thousand thirteen--two thousand fourteen school year for a school district shall be computed based on data on file with the commissioner and in the database used by the commissioner to produce an updated electronic data file in support of the enacted budget for the two thousand thirteen--two thousand fourteen state fiscal year end entitled "SA131-4" and shall equal the greater of one hundred thousand dollars ($100,000) or the sum of:

(i) the "Tier A restoration" which shall mean the amount set forth for such school district as "GEA RESTORATION" under the heading "2013-14 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand thirteen--two thousand fourteen state fiscal year and entitled "BT131-4"; and

(ii) the "Tier B restoration" which shall mean for a district with (1)

a combined wealth ratio of less than one and seven-tenths (1.7) and (2) an enrollment per square mile which shall be the quotient, computed to two decimals without rounding, of the public school enrollment of the school district on the date enrollment was counted in accordance with subdivision one of this section for the base year divided by the square miles of the district, as determined by the commissioner, of less than one hundred and seventy and (3) a designation as high need or average need pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", or in the case of a reorganized district that had a predecessor district that was so designated and (4) a tier A restoration which equals less than twenty and seven-tenths percent (0.207) of the gap elimination adjustment for the base year, the positive difference if any, of the product of twenty and seven-tenths percent (0.207) multiplied by the gap elimination adjustment for the base year minus the tier A restoration; and

(iii) the "Tier C restoration" which shall mean for a district for which the sum of the tier A restoration and the tier B restoration is less than the product of the gap elimination adjustment for the base year multiplied by six percent (0.06), the positive difference of the product of the gap elimination adjustment for the base year multiplied by six percent (0.06) minus the sum of the tier A restoration and the tier B restoration; and

(iv) the "Tier D restoration" which shall mean for school districts that were: (1) designated as low or average need pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", or in the case of a reorganized district that had a predecessor district that was so designated and (2) designated as high need pursuant to the regulations of the commissioner in the most recently available study included in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand thirteen--two thousand fourteen state fiscal year and entitled "SA131-4" known as the 2008 need resource capacity category

code, the product of (a) the positive difference, if any, of the gap elimination adjustment for such district for the two thousand eleven--two thousand twelve school year minus the product of six and eight tenths percent (0.068) multiplied by the total general fund expenditures of such district for the two thousand ten--two thousand eleven school year, multiplied by (b) thirty-five hundredths (0.35); and

(v) the "Tier E restoration" which shall mean for districts with (1) a quotient of the positive difference of the gap elimination adjustment for the year prior to the base year minus the gap elimination adjustment for the base year divided by the gap elimination adjustment for the year prior to the base year is less than seven and five-tenths percent (0.075) and (2) a combined wealth ratio of less than one and one-tenth (1.10), the product of two and five-tenths percent (0.025) multiplied by the gap elimination adjustment for the base year; and

(vi) the "Tier F restoration" which shall mean for any district (1) designated as high need pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", or in the case of a reorganized district that had a predecessor district that was so designated, with (2) a GEA/TGFE ratio greater than four and ninety-one hundredths percent (.0491), where the GEA/TGFE ratio shall be the quotient of the gap elimination adjustment for the base year for the district divided by the total general fund expenditures of such district in the base year, the product of fifteen dollars ($15.00), multiplied by the base year public school district enrollment, as computed pursuant to paragraph n of subdivision one of this section, but not less than one hundred thousand dollars ($100,000); and

(vii) the "Tier G restoration" which shall mean for a city school district of a city having a population in excess of one hundred twenty-five thousand and less than one hundred and sixty thousand and for city school districts of cities with populations in excess of two hundred and five thousand and less than three hundred thousand, the product of ten dollars ($10.00) multiplied by the base year public school district enrollment, as computed pursuant to paragraph n of subdivision one of this section and for a city school district of a city

having a population in excess of one hundred sixty thousand and below two hundred thousand the product of eight dollars ($8.00) multiplied by the base year public school district enrollment, as computed pursuant to paragraph n of subdivision one of this section and for a city school district of a city having a population of one million or more, the product of forty-two dollars and two cents ($42.02), multiplied by the base year public school district enrollment, as computed pursuant to paragraph n of subdivision one of this section; and

(viii) the "Tier H restoration" which shall mean for districts other than for city school districts of cities having populations of one hundred and twenty-five thousand or more, the product of the positive difference of one and forty-three hundredths (1.43) minus such district's regional cost index pursuant to subdivision four of this section, multiplied by five, multiplied by the three-year average free and reduced price lunch percent, multiplied by one hundred dollars ($100.00) multiplied by the base year public school district enrollment, as computed pursuant to paragraph n of subdivision one of this section; and

(ix) the "Tier I restoration" which shall mean for any district with a combined wealth ratio greater than one and one-tenth (1.1) and a three-year average free and reduced price lunch percent greater than six-tenths (0.6), the product of one hundred and fifty dollars ($150.00) multiplied by the base year public school district enrollment, as computed pursuant to paragraph n of subdivision one of this section; and

(x) the "Tier J restoration" which shall mean for a district with a combined wealth ratio less than one and one-tenths (1.1), the product of (a) two hundred dollars ($200.00) multiplied by (b) the positive difference, if any, of the base year public school district enrollment less the public school district enrollment for the year four years prior to the base year, as computed pursuant to paragraph n of subdivision one of this section;

Provided further, notwithstanding any portion of this paragraph to the contrary, that a district's gap elimination adjustment restoration for the two thousand thirteen--two thousand fourteen school year shall not exceed the product of forty-three percent (0.43) and the gap elimination adjustment for the base year for the district.

(f) The gap elimination adjustment restoration amount for the two thousand fourteen--two thousand fifteen school year for a school district shall be computed based on data on file with the commissioner and in the database used by the commissioner to produce an updated electronic data file in support of the enacted budget for the two thousand fourteen--two thousand fifteen state fiscal year and entitled "SA141-5" and shall equal the greater of:

(i) the product of fourteen and thirteen hundredths percent (0.1413) multiplied by the gap elimination adjustment for the base year or;

(ii) the positive difference of (a) the product of twenty-nine percent (0.29) multiplied by the absolute value of the amount set forth for such school district as "GAP ELIMINATION ADJUSTMENT" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand eleven--two thousand twelve state fiscal year and entitled "BT111-2" minus (b) the positive difference of the absolute value of the amount set forth for such school district as "GAP ELIMINATION ADJUSTMENT" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand eleven--two thousand twelve state fiscal year and entitled "BT111-2" minus the gap elimination adjustment for the base year or;

(iii) seventy thousand dollars ($70,000) or;

(iv) the sum of:

(A) the product of the FRPL restoration amount multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section multiplied by the three-year average free and reduced price lunch percent, provided further, for the purposes of this paragraph the FRPL restoration amount shall equal (1) for a city school district of a city having a population in excess of one hundred twenty-five thousand and less than one million, five dollars ($5.00) or (2) for a city school district of a city having a population in excess of one million, one hundred four dollars and forty cents ($104.40) or (3) for all other school districts forty-three dollars ($43.00); and

(B) for a school district with (1) a three-year average free and reduced price lunch percent greater than sixty-five percent (0.65) and

(2) base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section greater than thirty-five hundred (3,500) and for which (3) the quotient of (a) the positive difference, if any, of the absolute value of the amount set forth for such school district as "GAP ELIMINATION ADJUSTMENT" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand eleven--two thousand twelve state fiscal year and entitled "BT111-2" minus the positive difference of the absolute value of the amount set forth for such school district as "GAP ELIMINATION ADJUSTMENT" under the heading "2014-15 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand fourteen--two thousand fifteen state fiscal year and entitled "BT141-5" divided by (b) the absolute value of the amount set forth for such school district as "GAP ELIMINATION ADJUSTMENT" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support to the executive budget request submitted for the two thousand eleven--two thousand twelve state fiscal year and entitled "BT111-2" is less than sixty percent (0.60), the product of one hundred and forty-three dollars ($143.00) multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section; and

(C) for a school district other than a city school district of a city having a population in excess of one million for which the quotient of (a) the positive difference, if any, of the limited English proficient count for the base year minus the limited English proficient count for the two thousand eight--two thousand nine school year divided by (b) the limited English proficient count for the two thousand eight--two thousand nine school year is greater than five percent (0.05), the product of one thousand five hundred dollars ($1,500) multiplied by the positive difference, if any of the limited English proficient count for the base year minus the limited English proficient count for the two thousand eight--two thousand nine school year multiplied by such districts extraordinary needs percent as computed pursuant to paragraph w of subdivision one of this section; and

(D) for a school district for which the quotient of the number of

persons aged five to seventeen within the school district, based on the most recent decennial census as tabulated by the National Center on Education Statistics, who were enrolled in public schools and whose families had incomes below the poverty level, divided by the total number of person aged five to seventeen within the school district, based on such decennial census, who were enrolled in public schools, computed to four decimals without rounding is greater than eighteen percent (0.18), the product of four hundred and ninety-five dollars ($495) multiplied by the positive difference, if any of the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section minus the two thousand ten--two thousand eleven public school district enrollment, as computed pursuant to subparagraph two of paragraph n of subdivision one of this section; and

(E) for a school district for which (1) the quotient of the two thousand thirteen--two thousand fourteen gap elimination adjustment divided by the total general fund expenditures for such district for the base year exceeds five percent (0.05), the product of ninety dollars ($90.00) multiplied by the base year public school district enrollment, as computed pursuant to paragraph n of subdivision one of this section; and

(F) for school districts for which the quotient of non public school district enrollment divided by the sum of the non public school district enrollment and the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section is greater than twenty-five hundredths (0.25), the product of (1) the quotient of non public school district enrollment divided by the sum of the non public school district enrollment and the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section multiplied by (2) the extraordinary needs percent as computed pursuant to paragraph w of subdivision one of this section multiplied by (3) the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section multiplied by (4) three hundred and fifty dollars ($350.00); and

(G) for school districts that: (1) were designated as average need pursuant to clause (c) of subparagraph two of paragraph c of subdivision

six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708" and (2) a combined wealth ratio computed pursuant to subparagraph one of paragraph c of subdivision three of this section of less than one (1.0) or for a school district designated as high need urban-suburban pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", the product of fifty-one dollars ($51.00) multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section; and

(H) for a school district designated as rural high need pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", the product of two hundred dollars ($200.00) multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section; and

(I) for school districts that were designated as small city school districts or central school districts whose boundaries include a portion of a small city for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand fourteen--two thousand fifteen school year and entitled "SA1415" the product of twenty-five dollars ($25.00) multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section and for school districts for which the quotient, computed to two decimals without rounding, of the public school enrollment of the school district on the date enrollment was counted in accordance with this subdivision for the base year divided by the square miles of the district, as determined by the commissioner is less than two hundred and fifty (250), the product of sixteen dollars ($16.00) multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section; and

(J) For a district for which (1) the quotient, computed to two decimals without rounding, of the public school enrollment of the school district on the date enrollment was counted in accordance with this subdivision for the base year divided by the square miles of the district, as determined by the commissioner is greater than eight hundred (800) and (2) the tax effort ratio, as defined in subdivision sixteen of this section is greater than four and (3) the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section is greater than the two thousand ten--two thousand eleven public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section, the product of two hundred and fifty dollars ($250.00) multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section, provided that such amount shall not exceed one million dollars ($1,000,000); and

(K) For school districts that were: (1) designated as low or average need pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", or in the case of a reorganized district that had a predecessor district that was so designated and (2) designated as high need pursuant to the regulations of the commissioner in the most recently available study included in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand thirteen--two thousand fourteen state fiscal year and entitled "SA131-4" known as the 2008 need resource capacity category code, the product of (a) the positive difference, if any, of the absolute value of the amount set forth for such school district as "GAP ELIMINATION ADJUSTMENT" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand eleven--two thousand twelve state fiscal year and entitled "BT111-2" minus the product of six and eight tenths percent (0.068) multiplied by the total general fund expenditures of such district for the two thousand ten--two thousand eleven school year, multiplied by (b)

fifty-five hundredths (0.55); and

(L) the amount set forth for such school district as "GEA RESTORATION" under the heading "2014-15 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget request submitted for the two thousand fourteen--two thousand fifteen state fiscal year and entitled "BT141-5".

Provided further, notwithstanding any provision of this paragraph to the contrary, that a district's gap elimination adjustment restoration for the two thousand fourteen--two thousand fifteen school year shall not exceed the product of seventy percent (0.70) and the gap elimination adjustment for the base year for the district.

g. The gap elimination adjustment restoration amount for the two thousand fifteen--two thousand sixteen school year for a school district shall be computed based on data on file with the commissioner and in the database used by the commissioner to produce an updated electronic data file in support of the enacted budget for the two thousand fifteen--two thousand sixteen state fiscal year and entitled "SA151-6" and shall equal the sum of tiers one through four plus the sum of minimums A, B, and C.

(i) "Tier one" shall equal the product of thirty dollars ($30.00) multiplied by the extraordinary needs count computed pursuant to paragraph s of subdivision one of this section multiplied by the concentration factor, where the concentration factor shall be the sum of one plus the quotient arrived at when dividing (1) the difference of the extraordinary needs percent computed pursuant to paragraph w of subdivision one of this section less four-tenths (0.4) divided by (2) nine hundred two thousandths (0.902), provided, however, that such concentration factor shall not be less than one.

(ii) "Tier two" shall be the product, for districts with a change in enrollment of greater than two percent, of six hundred dollars ($600.00), and for all other districts with a change in enrollment greater than zero but less than two percent, five hundred dollars ($500.00) multiplied by the change in enrollment, where the change in enrollment shall be the positive difference, if any, of the base year public school district enrollment as computed pursuant to subparagraph

two of paragraph n of subdivision one of this section for the base year less public school district enrollment for the two thousand thirteen--two thousand fourteen school year.

(iii) "Tier three" shall be the product of twenty-two dollars and fifty cents ($22.50) multiplied by the free and reduced price lunch percent computed pursuant to paragraph p of subdivision one of this section multiplied by the base year public school district enrollment as computed pursuant to subparagraph two of paragraph n of subdivision one of this section for the base year.

(iv) "Tier four" shall be the product of three hundred dollars ($300.00) multiplied by the limited English proficient count computed pursuant to paragraph o of subdivision one of this section multiplied by the extraordinary needs percent computed pursuant to paragraph w of subdivision one of this section multiplied by the sum of one and the LEP growth percent, where the LEP growth percent shall be the quotient arrived at by dividing the positive difference, if any, of the limited English proficient count for the base year less such count for the year prior to the base year divided by such count for the year prior to the base year.

(v) "Minimum A" shall be the minimum A percent multiplied by the gap elimination adjustment for the base year, where the minimum A percent shall be the greater of (1) for a city school district of a city having a population of one million or more twenty-nine and forty-five hundredths percent (0.2945), or (2) for a city school district of a city having a population of one hundred twenty-five thousand or more but less than one million and a combined wealth ratio of less than five-tenths (0.5) eighty percent (0.80), or (3) for all other districts with a combined wealth ratio less than one and eight-tenths (1.8) thirty-five and six-tenths percent (0.356), or (4) for all other districts thirty percent (0.30).

(vi) "Minimum B" shall be for districts designated as average need pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708" and with a combined wealth ratio of less than seventy-eight hundredths (0.78), twenty-six and fifteen hundredths percent (0.2615) multiplied by the gap

elimination adjustment for the base year.

(vii) "Minimum C" shall be for districts designated as high need pursuant to clause (c) of subparagraph two of paragraph c of subdivision six of this section for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA0708", other than those city school districts of a city having a population of one hundred twenty-five thousand or more, forty-three percent (0.43) multiplied by the gap elimination adjustment for the base year.

(viii) Provided however, that no GEA restoration shall be more than the product of ninety-eight percent (0.98) multiplied by the gap elimination adjustment for the base year.

h. The gap elimination adjustment for the two thousand sixteen--two thousand seventeen school year and thereafter shall equal zero.

18. Allocable growth amount apportionment. Such amount shall be apportioned for a school year pursuant to a chapter of the laws of New York enacted for the state fiscal year in which such school year commences, and shall be allocated to purposes including but not limited to competitive grant awards made pursuant to subdivisions five and six of section thirty-six hundred forty-one of this article, the foundation aid phase-in amount or other foundation aid increase allocated pursuant to subdivision four of this section and the gap elimination adjustment restoration amount apportioned pursuant to subdivision seventeen of this section. In the event that a chapter of the laws of New York enacted for the state fiscal year in which such school year commences is not enacted, the allocations in support of subdivisions five and six of section thirty-six hundred forty-one of this article shall equal the allocations in support of such awards in the base year, and the apportionments pursuant to subdivisions four and seventeen of this section for the current year shall equal the apportionments for such subdivisions four and seventeen for the base year.

19. Pandemic adjustment. a. Notwithstanding any other provision of law to the contrary, the commissioner shall reduce payments due to each district for the two thousand twenty--two thousand twenty-one school

year pursuant to section thirty-six hundred nine-a of this part by an amount equal to the pandemic adjustment computed for such district, and provided further that an amount equal to the amount of such deduction shall be deemed to have been paid to the district pursuant to this section for the school year in which such deduction is made. The commissioner shall compute such pandemic adjustment in each electronic data file produced pursuant to subdivision twenty-one of section three hundred five of this chapter, based on the following information: (i) ninety-nine and one-half percent of the funds from the elementary and secondary emergency relief fund that are available for school districts pursuant to the Coronavirus Aid, Relief, and Economic Security Act of 2020, and (ii) the governor's emergency relief fund pursuant to such act, provided that a schedule of such amounts shall be approved by the director of the budget, and provided further the commissioner shall provide a schedule of such pandemic adjustment to the state comptroller, the director of the budget, the chair of the senate finance committee, and the chair of the assembly ways and means committee.

b. Notwithstanding any inconsistent provision of law to the contrary, where additional federal and state revenues are apportioned to school districts with a pandemic adjustment reduction pursuant to this subdivision, such additional federal and state revenues shall be apportioned to such school district in an amount equal to the pandemic adjustment as computed herein, unless otherwise specified by federal law.

c. The positive value of the pandemic adjustment payment reduction shall not exceed the sum of moneys apportioned pursuant to sections seven hundred one, seven hundred eleven, seven hundred fifty-one, seven hundred fifty-three, thirty-six hundred nine-a, thirty-six hundred nine-b, thirty-six hundred nine-d, thirty-six hundred nine-f, and thirty-six hundred nine-h for the two thousand twenty--two thousand twenty-one school year for any school district.

20. Shared services aid for school districts which are not components of a board of cooperative educational services supervisory district, including large city school districts. Commencing with aid payable in

the nineteen hundred ninety-eight--ninety-nine school year, school districts which are not components of a board of cooperative educational services supervisory district, including city school districts of those cities having populations in excess of one hundred twenty-five thousand inhabitants that participate in, or provide, shared services for the purpose of instructional support service as authorized by subdivision eight-c of section nineteen hundred fifty of this chapter shall be eligible for an additional apportionment in accordance with the provisions of this paragraph. Within the amount appropriated for such purpose, such districts shall be entitled to an additional apportionment for their expenses incurred in the base year from their participation in or provision of such shared services, in an amount equal to the amount that would be payable for such expenses if the services were aidable shared services under subdivision five of section nineteen hundred fifty of this chapter; provided that in computing such aid for such city school districts the tax rate shall be determined in the manner prescribed in subparagraph seven of paragraph a of subdivision thirty-one-a of this section. Such apportionment shall be paid in accordance with section thirty-six hundred nine-a of this chapter. In the event the appropriation for purposes of this subdivision in any year is insufficient to pay all claims received pursuant to this subdivision, the commissioner shall determine the percentage of the total claims submitted that is represented by each district's claim on file with the commissioner at the time of creation of each data file or fiscal report required by subdivision twenty-one of section three hundred five of this chapter and shall pay such claims based on such prorated basis among all districts filing such claims until the appropriation is exhausted, provided that such prorated apportionment computed and payable as of September one of the school year immediately following the school year for which such aid is claimed shall be deemed final and not subject to change. For aid payable in the nineteen hundred ninety-eight--ninety-nine school year, the aid payable pursuant to this subdivision shall not exceed three million, five hundred thousand dollars ($3,500,000); for the nineteen hundred ninety-nine--two thousand school year the aid payable pursuant to this subdivision shall not exceed ten million dollars ($10,000,000); for the two thousand--two thousand one school year the aid payable pursuant to this subdivision

shall not exceed fifteen million dollars ($15,000,000); and for the two thousand one--two thousand two school year and thereafter the aid payable pursuant to this subdivision shall not exceed twenty-five million dollars ($25,000,000).

26-a. Aid for instructional computer technology expenses. a. Commencing with aid payable in the nineteen hundred ninety-eight--ninety-nine school year, the commissioner is hereby authorized to apportion to any school district aid pursuant to this subdivision for its approved expenditures, in excess of base year aid received pursuant to subdivision twenty-six of this section, for the purchase, lease-purchase and/or installation of instructional computer technology equipment, including original purchase, lease-purchase and/or installation of hardware and vendor-installed software for deployment in classrooms or school libraries; or for the costs of an extended maintenance contract for instructional computer technology equipment or network systems for a term not to exceed the applicable period of probable usefulness, to the extent such costs would be allowable under a state contract; provided, however, no expenses eligible for aid pursuant to subdivision six of this section shall be aidable pursuant to this subdivision, and provided further, no expenses aided pursuant to this subdivision shall be eligible for aid pursuant to subdivision twenty-six of this section or section nineteen hundred fifty of this chapter.

b. Aid pursuant to this subdivision shall equal the product of the district's instructional computer technology aid ratio and approved base year expenditures for capital outlays and/or current year expenditures for debt service and/or current year expenditures for lease purchase for acquisition and installation of instructional computer technology equipment. Notwithstanding any other provision of law to the contrary, debt service expenses or obligations due under a lease-purchase agreement executed in a prior year for instructional computer technology equipment pursuant to this subdivision shall be ordinary contingent expenses.

c. The district's instructional computer technology aid ratio shall be the greater of (i) the district's building aid ratio selected for use in

the current year pursuant to clause (b) of subparagraph two of paragraph c of subdivision six of this section; or (ii) the district's millage ratio equal to one minus the quotient expressed as a decimal to three places without rounding of eight mills divided by the tax rate of the local district computed upon the actual valuation of taxable property, as determined pursuant to subdivision one of this section, expressed in mills to the nearest tenth as determined by the commissioner, provided, however, that for a city school district in a city having a population in excess of one hundred twenty-five thousand inhabitants the tax rate shall be computed in the manner prescribed in subparagraph seven of paragraph a of subdivision thirty-one-a of this section, and provided that for a school district which is included within a central high school district or for a central high school district, such millage ratio shall equal one minus the quotient expressed as a decimal to three places without rounding of three mills divided by the tax rates, expressed in mills to the nearest tenth, of such districts, as determined by the commissioner; or (iii) thirty-six hundredths. For the purposes of this paragraph, the tax rate for the central high school district shall be the amount of tax raised by the common and union free school districts included within the central high school district for the support of the central high school district divided by the actual valuation of the central high school district. The tax rate for each common or union free school district shall be the amount raised for the support of such common or union free school district, exclusive of the amount raised for the central high school district, divided by such actual valuation of such common or union free school district.

d. To be eligible for aid pursuant to this subdivision, school districts shall develop and maintain a plan for the use of the instructional computer technology equipment funded pursuant this section, which shall be in a form prescribed by the commissioner and shall include but shall not be limited to provision for maintenance and repair of equipment and the provision of staff development in the use of such technology. In addition, such plan may provide for the district's participation in the universal service discount program pursuant to the federal telecommunications act of nineteen hundred ninety-six, and the district's participation in the federal technology literacy challenge

program, where such federal technology programs are available. In prescribing the format for such plans, the commissioner shall assure that to the extent possible, districts will be able to develop a single plan that meets the requirements of this subdivision and such federal technology programs. In addition, funds apportioned pursuant to this subdivision shall be used in a manner consistent with the district's long-range facilities plan and building-level, district-wide, and where applicable, regional instructional and technology plans.

e. Expenses for instructional computer technology equipment and software provided through a board of cooperative educational services pursuant to a multi-year contract entered pursuant to section nineteen hundred fifty of this chapter shall continue to be aided under subdivision five of section nineteen hundred fifty of this chapter for the duration of such contract, and shall be paid in accordance with applicable provisions of section nineteen hundred fifty of this chapter and section thirty-six hundred nine-d of this article.

f. In the event the appropriation for purposes of this subdivision in any year is insufficient to pay all claims received pursuant to this subdivision, the commissioner shall determine the percentage of the total claims submitted that is represented by each district's claim on file with the commissioner at the time of creation of each data file or fiscal report required by subdivision twenty-one of section three hundred five of this chapter and shall pay such claims based on such prorated basis among all districts filing such claims until the appropriation is exhausted, provided that such prorated apportionment computed and payable as of September one of the school year immediately following the school year for which such aid is claimed shall be deemed final and not subject to change. For aid payable in the nineteen hundred ninety-eight--ninety-nine school year, the aid payable pursuant to this subdivision shall not exceed nine million dollars ($9,000,000); for the nineteen hundred ninety-nine--two thousand school year the aid payable pursuant to this subdivision shall not exceed twenty-five million dollars ($25,000,000); for the two thousand--two thousand one school year the aid payable pursuant to this subdivision shall not exceed fifty-seven million dollars ($57,000,000); and for the two thousand

one--two thousand two school year and thereafter the aid payable pursuant to this subdivision shall not exceed ninety-one million dollars ($91,000,000).

41. Transitional aid for charter school payments. In addition to any other apportionment under this section, for the two thousand seven--two thousand eight school year and thereafter, a school district other than a city school district in a city having a population of one million or more shall be eligible for an apportionment in an amount equal to the greater of the sum of paragraphs (a), (b), and (c), or paragraph (e) of this subdivision.

(a) the product of (i) the product of eighty percent multiplied by the charter school basic tuition computed for such school district for the base year pursuant to section twenty-eight hundred fifty-six of this chapter, multiplied by (ii) the positive difference, if any, of the number of resident pupils enrolled in the charter school in the base year less the number of resident pupils enrolled in a charter school in the year prior to the base year, provided, however, that a school district shall be eligible for an apportionment pursuant to this paragraph only if the number of its resident pupils enrolled in charter schools in the base year exceeds two percent of the total resident public school district enrollment of such school district in the base year or the total general fund payments made by such district to charter schools in the base year for resident pupils enrolled in charter schools exceeds two percent of total general fund expenditures of such district in the base year, plus

(b) the product of (i) the product of sixty percent multiplied by the charter school basic tuition computed for such school district for the base year pursuant to section twenty-eight hundred fifty-six of this chapter, multiplied by (ii) the positive difference, if any, of the number of resident pupils enrolled in the charter school in the year prior to the base year less the number of resident pupils enrolled in a charter school in the year two years prior to the base year, provided, however, that a school district shall be eligible for an apportionment pursuant to this paragraph only if the number of its resident pupils enrolled in charter schools in the year prior to the base year exceeds two percent of the total resident public school district enrollment of

such school district in the year prior to the base year or the total general fund payments made by such district to charter schools in the year prior to the base year for resident pupils enrolled in charter schools exceeds two percent of the total general fund expenditures of such district in the year prior to the base year, plus

(c) the product of (i) the product of forty percent multiplied by the charter school basic tuition computed for such school district for the base year pursuant to section twenty-eight hundred fifty-six of this chapter, multiplied by (ii) the positive difference, if any, of the number of resident pupils enrolled in the charter school in the year two years prior to the base year less the number of resident pupils enrolled in a charter school in the year three years prior to the base year, provided, however, that a school district shall be eligible for an apportionment pursuant to this paragraph only if the number of its resident pupils enrolled in charter schools in the year two years prior to the base year exceeds two percent of the total resident public school district enrollment of such school district in the year two years prior to the base year or the total general fund payments made by such district to charter schools in the year two years prior to the base year for resident pupils enrolled in charter schools exceeds two percent of the total general fund expenditures of such district in the year two years prior to the base year.

(d) For purposes of this subdivision the number of pupils enrolled in a charter school shall not include pupils enrolled in a charter school for which the charter was approved by a charter entity contained in paragraph a of subdivision three of section twenty-eight hundred fifty-one of this chapter.

(e) For school districts other than city school districts of cities having populations of one hundred twenty-five thousand or more as of the two thousand twenty decennial census, the product of eligible pupils multiplied by eight-tenths (0.8) and further multiplied by charter school basic tuition for the base year as defined pursuant to section twenty-eight hundred fifty-six of this chapter. For purposes of this paragraph, eligible pupils shall be equal to the positive difference, if any, of the number of resident pupils enrolled in a charter school in the base year less the product of two-tenths (0.2) multiplied by total resident public school district enrollment in the base year.

§ 3602-b. Apportionment of moneys to school districts employing fewer than eight teachers. 1. Notwithstanding any other provision of law, each school district of the state employing fewer than eight teachers shall receive its apportionment of public money payable during the school year commencing July first, nineteen hundred sixty-three and during subsequent school years pursuant to the provisions of this section. Such apportionment shall be computed by applying the state sharing ratio of the district computed in the same manner as provided in section thirty-six hundred two of this article to the approved operating expense of the school district for operating purposes and for transportation.

a. Approved operating expense shall be for the year prior to the base year as defined in section thirty-six hundred two of this article and shall be determined in the same manner provided in such section, provided, however, that the amount so approved shall not exceed the sum of (1) four thousand five hundred dollars multiplied by the lesser of the number of full-time teachers employed during such year prior to the base year or seven and (2) weighted average daily attendance as defined in section thirty-six hundred two of this article for the base year multiplied by the sum of sixty dollars plus an amount computed by multiplying ninety cents by such weighted average daily attendance. Any such district employing three or more teachers shall be permitted to use the weighted average daily attendance averaged over the three year period immediately preceding the current year as defined in section thirty-six hundred two of this article.

b. Approved transportation expense shall be for the base year and shall be determined in the same manner as provided in subdivision seven of section thirty-six hundred two of this chapter.

2. If the local revenue provided by any such school district in the current year, as defined in section thirty-six hundred two of this article, inclusive of its local nonproperty tax receipts, is less than the amount which could be raised by a tax at the rate specified in this section on its actual valuation as defined in such section, the

apportionment for such current year shall be reduced by the amount which such local revenue is less than the amount which could be raised at such rate. The rate for the school year two thousand seven--two thousand eight and thereafter shall be the local tax factor established pursuant to subdivision four of section thirty-six hundred two of this article.

§ 3602-c. Apportionment of moneys to school districts for the provision of services to pupils attending nonpublic schools. 1. Definitions. As used in this section the following terms are defined as follows:

a. "Services" shall mean instruction in the areas of gifted pupils, career education and education for students with disabilities, and counseling, psychological and social work services related to such instruction provided during the regular school year for pupils enrolled in a nonpublic school located in a school district, provided that such instruction is given to pupils enrolled in the public schools of such district.

b. "Gifted pupils" shall mean those pupils who show evidence of high performance capability and exceptional potential in areas such as general intellectual ability, special academic aptitude, and outstanding ability in visual and performing arts. Such definition shall include those children who require educational programs or services beyond those normally provided by the regular school program in order to realize their full potential.

c. "Career education" shall mean training or retraining designed to prepare individuals who are entitled to attend the public schools of the state without the payment of tuition pursuant to section thirty-two hundred two of the education law for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations and in new or emerging occupations or to prepare pupils for enrollment in advanced technical education programs, but excluding any program to prepare pupils for employment in occupations which generally are considered professional or which require a baccalaureate or higher

degree; such training generally being grouped within the occupational fields of agriculture, business, distributive, health, home economics related, trade and technical education.

d. "Education for students with disabilities" shall mean special educational programs designed to serve persons who meet the definition of children with disabilities set forth in subdivision one of section forty-four hundred one of this chapter.

e. "Average daily attendance" shall mean the total number of attendance days of pupils receiving services divided by the number of days the public school was in session for each attendance period. For each such attendance period the total number of attendance days for each such pupil shall be determined by multiplying the number of days on which each such pupil was in attendance by the ratio obtained by dividing the number of class periods of each such pupil by the total number of class periods, not to exceed five, operated by the public school during the school day. Only pupils residing in this state shall be included in such computation.

* f. "School district of location" means the school district in which the nonpublic elementary or secondary school attended by the student is located.

* NB Repealed June 30, 2027

* 2. a. Boards of education of all school districts of the state shall furnish services to students who are residents of this state and who attend nonpublic schools located in such school districts, upon the written request of the parent or person in parental relation of any such student. Such a request for career education or services to gifted students shall be filed with the board of education of the school district in which the parent or person in parental relation of the student resides on or before the first day of June preceding the school year for which the request is made. In the case of education for students with disabilities, such a request shall be filed with the trustees or board of education of the school district of location on or before the first of June preceding the school year for which the request is made, or by July first, two thousand seven for the two thousand seven--two thousand eight school year only, provided that where a

student is first identified as a student with a disability after the first day of June preceding the school year for which the request is made, or thirty days after the chapter of the laws of two thousand seven which amended this paragraph, takes effect where applicable, and prior to the first day of April of such current school year, such request shall be submitted within thirty days after such student is first identified. For students first identified after March first of the current school year, any such request for education for students with disabilities in the current school year that is submitted on or after April first of such current school year, shall be deemed a timely request for such services in the following school year.

b. (1) For the purpose of obtaining education for students with disabilities, as defined in paragraph d of subdivision one of this section, such request shall be reviewed by the committee on special education of the school district of location, which shall develop an individualized education service program for the student based on the student's individual needs in the same manner and with the same contents as an individualized education program. The committee on special education shall assure that special education programs and services are made available to students with disabilities attending nonpublic schools located within the school district on an equitable basis, as compared to special education programs and services provided to other students with disabilities attending public or nonpublic schools located within the school district. Review of the recommendation of the committee on special education may be obtained by the parent or person in parental relation of the pupil pursuant to the provisions of section forty-four hundred four of this chapter.

(2) In the event an individualized education program for the two thousand seven--two thousand eight school year is developed pursuant to this section by the committee on special education of the student's school district of residence prior to the effective date of this subparagraph, with the consent of the parent or person in parental relation, such school district shall forward such individualized education program to the committee on special education of the school district of location. Such individualized education program shall be deemed to be an individualized educational services program for purposes

of this subdivision, and the school district of location shall provide the services recommended in such individualized education program, unless and until it is amended by its committee on special education in the manner prescribed by law. If, prior to the effective date of this subparagraph, a student suspected of having a disability has been referred to the committee on special education of the student's school district of residence the results of such evaluation, with the consent of the parent or person in parental relation of the student, shall be shared with the committee on special education of the school district of location, which may adopt such evaluation as its own or conduct a new evaluation in whole or in part.

(3) Notwithstanding any other provision of this section to the contrary, an individualized education program developed for the two thousand six--two thousand seven school year shall continue to be in full force and effect and binding on the school districts through the end of such school year. Such individualized education program shall be deemed an individualized educational services program for purposes of dispute resolution.

c. Due process complaints relating to compliance of the school district of location with child find requirements, including evaluation requirements, may be brought by the parent or person in parental relation of the student pursuant to section forty-four hundred four of this chapter.

d. In the case of career education and education of gifted students, the school district of residence shall contract with the school district in which the nonpublic school attended by the pupil is located, for the provision of services pursuant to this section.

* NB Effective until June 30, 2027

* 2. Boards of education of all school districts of the state shall furnish services to pupils who are residents of this state and who attend nonpublic schools located in such school districts, upon the written request of the parent, guardian or persons legally having custody of any such pupil. Such a request shall be filed with the board of education of the school district in which the parent, guardian or persons legally having custody of the pupil resides on or before the

first day of June preceding the school year for which the request is made; provided that, in the case of education for students with disabilities, where a student is first identified as a student with a disability after the first day of June preceding the school year for which the request is made and prior to the first day of April of such current school year or when a student with a disability establishes residence in the school district after June first of the preceding year and prior to April first of the current school year, such request shall be submitted within thirty days after such student is first identified or establishes residence in the district, as applicable. For students first identified or establishing residence after March first of the current school year, any such request for education for students with disabilities in the current school year that is submitted on or after April first of such current school year, shall be deemed a timely request for such services in the following school year. For the purpose of obtaining education for students with disabilities, as defined in paragraph d of subdivision one of this section, such request shall be reviewed by the committee on special education in accordance with the provisions of section forty-four hundred two of this chapter. Review of the recommendation of the committee on special education may be obtained by the parent, guardian or persons legally having custody of the pupil pursuant to the provisions of section forty-four hundred four of this chapter. Such school district shall contract with the school district in which the nonpublic school attended by the pupil is located, for the provision of services pursuant to this section, except that in the case of education for students with disabilities, the school district of residence may provide such services directly or by contract with the school district of location.

* NB Effective June 30, 2027

* 2-a. For the education for students with disabilities provided in the two thousand seven--two thousand eight school year and thereafter, to the extent required by federal law, the school district of location of a student with a disability shall be responsible for compliance with the requirements of paragraph ten of subsection (a) of section fourteen hundred twelve of title twenty of the United States code, including but not limited to, equitable provision of services, child find and consultation requirements. The committee on special education of the

school district of location shall be responsible for evaluation and possible identification as a student with a disability of all students attending nonpublic schools located within the school district, including students who are not New York residents. The school district of location shall expend a proportionate amount of its federal funds made available under part B of the individuals with disabilities education act for the provision of services to students with disabilities attending such nonpublic schools, including students who are not New York residents, provided that such federal funds may not be used for the cost of carrying out the child find requirement. School districts shall obtain parental consent prior to the release of personally identifiable information concerning a student attending a nonpublic school from records collected or maintained pursuant to part B of the individuals with disabilities education act between such student's school district of residence and school district of location.

* NB Repealed June 30, 2027

* 2-b. The school district of location shall provide special education programs and services to students with disabilities attending nonpublic schools in the school district who are not New York residents to the extent required under federal law and regulations and such students shall not have an individual right to receive special education programs and services pursuant to this section. The committee on special education shall develop services plans for such students in accordance with federal law and regulations. The provisions of subdivision two of this section shall not apply to such students, except that due process complaints relating to compliance of the school district of location with child find requirements, including evaluation requirements, may be brought by the parent or person in parental relation of the student pursuant to section forty-four hundred four of this chapter.

* NB Repealed June 30, 2027

2-c. Solely for the purpose of the provision of education for students with disabilities pursuant to this section and the computation of state aid for such education pursuant to section thirty-six hundred two of this article, a student in a home instruction program submitted by his or her parent or person in parental relation for review pursuant to the regulations of the commissioner shall be deemed to be a student enrolled

in and attending a nonpublic school eligible to receive services pursuant to subdivision two of this section; provided that such student is entitled to attend the public schools without payment of tuition pursuant to subdivision one of section thirty-two hundred two of this chapter and has an individualized home instruction plan that has been determined by the superintendent of schools of the school district in which the home school is located to be in compliance with the regulations of the commissioner. The deadlines for submission of written requests for the education of students with disabilities set forth in subdivision two of this section shall apply to students in a home instruction program, except that such request may be submitted within thirty days of a change in the student's school district of residence; provided that for services in the two thousand eight--two thousand nine school year only such written requests for students in a home instruction program shall be submitted by June thirtieth, two thousand eight, or within thirty days after the effective date of this subdivision, whichever is later, except where subdivision two of this section or this subdivision authorizes submission at a later date. Except as provided in this subdivision, a home school shall not be considered a nonpublic school for any other purpose under this chapter.

3. Boards of education, with the consent of the commissioner of education, are authorized to contract with boards of cooperative educational services to provide the services required by this act. Pupils receiving services under the provisions of this subdivision shall be deemed public school pupils for the purpose of determining aid pursuant to section nineteen hundred fifty of the education law. Any such pupil who attends a program offered by a board of cooperative educational services, and who does not attend classes in the schools of the district furnishing services, shall not be included in computing average daily attendance in such district.

4. Boards of education shall provide transportation for pupils receiving gifted or career education between the nonpublic school attended by such pupils and the public school where such services are provided if the distance between the nonpublic school and the public school exceeds one-fourth of a mile, except that; boards of education

shall provide transportation for pupils receiving education for students with disabilities under the provisions of this section in accordance with the needs of each such pupil; and state aid for all such transportation shall be paid as though such transportation were furnished pursuant to the provisions of article eighty-nine of this chapter, except that such aid shall be paid at the rate of ninety percent of the actual cost of such transportation.

5. Boards of education, teachers and other employees of public schools shall not be liable for harm to pupils caused by others while such pupils are walking between public and nonpublic schools.

6. Boards of education are authorized to determine by resolution which courses of instruction shall be offered, the eligibility of pupils to participate in specific courses, and the admission of pupils. All pupils in like circumstances shall be treated similarly.

* 7. a. Boards of education of districts providing career education and gifted education services to non-resident students shall be entitled to recover tuition from the district of residence of such students in accordance with a formula promulgated by the commissioner by regulation.

b. In the case of the education for students with disabilities who are residents of New York, a school district of location providing services to non-resident students shall be entitled to recover costs of services, costs of evaluation, and costs of committee on special education administration directly from the district of residence of the student if consent of the parent or person in parental relation is obtained to release of personally identifiable information concerning their child. If such consent is not obtained, the school district of location shall submit to the commissioner, in a form prescribed by the commissioner, a claim for costs of services, evaluation costs, and committee on special education administrative costs that includes the address of the student's permanent residence, including the school district of residence, and a certification by officials of the nonpublic school attended by the student that such address is the address of record of such student. Upon certification by the commissioner of the amount of such claim, the state comptroller shall deduct such amount from any

state funds which become due to such school district of residence.

c. The amount charged by the school district of location for services, evaluation, eligible due process costs and committee on special education administrative costs shall not exceed the actual cost to the school district of location, after deducting any costs paid with federal or state funds. The commissioner shall adopt regulations prescribing a dispute resolution mechanism that will be available to a school district of residence where such district disagrees with the amount of tuition or costs charged by the school district of location.

* NB Effective until June 30, 2027

* 7. Boards of education of districts providing services to non-resident pupils shall be entitled to recover tuition from the district of residence of such pupils in accordance with a formula promulgated by the commissioner of education by regulation.

* NB Effective June 30, 2027

8. Average daily attendance, as computed under the provisions of this section, shall be included in the average daily attendance and average daily membership of the school district furnishing services for all purposes under the provisions of section thirty-six hundred two of this chapter, except that it shall not be used in the computation of resident weighted average daily attendance or total wealth pupil units or total wealth foundation pupil units or of aid ratios.

9. Pupils enrolled in nonpublic schools for whom services are provided pursuant to the provisions of this section shall receive such services in regular classes of the public school and shall not be provided such services separately from pupils regularly attending the public schools.

* 10. State and local funds provided by the district of residence pursuant to this section shall supplement and in no case shall supplant the proportionate amount of federal funds required to be expended by the school district in which the nonpublic school attended by the student is located pursuant to the individuals with disabilities education act.

* NB Repealed June 30, 2027

§ 3602-d. Work-prep education program. 1. Legislative findings. The legislature recognizes that rapid technological advances and global economic competition demand increased levels of skilled career education preparation and readiness on the part of youths entering the workforce. Effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students. The establishment of a work-prep education program requiring systematic career education articulation agreements between secondary schools and post-secondary educational institutions is such a strategy. Youths participating in this program will develop the skills in liberal arts, basic academics, including literacy instruction, and career fields necessary to acquire an associate degree or certificate increasingly required for positions in the workforce.

2. Definitions. As used in this section:

(a) "Articulation agreement" shall mean a commitment between secondary and post-secondary institutions to a program designed to provide students with a non-duplicative sequence of courses leading to competencies, as demonstrated by an associate degree or certificate, in an occupationally oriented field.

(b) "Disadvantaged" shall mean individuals (other than handicapped individuals) who have economic or academic disadvantages and who require special services and assistance in order to enable them to succeed in work-prep programs. Such term includes individuals who are: members of economically disadvantaged families as set forth in regulations promulgated by the department pursuant to sections sixty-four hundred fifty-one and sixty-four hundred fifty-two of this chapter or as set forth in the Federal Job Training Partnership Act of nineteen hundred eighty-two (PL 97-300) (29 U.S.C.A. § 1501 et seq.); migrants; English language learners; and individuals who are identified as potential dropouts from secondary school.

(c) "Work-prep education program" shall mean a combined secondary and post-secondary program which: leads to an associate degree or certificate; provides preparation and establishes competencies in an occupationally oriented field; and leads to employment.

(d) "Occupationally oriented field" shall mean applied science,

engineering, health sciences, mechanical or industrial arts, and/or home economics.

3. Work-prep education program. (a) The commissioner shall, out of available funds pursuant to the Federal Carl D. Perkins Act (PL 98-524) and/or its successor, provide grants on a competitive basis, to pay the cost of activities authorized by this section to a consortia of:

(1) school districts, local education agencies and/or boards of cooperative educational services serving secondary students; and

(2) post-secondary educational agencies which offer an associate degree program or certificate program.

(b) Each consortia interested in initiating a work-prep program shall submit a five year plan for the development and implementation of work-prep activities. At a minimum, the plan shall contain the following:

(1) an articulation agreement between the participants in the consortium;

(2) linkages between the two years of secondary school preceding graduation and post-secondary study. Such linkage must incorporate a next generation of required proficiency in an occupationally oriented field leading to an associate degree or certificate in a specific career field;

(3) the development of work-prep education program curriculum appropriate to the needs of consortium participants, program participants, and the business community;

(4) the development of specific measures to eliminate gender-based bias in occupational recruitment, counseling, instruction, and placement efforts;

(5) the provision of in-service training for counselors designed to enable counselors to effectively: recruit students for work-prep programs; ensure the student's successful completion of such programs; and assist in the student's employment placement; and

(6) performance standards creating measures for evaluating program success.

(c) The commissioner shall give special consideration to applications which:

(1) provide for effective employment placement activities;

(2) demonstrate a commitment to continue such program activities;

(3) include the input of business, industry, labor unions, joint apprenticeship committees, and employers conducting registered apprenticeship programs, in its development; and

(4) address the issues of dropout prevention, disadvantaged youths, and handicapped youths.

4. Apportionment of funds. (a) Allowable costs under this section shall include expenses related to the coordination, administration and/or delivery of the work-prep program such as: costs of assessment, guidance, and instructional materials; purchase of equipment; personal services associated with joint curriculum planning and development activities; and costs of in-service training for participating teachers and guidance counselors.

(b) Moneys appropriated under this section shall be apportioned ensuring an equitable distribution of assistance throughout the state and among both urban and rural participants.

§ 3602-e. Universal prekindergarten program. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

a. "School district" shall mean all public school districts eligible for total foundation aid pursuant to subdivision four of section three thousand six hundred two of this article, such term shall not include boards of cooperative educational services.

b. "Eligible agencies" shall mean a provider of child care and early education, a day care provider, early childhood program or center, non-profit organization, charter school, library, museum, or community-based organization, including but not limited to approved pre-school special education programs, head start, and nursery schools so long as the standards and qualifications set forth pursuant to subdivision twelve of this section have been met.

c. "Eligible four-year-old children" shall mean resident children who

are four years of age on or before December first of the year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with the following school year.

c-1. "Eligible three-year-old children" shall mean resident children who are three years of age on or before December first of the year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing two years from the time of enrollment.

d. "Pre-kindergarten program plan" shall mean a plan approved by the board of education or, in the case of a school district having a population of one million or more, by the community superintendent and the chancellor that is designed to effectively serve eligible children directly through the school district or through collaborative efforts between the school district and an eligible agency or agencies.

e. "Session" shall mean one universal prekindergarten program class operating pursuant to time, staff ratio and other regulatory requirements as set forth by the board of regents and the commissioner for such purpose.

f. "Universal access proxy" shall mean the product of eighty-five percent multiplied by the positive difference, if any, between the sum of the public school enrollment and the nonpublic school enrollment of children attending full-day and half-day kindergarten programs in the district in the year prior to the base year less the number of resident children who attain the age of four before December first of the base year, who were served during such school year by a prekindergarten program approved pursuant to section forty-four hundred ten of this chapter, where such services are provided for more than four hours per day.

g. "Half-day program" shall mean a program which serves students for at least two and five-tenths hours but less than five hours per day.

h. "Full-day program" shall mean a program which serves students for

at least five hours per day.

2. The commissioner is hereby authorized and directed to award grants for the establishment and implementation of a prekindergarten program to serve eligible children.

* 3. Beginning in the two thousand twenty-three--two thousand twenty-four school year, all school districts shall annually report to the commissioner: (i) the number of four-year-old prekindergarten students the district intends to serve in full-day and half-day slots in district-operated prekindergarten programs in the current school year; (ii) the number of four-year-old prekindergarten students the district intends to serve in full-day and half-day slots in prekindergarten programs operated by community-based organizations in the current school year; (iii) the number of four-year-old prekindergarten students in the current school year the district is unable to serve due to a lack of capacity; (iv) the reason for the lack of capacity, including the availability of appropriate space, facilities, and staff; and (v) any other information available to districts and determined by the commissioner to be necessary to accurately estimate the unmet demand for four-year-old prekindergarten programs within a district. School districts that are eligible to receive an apportionment under this section or section thirty-six hundred two-ee of this part but have not claimed the full apportionment shall include in the report to the commissioner information on barriers to implementing new or expanding existing universal prekindergarten programs despite available funding. Such report shall be due on or before September first of each year and shall be collected as part of the application submitted pursuant to subdivision five of this section. Beginning November first, two thousand twenty-three, the commissioner shall annually submit a report to the governor, the temporary president of the senate, and the speaker of the assembly on the information reported by districts.

* NB Repealed December 30, 2026

5. In any school district, other than the city school district of the city of New York, that seeks an apportionment pursuant to this section, the school district shall develop and submit an application pursuant to the rules and regulations adopted by the board of regents and the

commissioner for such purpose. Such application shall be submitted by a date and in a form prescribed by the commissioner pursuant to subdivision eight of this section, including the program elements as provided for in subdivision seven of this section and shall be consistent with the plan adopted by the district.

a. If the school district chooses to coordinate proposals for prekindergarten program services, it shall conduct a competitive process in accordance with procedures set forth by the commissioner and with the requirements and regulations set forth in, and pursuant to, subdivisions seven, eight and twelve of this section.

b. An application developed by coordinating proposals submitted by eligible agencies pursuant to a competitive process shall ensure delivery of prekindergarten program services in an effective, efficient and non-duplicative manner.

c. The results of the competitive process for prekindergarten program services shall be made public at a regular meeting of the board of education. An eligible agency may request a written statement from the board of education stating why the application was not accepted.

d. Notwithstanding any other provision of law, the school districts shall be authorized to enter any contractual or other arrangements necessary to implement the district's prekindergarten plan.

e. Not less than ten percent of the total grant award to the school district shall be set aside for collaborative efforts with eligible agencies, provided that the commissioner may waive such set aside requirement based upon documented evidence that the school district was unable to use the set aside to make a collaborative arrangement that would meet all requirements of this subdivision because of unavailability of eligible agencies willing to collaborate or other factors beyond the control of the school district, or for school districts which have fully implemented a universal prekindergarten program by serving all eligible four year olds in the nineteen hundred ninety-eight--ninety-nine school year and due to parental choice the ten

percent set aside requirement exceeds the total of the district's aid per kindergarten pupil multiplied by the number of pre-kindergarten pupils in collaborative programs. In such cases, school districts shall set aside, for collaborative efforts with eligible agencies, the total of the district's aid per kindergarten pupil multiplied by the number of prekindergarten pupils in collaborative programs.

f. Notwithstanding any other provisions of this section to the contrary, two or more school districts may submit a joint application to operate a joint universal prekindergarten program. For purposes of paragraph e of this subdivision and all other provisions of this section except subdivision ten, all references to a school district shall be deemed a reference to all school districts participating in such joint program as if they were a single district. For purposes of subdivision ten of this section, the grant award for the joint program shall be the sum of the grant awards computed for each participating district pursuant to such subdivision ten.

6. In the city school district of the city of New York, if a community school superintendent seeks to receive an apportionment pursuant to this section, the community school superintendent shall submit such plan to the chancellor for adoption, modification or rejection.

a. If the chancellor adopts such plan as submitted or as modified by the chancellor, the chancellor shall submit an application in accordance with subdivision five of this section.

b. If the chancellor rejects such plan, he or she shall notify the community superintendent in writing and shall state the reasons for such rejection.

The community superintendent may modify and resubmit such application to the chancellor for adoption.

7. In order to receive approval from the commissioner to implement a prekindergarten program, applications and proposals shall demonstrate that the program to be implemented contains, at a minimum, the following

components:

a. provides for an age and developmentally appropriate curriculum and activities which are learner-centered;

b. provides for an assessment of the development of language, cognitive and social skills;

c. ensures continuity in the program with instruction in the early elementary grades;

d. encourages children to be self-assured and independent;

e. encourages the co-location and integration of children with special needs;

f. utilizes staff who meet the qualifications set forth pursuant to the rules of the board of regents;

g. provides for strong parental partnerships and involvement in the implementation of and participation in the plan;

h. provides staff development and teacher training for staff and teachers in all settings in which prekindergarten services are provided pursuant to this section; and

i. establishes a method for selection of eligible children to receive prekindergarten program services on a random selection basis where there are more eligible children than can be served in a given school year, provided, however, that a school district that operated a targeted prekindergarten program in the base year may use the selection process established for such program.

8. Each application for a prekindergarten program pursuant to this section shall be on a form prescribed by the commissioner and shall include, but not be limited to:

a. a prekindergarten program plan identifying specific goals, including how the district will expand its program to assure that all eligible children may be served, and a proposed timetable for the implementation and achievement of such goals;

b. a proposed budget and a description of the proposed use of the grant funds including the mechanism for the distribution of such funds;

c. the local share to be used, as defined by the commissioner, which may include resources which may be available from the community;

d. the participation and contribution of each of the collaborative partners; and

e. a description of any costs associated with the administration of the program.

10. Universal prekindergarten apportionment. School districts shall receive a universal prekindergarten apportionment, in the two thousand twenty-six--two thousand twenty-seven school year and thereafter, equal to the sum of the four-year-old apportionment and the three-year-old apportionment.

a. The four-year-old apportionment shall equal the lesser of (i) the product of aid per four-year-old prekindergarten pupil multiplied by four-year-old prekindergarten pupils served, or (ii) total actual grant expenditures incurred by the school district as approved by the commissioner.

(1) "Aid per four-year-old prekindergarten pupil" shall equal the greater of (A) the school district's selected foundation aid for the current year projection as of the final electronic data file prepared by the commissioner pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter prior to July first of the current year, calculated pursuant to subdivision four of section thirty-six hundred two of this part, (B) ten thousand dollars, or (C) the amount set forth for such school district as "2025-26 4YO MAX UPK AID" on the school aid computer listing produced by the commissioner in

support of the executive budget for the two thousand twenty-six--two thousand twenty-seven fiscal year and entitled "BT262-7" divided by the amount set forth as "2025-26 4YO MAX FTE" on such listing.

(2) "Four-year-old prekindergarten pupils served" shall mean the sum of (i) the unduplicated count of all eligible four-year-old children registered to receive educational services in a full-day program, as registered on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district, as reported to the commissioner plus (ii) for the two thousand twenty-six--two thousand twenty-seven school year through the two thousand twenty-seven--two thousand twenty-eight school year, the product of five tenths multiplied by the unduplicated count of eligible four-year-old children registered to receive educational services in a half-day program, as registered on such date and reported to the commissioner.

b. The three-year-old apportionment shall equal the lesser of (i) the product of the three-year-old maximum apportionment and the three-year-old maintenance of effort percentage or (ii) total actual grant expenditures incurred by the school district as approved by the commissioner.

(1) "Three-year-old maximum apportionment" shall equal the greater of the three-year-old maximum apportionment from the base year or the amount set forth for such school district as "2025-26 3YO MAX UPK AID" on the school aid computer listing produced by the commissioner in support of the executive budget for the two thousand twenty-six--two thousand twenty-seven fiscal year and entitled "BT262-7."

(2) "Three-year-old maintenance of effort percentage" shall equal the quotient of three-year-old students served divided by the maximum eligible three-year-old students, but shall not exceed one hundred percent.

(A) "Three-year-old students served" shall equal the sum of (i) the unduplicated count of eligible three-year-old children registered to receive educational services in a full-day program as registered on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district, as reported to the commissioner, plus (ii) the product of five-tenths multiplied by the

unduplicated count of eligible three-year-old children registered to receive educational services in a half-day program, as registered on such date and reported to the commissioner, (iii) less the three-year-old overage penalty.

(I) "Three-year-old overage penalty" shall equal, for districts with thirty percent fewer three-year-old students served in full-day programs in the current year than the maximum eligible three-year-old full-day students, due to the conversion of the maximum eligible three-year-old full-day students to three-year-old students served in half-day programs in the current year, the difference of the product of seven-tenths multiplied by the maximum eligible three-year-old full-day students, rounded down to the nearest whole number, less the number of three-year-old students served in full-day programs in the current year.

(II) School districts may apply to the commissioner for a hardship waiver that would allow a district to convert more than thirty percent of three-year-old students served in full-day programs in the current year to three-year-old students served in half-day programs in the current year. Such waiver shall be granted upon a demonstration by the school district that due to a significant change in the resources available to the school district and absent such hardship waiver, the school district would be unable to serve such pupils in prekindergarten programs, without causing significant disruption to other district programming. If a hardship waiver is granted, the three-year-old overage penalty shall be zero for the current school year. No school district shall be eligible for a waiver in three or more consecutive school years.

(B) "Maximum eligible three-year-old students" shall equal the greater of the amount set forth for such school district as "2025-26 3YO MAX UPK FTE" on the school aid computer listing produced by the commissioner in support of the executive budget for the two thousand twenty-six--two thousand twenty-seven fiscal year and entitled "BT262-7" or the sum of (i) the maximum eligible three-year-old students in full-day programs in the base year plus (ii) the product of five-tenths multiplied by the maximum eligible three-year-old students in half-day programs in the base year.

c. School districts shall receive up to fifty percent of the universal

prekindergarten apportionment defined in this subdivision upon approval of the application submitted pursuant to subdivision five of this section, but not earlier than September first. School districts may be eligible for an additional twenty percent of such apportionment after April first of each school year upon completion of a request for funds on a form designated by the commissioner. The remainder of such apportionment shall be paid to each school district upon acceptance of a final expenditure report submitted on a form designated by the commissioner in the following school year.

11. No later than the two thousand twenty-eight--two thousand twenty-nine school year, all school districts shall serve in a full-day prekindergarten program all eligible four-year-old children whose parent or guardian applies to enroll such child in the district's universal prekindergarten program, whether such services are provided directly through the school district, a board of cooperative educational services, or collaborative efforts between the school district and an eligible agency or agencies.

12. The board of regents and the commissioner shall be authorized to adopt regulations to implement the provisions of this section and which shall prescribe uniform quality standards for such prekindergarten programs. In developing such regulations, the board of regents and the commissioner shall consider and seek to coordinate any regulations which may currently be applicable to any existing programs or eligible agencies. In addition, the regents when developing regulations shall consider and recognize the diversity of settings and models available for the delivery of prekindergarten programs operated by eligible agencies in alternative settings, including libraries and community based organizations, that comply with this section. Such regulations shall include but not be limited to:

a. minimum qualifications for personnel providing instructional and other services in prekindergarten programs. In promulgating such regulations, the commissioner and the board of regents shall take into account the availability of certified teachers and teaching assistants to provide instruction in prekindergarten programs and shall consider

ways to increase the pool of qualified personnel;

b. curriculum standards consistent with the New York state prekindergarten early learning standards to ensure that such programs have strong instructional content that is integrated with the school district's instructional program in grades kindergarten through twelve;

c. performance standards for prekindergarten programs, which shall include procedures for assessing the performance of such programs and establishing mechanisms for tracking progress of such programs and reporting such progress to parents of prekindergarten students and the public;

d. transitional guidelines and rules which allow a program to meet the required staff qualifications and any other requirements set forth pursuant to this section and regulations adopted by the board of regents and the commissioner; provided that such guidelines include an annual process by which a district may apply to the commissioner by September first of the current school year for a waiver that would allow personnel employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency. Provided, further, that the commissioner shall annually submit a report by November first to the chairperson of the assembly ways and means committee, the chairperson of the senate finance committee and the director of the budget which shall include but not be limited to the following: (a) a listing of the school districts receiving a waiver pursuant to this paragraph from the commissioner for the current school year; (b) the number and proportion of students within each district receiving a waiver pursuant to this paragraph for the current school year that are receiving instruction from personnel employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department; and (c) the number and proportion of total prekindergarten personnel for each school district that are providing instructional services pursuant to this paragraph that are employed by an eligible agency that is collaborating with a school

district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency.

e. health and safety standards;

f. time requirements which reflect the needs of the individual school districts for flexibility, but meeting a minimum weekly time requirement; provided, however, that the minimum weekly time requirement for full-day programs shall be twenty-five hours, and the weekly minimum time requirement for half-day programs shall be twelve and one-half hours;

g. the staff/child ratio;

h. reasonable grounds and basis for the non-acceptance of a proposal submitted to the school district when the proposal otherwise meets, to the extent applicable, all the regulations of the commissioner and the requirements set forth in this subdivision, as well as subdivisions seven and eight of this section;

i. any other program components, such as health, nutrition or support services, which the regents deem appropriate and necessary for the appropriate and effective implementation of a prekindergarten program;

j. a provision for a waiver of any inconsistent provisions of this section or the regulations implementing this section to allow school districts that operated a targeted prekindergarten program in the two thousand six--two thousand seven school year to continue to operate such program pursuant to the regulations of the commissioner that applied to targeted prekindergarten programs in such school year; provided that, notwithstanding any other provision of this section to the contrary, the amounts allocated to such targeted prekindergarten program from grants awarded pursuant to this section shall not exceed the amount of targeted prekindergarten grant funds received by the district for the two thousand six--two thousand seven school year;

k. a process by which a school district must submit an application;

l. a definition of the approved expenditures for which grant funds may be used, which shall include but not be limited to transportation services and lease expense or other appropriate facilities expenses; and

m. a process for the waiver of the time requirements established pursuant to this subdivision in order to authorize the operation of a summer universal prekindergarten program limited to the months of July and August, upon a finding by the commissioner that the school district is unable to operate the program during the regular school session because of a lack of available space pursuant to regulations of the commissioner. Notwithstanding any other provision of this section to the contrary, such process shall provide for a reduction of the aid per prekindergarten pupil payable for pupils served pursuant to such waiver by one one-hundred eightieth of the aid per prekindergarten pupil determined pursuant to paragraph a of subdivision ten or subparagraph (i) of paragraph b of subdivision ten-a of this section for each day less than one hundred eighty days that the summer program is in session.

13. Each school district that has implemented a prekindergarten program shall on an annual basis report to the board of regents, the commissioner, parents, teachers and the public on the status of such program. Such annual report shall include a financial summary of the approved expenditures of the program, as defined pursuant to paragraph l of subdivision twelve of this section, setting forth the expenditures from state, local and other revenue sources, and the district shall maintain documentation to insure that all grant funds are used for such approved expenditures.

14. On February fifteenth, two thousand, and annually thereafter, the commissioner and the board of regents shall include in its annual report to the legislature and the governor, information on school districts receiving grants under this section; the amount of each grant; a description of the program that each grant supports and an assessment by the commissioner of the extent to which the program meets measurable outcomes required by the grant program or regulations of such

commissioner; and any other relevant information, which shall include but not be limited to the following:

a. (i) the total number of students served in state-funded district-operated prekindergarten programs, (ii) the total number of students served in state-funded community-based prekindergarten programs, (iii) the total number of students served in state-funded half-day prekindergarten programs, and (iv) the total number of students served in state-funded full-day prekindergarten programs;

b. (i) the total number of students served in state, federal and locally funded district-operated prekindergarten programs, (ii) the total number of students served in state, federal and locally funded community-based prekindergarten programs, (iii) the total number of students served in state, federal and locally funded half-day prekindergarten programs, and (iv) the total number of students served in state, federal and locally funded full-day prekindergarten programs;

c. the total spending on prekindergarten programs from state, federal, and local sources;

d. the total number of students on a district wait list for a prekindergarten slot in a state-funded prekindergarten program; and

e. for each program described in subparagraphs (i), (ii), (iii) and (iv) of paragraph a of this subdivision, and subparagraphs (i), (ii), (iii) and (iv) of paragraph b of this subdivision, the total number of students served with disabilities that have an individualized education plan and, of those, the total number of students requiring any of the following approved services: special education itinerant services; special class in an integrated setting; or a special class. Such report shall also contain any recommendations to improve or otherwise change the program.

15. The commissioner shall also provide for a system for evaluation and assessment of the prekindergarten programs which have been implemented to determine the short and long-term success, outcomes and

effects of the programs based on relevant and measurable performance standards. The commissioner shall prohibit the administration of traditional standardized tests, as defined in regulations issued by the commissioner, in prekindergarten programs; provided, however, that nothing herein shall prohibit assessments in which students perform real-world tasks that demonstrate application of knowledge and skills or assessments that are otherwise required to be administered by federal law.

16. The grant payable to a school district pursuant to this section in the current year shall be reduced by one one-hundred eightieth for each day less than one hundred eighty days that the universal prekindergarten classes of the district were actually in session, except that the commissioner may disregard such reduction for any deficiency that may be disregarded in computing total foundation aid pursuant to subdivision seven or eight of section thirty-six hundred four of this chapter and in addition may disregard a reduction for any deficiency that is caused by a delay in the opening of public school classes due to extraordinarily adverse weather conditions or other cause cited in such subdivision seven of section thirty-six hundred four that results in cancellation of the prekindergarten program or of transportation to such program.

17. Approved quality indicators. A school district receiving funding pursuant to this section shall agree to adopt approved quality indicators within two years, including, but not limited to, valid and reliable measures of environmental quality, the quality of teacher-student interactions and child outcomes, and ensure that any such assessment of child outcomes shall not be used to make high-stakes educational decisions for individual children.

18. Notwithstanding paragraph (a) of subdivision one of section twenty-eight hundred fifty-four of this chapter and paragraph (c) of subdivision two of section twenty-eight hundred fifty-four of this chapter, charter schools shall be eligible to participate in universal prekindergarten programs under this section as eligible agencies, provided that all such monitoring, programmatic review and operational requirements under this section shall be the responsibility of the

charter entity and shall be consistent with the requirements under article fifty-six of this chapter. The provisions of paragraph (b) of subdivision two of section twenty-eight hundred fifty-four of this chapter shall apply to the admission of prekindergarten students. The limitations on the employment of uncertified teachers under paragraph (a-1) of subdivision three of section twenty-eight hundred fifty-four of this chapter shall apply to all teachers from prekindergarten through grade twelve.

*** § 3602-ee. Statewide universal full-day pre-kindergarten program.** 1. The purpose of the universal full-day pre-kindergarten program is to incentivize and fund state-of-the-art innovative pre-kindergarten programs and to encourage program creativity through competition.

2. All universal full-day pre-kindergarten programs shall demonstrate quality on the following elements:

(a) curriculum;

(b) learning environment, materials and supplies;

(c) family engagement;

(d) staffing patterns;

(e) teacher education and experience;

(f) facility quality;

(g) physical well-being, health and nutrition; and

(h) partnerships with non-profit, community and educational institutions.

3. (a) The universal full-day pre-kindergarten program shall make awards to (i) consolidated applications submitted by school districts which include pre-kindergarten programs offered by schools, non-profit organizations, community-based organizations, charter schools, libraries and/or museums, which shall demonstrate geographic diversity within the area to be served as well as diversity of providers; and (ii) non-profit organizations, community-based organizations, charter schools, libraries and museums, which may apply individually to the extent allowed under paragraph (b) of this subdivision. Any consolidated application must include, but is not limited to, the names of individual locations and

providers, applicable licenses, facility lease information, and intended staffing plans and certifications.

(b) Prior to submission of a consolidated application, a school district shall widely solicit non-profit organizations, community-based organizations, charter schools, libraries and museums located within the school district to be included in its application. The school district shall notify any applicant who has been denied for inclusion in the consolidated application no later than two weeks prior to submission of such application. Such eligible providers denied for inclusion may apply individually as provided in paragraph (a) of this subdivision.

(c) The department shall establish two application periods in advance of a school year.

(d) Providers awarded slots under this section that they actually utilized would continue to have such slots renewed in subsequent years provided the program meets quality standards and all applicable requirements.

4. Programs that provide more stimulation, enhance child development and demonstrate creative approaches to improve early childhood education will have a competitive advantage in the application process.

5. The department shall develop a scoring system, which it shall use to evaluate which applications shall be funded on a competitive basis based on merit and factors including but not limited to the criteria listed above and student and community need. Upon review of applications, if the program is oversubscribed in any region or regions of the state, the department shall notify the division of the budget, which shall develop a plan for distribution of available slots within any oversubscribed region. The subscription for the New York city region is three hundred million dollars. The department shall allocate full-day pre-kindergarten conversion slots and new full-day pre-kindergarten slots based on available funding and shall make payments upon documentation of eligible expenditures in the base year, which shall be limited to the actual number of slots operated and paid on a per-pupil basis pursuant to subdivision fourteen of this section.

6. The department shall develop a statewide inspection protocol, which

shall provide for annual inspections of all universal full-day pre-kindergarten providers, and shall develop a quality assurance protocol and physical plant review protocol for such reviews.

7. Statewide universal full-day pre-kindergarten slots shall only be awarded to support programs that provide instruction for at least five hours per school day for the full school year and that otherwise comply with the rules and requirements pursuant to section thirty-six hundred two-e of this part except as otherwise provided in this section.

8. All teachers in the universal full-day pre-kindergarten program shall meet the same teacher certification standards applicable to public schools. Pre-kindergarten teachers providing instruction through this section shall possess:

(a) a teaching license or certificate valid for service in the early childhood grades; or

(b) a teaching license or certificate for students with disabilities valid for service in early childhood grades; or

(c) for eligible agencies as defined in paragraph b of subdivision one of section thirty-six hundred two-e of this part that are not schools, a bachelor's degree in early childhood education. Provided however, beginning with the two thousand twenty-two--two thousand twenty-three school year, a school district may annually apply to the commissioner by September first of the current school year for a waiver that would allow personnel employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency. Provided further that the commissioner shall annually submit a report by November first to the chairperson of the assembly ways and means committee, the chairperson of the senate finance committee and the director of the budget which shall include but not be limited to the following: (a) a listing of the school districts receiving a waiver pursuant to this paragraph from the commissioner for the current school year; (b) the number and proportion of students within each district receiving a waiver pursuant to this paragraph for the current school year that are receiving instruction from personnel employed by an eligible agency that is collaborating with

a school district to provide prekindergarten services and licensed by an agency other than the department; and (c) the number and proportion of total prekindergarten personnel for each school district that are providing instructional services pursuant to this paragraph that are employed by an eligible agency that is collaborating with a school district to provide prekindergarten services and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency.

9. The process by which applicants submit proposals to collaborate with the school district or individually to the department, and the renewal process for such providers, shall take into account any record of violations of health and safety codes and/or licensure or registration requirements. In addition, any agency that is cited for a violation classified as an "imminent danger" by the office of children and family services or as a "public health hazard" by the New York city department of health and mental hygiene which is not immediately corrected and which is not of a life threatening or of a grave and serious nature shall be suspended from the program and, upon final determination of such violation by the regulating agency, suspended or terminated from participating in the program under this section based on the severity of the violation. Provided further, that eligible agencies with a record of other serious or critical and/or repeated violations that pose a risk to health or safety shall, upon final determination of such violations, be suspended or terminated from participating in the program under this section, and the office of children and family services shall establish statewide standards for determining such grounds for such suspension or termination based on violations issued by the applicable regulatory agency.

10. Notwithstanding any provision of law to the contrary, a universal full-day pre-kindergarten provider shall be inspected by the department, the school district with which it partners, if any, and its respective licensing, permitting, regulatory, oversight, registration or enrolling agency or entity no fewer than two times per school year, at least one inspection of which shall be performed by the eligible agency's respective licensing, permitting, regulatory, oversight, registration or

enrolling agency, as applicable.

11. Facilities providing universal full-day pre-kindergarten under this section shall meet all applicable fire safety and building codes and any applicable facility requirements of a state or local licensing or registering agency and at all times shall maintain building and classroom space in a manner that ensures and protects the health and safety of students in all programs statewide, notwithstanding any changes in such applicable codes or requirements.

12. Notwithstanding paragraph (a) of subdivision one of section twenty-eight hundred fifty-four of this chapter and paragraph (c) of subdivision two of section twenty-eight hundred fifty-four of this chapter, charter schools shall be eligible to participate in universal full-day pre-kindergarten programs under this section, provided that all such monitoring, programmatic review and operational requirements under this section shall be the responsibility of the charter entity and shall be consistent with the requirements under article fifty-six of this chapter. The provisions of paragraph (b) of subdivision two of section twenty-eight hundred fifty-four of this chapter shall apply to the admission of pre-kindergarten students, except parents of pre-kindergarten children may submit applications for the two thousand fourteen--two thousand fifteen school year by a date to be determined by the charter school upon selection to participate in the universal full-day pre-kindergarten program. The limitations on the employment of uncertified teachers under paragraph (a-1) of subdivision three of section twenty-eight hundred fifty-four of this chapter shall apply to all teachers from pre-kindergarten through grade twelve.

13. Apportionments under this section shall only be used to supplement and not supplant current local expenditures of federal or local funds on pre-kindergarten programs and the number of slots in such programs from such sources. Current local expenditures shall include any local expenditures of federal or local funds used to supplement or extend services provided directly or via contract to eligible children enrolled in a universal pre-kindergarten program pursuant to section thirty-six hundred two-e of this part.

14. (a) The award per pupil for an eligible entity pursuant to subdivision three of this section shall equal: (i) for each new full-day pre-kindergarten placement the lesser of the full-day pre-kindergarten per pupil amount or the total approved expenditures per pupil and (ii) for each existing half-day pre-kindergarten placement converted into a full-day pre-kindergarten placement the lesser of (A) the positive difference of the full-day pre-kindergarten per pupil amount minus the district's selected aid per pre-kindergarten pupil pursuant to subparagraph (i) of paragraph b of subdivision ten of section thirty-six hundred two-e of this part or (B) the positive difference of the total approved expenditures per pupil minus the district's selected aid per pre-kindergarten pupil pursuant to subparagraph (i) of paragraph b of subdivision ten of section thirty-six hundred two-e of this part. Each participating eligible entity pursuant to subdivision three of this section shall provide its expenses under this provision in a format prescribed by the commissioner.

(b) For the purposes of this section, "full-day pre-kindergarten per pupil amount" shall mean (i) for pupils enrolled in programs where the teacher of record for such pupil holds a teaching certificate issued by the commissioner in an appropriate certificate title, ten thousand dollars, and (ii) for pupils enrolled in programs where the teacher of record for such pupil does not hold a teaching certificate issued by the commissioner in an appropriate certificate title, seven thousand dollars.

(c) For the purposes of this section, "teacher of record" shall mean the teacher who is primarily and directly responsible for a student's learning activities, as reported to the department in a manner prescribed by the commissioner.

15. Definitions. For the purpose of this section, the following definitions shall apply:

(a) "regions of the state" shall mean:

(i) Capital Region: Includes Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Warren, and Washington counties.

(ii) Central New York Region: Includes Cayuga, Cortland, Madison, Onondaga and Oswego counties.

(iii) Finger Lakes Region: Includes Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates counties.

(iv) Long Island Region: Includes Nassau and Suffolk counties.

(v) Mid-Hudson Region: Includes Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester counties.

(vi) Mohawk Valley Region: Includes Fulton, Herkimer, Montgomery, Oneida, Otsego and Schoharie counties.

(vii) New York City Region: Includes Bronx, Kings, New York, Queens and Richmond counties.

(viii) North Country Region: Includes Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis and St. Lawrence counties.

(ix) Southern Tier Region: Includes Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga and Tompkins counties.

(x) Western New York Region: Includes Allegany, Cattaraugus, Chautauqua, Erie and Niagara counties.

(b) "community-based organization" shall mean a provider of child care and early education, a day care provider, early childhood program or center, approved preschool special education program, Head Start or other such community-based organization.

16. The authority of the department to administer the universal full-day pre-kindergarten program shall expire June thirtieth, two thousand twenty-six; provided that the program shall continue and remain in full effect.

17. Notwithstanding any inconsistent provision of law to the contrary, for the purposes of determining the prekindergarten allocation on the electronic data file prepared by the commissioner pursuant to subdivision twenty-one of section three hundred five of this chapter for the two thousand nineteen--two thousand twenty school year and thereafter, the commissioner is directed to include the grant amounts awarded pursuant to this section in the amount set forth for such school district as "UNIVERSAL PRE-KINDERGARTEN."

* NB Repealed July 1, 2026

§ 3602-f. Apportionment of moneys to school districts that result from

the partitioning of territory and formation of new school districts by district superintendents. Notwithstanding any other provision of law to the contrary, the apportionment of public money payable to school districts resulting from the partitioning of territory and formation of new school districts pursuant to section twenty-two hundred eighteen of this chapter shall be computed pursuant to section thirty-six hundred two of this article as adjusted by this section.

1. Definitions. As used in this section the following terms shall be defined as follows: a. "Combined data" shall mean any data or reports of factors specified in statute or regulation for the calculation and payment of any apportionment of state aid during the current school year pursuant to this chapter that derive from the annual records of the pre-existing school district, the remaining school district or the new school district for any school year ending prior to the first complete school year commencing on or after partitioning of territory of the pre-existing school district and formation of the new and remaining school districts pursuant to section twenty-two hundred eighteen of this chapter.

b. "Partitioned data" shall mean: (i) for the new school district, the product of combined data multiplied by the quotient of the resident public school district enrollment during the current year of such new school district divided by the sum of the resident public school district enrollment during the current year of the new school district and of the remaining school district, and (ii) for the remaining school district the product of combined data multiplied by the quotient of the resident public school district enrollment during the current year of such remaining school district divided by the sum of the resident public school district enrollment during the current year of the new school district and of the remaining school district.

c. "Adjusted actual valuation" shall mean the product of the actual valuation of the pre-existing school district, as defined in paragraph c of subdivision one of section thirty-six hundred two of this article, that would have been used to compute aids apportioned to the pre-existing school district in the current school year if partitioning

had not occurred, and the actual valuation adjustment factor.

d. "Actual valuation adjustment factor" shall mean (i) the quotient of the total taxable value of the assessment roll used by the school district claiming an apportionment pursuant to this section to levy taxes in the first complete school year commencing on or after partitioning divided by the applicable equalization rate used to apportion such tax levy, divided by (ii) the sum of such quotients computed for the new school district and for the remaining school district. Such factor shall be computed by the director of the office of real property services based on reports to be submitted to the director of real property services by the new school district and by the remaining school district, in a format specified by the director, no later than thirty days after the levy of taxes for the first complete school year commencing on or after partitioning. The director of the office of real property services shall certify the value computed for the new school district and for the remaining school district to the commissioner no later than thirty days after the receipt of such reports.

e. "Adjusted income" shall mean the product of the adjusted gross income of the pre-existing school district as set forth in paragraph k of subdivision one of section thirty-six hundred two of this article, that would have been used to compute aids apportioned to the pre-existing school district in the current school year if partitioning had not occurred, and the actual valuation adjustment factor.

2. Notwithstanding any other provision of this chapter, for the purposes of computing any apportionment of state aid payable pursuant to this chapter to the new school district or to the remaining school district during the first complete school year commencing on or after partitioning or any school year thereafter, the following factors used in the apportionment and payment of aid to the new school district or to the remaining school district shall be used in lieu of the indicated factors for any calculations that are based pursuant to statute on such data for a school year ending prior to such first complete school year commencing on or after partitioning, except that where the commissioner

determines that more accurate data is available for actual valuation and/or income, the commissioner shall use such more accurate data:

a. Adjusted actual valuation as defined in paragraph c of subdivision one of this section in lieu of actual valuation as defined in paragraph c of subdivision one of section thirty-six hundred two of this article.

b. Adjusted income as defined in paragraph e of subdivision one of this section in lieu of adjusted gross income as set forth in paragraph k of subdivision one of section thirty-six hundred two of this article.

3. Notwithstanding any other provision of this chapter, for the purposes of computing any apportionment of state aid payable pursuant to this chapter to the new school district or to the remaining school district during the first complete school year commencing on or after partitioning or any school year thereafter, the following factors used in the apportionment and payment of aid to the new school district or to the remaining school district shall be computed using combined data for any calculations that are based pursuant to statute on such data for a school year ending prior to such first complete school year commencing on or after partitioning.

a. Percentage of pupils with special educational needs as defined in subparagraph one of paragraph e of subdivision one of section thirty-six hundred two of this article.

b. Expense per pupil as defined in paragraph f of subdivision one of section thirty-six hundred two of this article.

c. Attendance ratio as defined in paragraph m of subdivision one of section thirty-six hundred two of this article.

d. Percent of eligible applicants for the free and reduced price lunch program as defined in paragraph p of subdivision one of section thirty-six hundred two of this article.

e. Sparsity factor as set forth in subparagraph (ii) of paragraph r of

subdivision one of section thirty-six hundred two of this article.

f. Percentage of pupils with compensatory educational needs as defined in paragraph t of subdivision one of section thirty-six hundred two of this article.

g. Tax effort ratio as defined in subparagraph one of paragraph a of subdivision sixteen of section thirty-six hundred two of this article.

h. Residential real property tax levy as defined in subparagraph three of paragraph a of subdivision sixteen of section thirty-six hundred two of this article.

i. School district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter.

4. Notwithstanding any other provision of this chapter, for the purposes of computing any apportionment of state aid payable pursuant to this chapter to the new school district or to the remaining school district during the first complete school year commencing on or after partitioning or any school year thereafter, the following factors used in the apportionment of aid to the new school district or to the remaining school district shall be computed using partitioned data for any calculations that are based pursuant to statute on such data for a school year ending prior to such first complete school year commencing on or after partitioning:

a. Summer session pupils as defined in paragraph g of subdivision one of section thirty-six hundred two of this article.

b. Comprehensive operating aids base as defined in paragraph j of subdivision one of section thirty-six hundred two of this article.

c. Enrollment, public school district enrollment, nonpublic school enrollment, resident public school district enrollment, resident nonpublic school district enrollment and additional public school enrollment each as defined in paragraph n of subdivision one of section

thirty-six hundred two of this article.

d. English language learner pupil count as defined in paragraph o of subdivision one of section thirty-six hundred two of this article.

e. Public excess cost aid base as defined in paragraph y of subdivision one of section thirty-six hundred two of this article.

f. Extraordinary needs aid base as defined in paragraph z of subdivision one of section thirty-six hundred two of this article.

g. Resident weighted average daily attendance as defined in subdivision two of section thirty-six hundred two of this article.

h. Adjusted average daily attendance as defined in subdivision two-a of section thirty-six hundred two of this article.

i. Total wealth pupil units as defined in subdivision two-b of section thirty-six hundred two of this article.

j. Approved transportation expense as defined in subdivision seven of section thirty-six hundred two of this article.

k. Total aidable pupil units as defined in subdivision eight of section thirty-six hundred two of this article.

l. Weighted pupils with handicapping conditions as defined in subparagraph b of paragraph one of subdivision nineteen of section thirty-six hundred two of this article.

m. Number of declassified pupils as defined in paragraph seven of subdivision nineteen of section thirty-six hundred two of this article.

n. Approved expenses for instructional computer hardware and technology equipment as defined in subdivision twenty-six of section thirty-six hundred two of this article.

o. Approved expenses for instructional computer technology as defined in subdivision twenty-six-a of section thirty-six hundred two of this article.

5. In the event the effective date of a reorganization pursuant to section twenty-two hundred eighteen of this chapter is after July first in any school year, or for any other grant or apportionment of aid not referenced in this section, aid shall be computed in the manner prescribed in the regulations of the commissioner.

6. Notwithstanding any provision of section three hundred fourteen of this chapter or paragraph a of subdivision fourteen of section thirty-six hundred two of this article to the contrary, a school district that has been reorganized pursuant to section twenty-two hundred eighteen of this chapter shall be eligible for apportionments of building aid pursuant to subdivision six of such section thirty-six hundred two of this article and this section for the construction, acquisition, reconstruction, rehabilitation or improvement of school buildings after a reorganization pursuant to section twenty-two hundred eighteen of this chapter despite any inconsistency between such reorganization and the state plan for school reorganization. In addition, following the partitioning of territory pursuant to section twenty-two hundred eighteen of this chapter, the remaining school district shall continue to be eligible to receive reorganization incentive aid and/or reorganization incentive building aid for a prior reorganization in accordance with subdivision fourteen of section thirty-six hundred two of this article, except where such partitioning reverses the prior reorganization for which such aid would be paid.

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

4. The apportionments provided for in section thirty-six hundred two of this chapter are for the purpose of aiding school districts in paying the salaries of teachers and the cost of school maintenance, and the

sums so apportioned to such school districts shall be applied for such purposes and such sums shall not in any case be placed in the city treasury of any city to the credit of the general fund of such city for the reduction of taxation therein, notwithstanding any provision to the contrary contained in the charter of such city or in any act relating to such city or in any general, special or local law.

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

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

b. Claims resulting from court orders or judgments. Any payment which would be due as the result of a court order or judgment shall not be barred, provided that, commencing January first, nineteen hundred ninety-six, such court order or judgment and any other data required shall be filed with the comptroller within one year from the date of the court order or judgment, and provided further that the commissioner

shall certify no payment to a school district for a specific school year that is based on a claim that results from a court order or judgement so filed with the comptroller unless the total value of such claim, as determined by the commissioner, is greater than one percent of the school district's total revenues from state sources as previously recorded in the general fund and reported to the comptroller in the annual financial report of the school district for such school year.

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

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

7. No district shall be entitled to any portion of such school moneys on such apportionment unless the report of the trustees or board of education for the preceding school year shall show that the public schools were actually in session in the district and taught by a qualified teacher or by successive qualified teachers or by qualified teachers for not less than one hundred eighty days. The moneys payable to a school district pursuant to section thirty-six hundred nine-a of this part in the current year shall be reduced by one one-hundred eightieth of the district's total foundation aid for the base year for each day less than one hundred eighty days that the schools of the district were actually in session, except that the commissioner may disregard such reduction in the apportionment of public money: (i) for

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

8. No school shall be in session on a Saturday, the first day of the second lunar month after the winter solstice in the preceding calendar year known as Asian Lunar New Year, or a legal holiday, except general election day, Washington's birthday and Lincoln's birthday, and except that driver education classes may be conducted on a Saturday. A deficiency not exceeding four days during any school year caused by teachers' attendance upon conferences held by superintendents of schools of city school districts or other school districts employing superintendents of schools shall be excused by the commissioner,

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

8-b. Notwithstanding the provisions of subdivision eight of this section, a trustee or board of trustees or a board of education of a school district having fewer than six hundred pupils in grades kindergarten through twelve may provide for classes to be held on any day of the week in connection with educational programs for the disadvantaged operated under the elementary and secondary education act; provided, however, no pupils or teachers shall be required to attend such classes if they observe any such day as a Sabbath or a holy day in accordance with the requirements of their religion.

9. Whenever it shall appear that any school district has had an average daily attendance of five or less during the three years

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

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

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

12. All the acts done and proceedings heretofore had and taken or

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

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

§ 3606. Nonresident academic attendance; manner of certifying and paying apportionment. The commissioner of education immediately after making an apportionment shall certify, or cause to be certified, to the treasurer, if there be one, otherwise to the disbursing officer or collector of each school district or academy included in such apportionment, except those located within the territory of the city of New York, the amount of money which has been allotted to each said school district or academy. The payment of said allotment shall be made by the commissioner of taxation and finance directly to the treasurer, if there be one, otherwise to the disbursing officer or collector of each school district or academy named in the certificate of the commissioner of education. Any apportionment which shall be made to the city school district of the city of New York shall be certified and paid

to the commissioner of finance of the city of New York, and any apportionment which shall be made to any private academy situated within the territory of the city of New York, shall be certified and paid directly to the disbursing officer of the academy to which the apportionment is made.

§ 3607. Manner of payment of moneys apportioned. Upon the audit of vouchers certified by the commissioner of education, the comptroller shall draw his warrant on the commissioner of taxation and finance for payment of any moneys apportioned for the support of common schools. Such payment shall be made to the treasurer, if there be one, otherwise to the disbursing officer or collector of each school district, and to the commissioner of finance of the city of New York for the city school district of the city of New York, through the commissioner of education.

§ 3608. Certificate of apportionment by commissioner of education. As soon as possible after the making of any annual or general or supplemental apportionment, the commissioner of education shall certify it, or cause it to be certified, to the district superintendents, city treasurer or chamberlain of each city school district of a city having one hundred twenty-five thousand inhabitants or more according to the latest federal census, the city school district treasurer of every other city school district, and the treasurer, if there be one, otherwise to the disbursing officer or collector of each school district included in such apportionment.

§ 3609-a. Moneys apportioned, when and how payable commencing July first, two thousand seven.

For aid payable in the two thousand seven--two thousand eight school year through the two thousand twenty-six--two thousand twenty-seven school year, "moneys apportioned" shall mean the lesser of (i) the sum of one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid

computer listing for the current year produced by the commissioner in support of the budget which includes the appropriation for the general support for public schools for the prescribed payments and individualized payments due prior to April first for the current year plus the apportionment payable during the current school year pursuant to subdivision six-a and subdivision fifteen of section thirty-six hundred two of this part minus any reductions to current year aids pursuant to subdivision seven of section thirty-six hundred four of this part or any deduction from apportionment payable pursuant to this chapter for collection of a school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter, less any grants provided pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, less any grants provided pursuant to subdivision five of section ninety-seven-nnnn of the state finance law, less any grants provided pursuant to subdivision twelve of section thirty-six hundred forty-one of this article, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payments made pursuant to this section prior to the first business day of June of the current year, moneys apportioned shall not include any aids payable pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part as current year aid for debt service on bond anticipation notes and/or bonds first issued in the current year or any aids payable for full-day kindergarten for the current year pursuant to subdivision nine of section thirty-six hundred two of this part. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section. For aid payable in the two thousand twenty-six--two thousand twenty-seven school year, reference to such "school aid computer listing for the current year" shall mean the printouts entitled "SA262-7".

1. General support for public schools (GSPS) appropriation. The GSPS appropriation shall be used to support payments made pursuant to this section, plus apportionments made pursuant to section seven hundred one, seven hundred eleven, seven hundred fifty-one, seven hundred

fifty-three, thirty-two hundred two, thirty-six hundred nine-b, thirty-six hundred forty-one and forty-four hundred five of this chapter, any other applicable allocations made pursuant to this chapter, but not paid pursuant to the schedule prescribed by this section or sections thirty-six hundred nine-b, thirty-six hundred nine-d or thirty-six hundred nine-f of this article; plus any unconsolidated law provisions which apply to programs funded from such appropriation; plus any sums paid out upon audit of the state comptroller as final adjustments of apportionments originally claimed and payable pursuant to this subdivision in prior school years; plus sums paid out as prior year adjustments, to the extent an allowance was included in such appropriation for such purpose. Any apportionments provided by this chapter shall be paid in accordance with this section unless specifically exempted.

a. Prescribed payments. (1) District payments to the teachers' retirement system. Of the moneys apportioned by the commissioner to school districts for the current year, after the payment of lottery aid in accordance with subparagraph two of this paragraph, an amount not to exceed one-third of the amount owed by such school district to the New York state teachers' retirement system for salaries paid in the base year or for other obligations pursuant to section five hundred twenty-one of this chapter shall be payable to such teachers' retirement system on behalf of the school district on or before the fifteenth day of each of the months of September, October and November, except that special payments due such teachers' retirement system shall be payable on or before the fifteenth day of October. Any underpayment resulting from data changes shall be payable from spring payments. Any portion of the payments due such teachers' retirement system that exceed the remainder of the moneys to be apportioned to the school district shall be made directly by the school district to the system.

(2) Lottery apportionment. Of the estimated moneys to be apportioned by the commissioner to school districts for the current year, that portion payable pursuant to section ninety-two-c of the state finance law, exclusive of the minimum lottery grant provided for the purchase of textbooks pursuant to subparagraph one of paragraph b of subdivision four of section ninety-two-c of such law and the lottery grant provided

pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, shall be payable on or before the last state business day of September.

(3) Lottery textbook apportionment. The minimum lottery grant provided for the purchase of textbooks pursuant to subparagraph one of paragraph b of subdivision four of section ninety-two-c of the state finance law, shall be payable on or before the last state business day of September.

(4) Fixed fall payments. Of the moneys apportioned remaining to be paid to school districts for the current year after deductions are made for the purpose of subparagraph one of this paragraph, districts shall be eligible to receive payments determined as follows: (i) on or before October fifteenth, an estimated twelve and one-half percent of such remaining amount minus the amount paid pursuant to subparagraph two of this paragraph; (ii) on or before November fifteenth, an estimated eighteen and seventy-five one hundredths percent of such remaining amount minus the sum of the amounts paid pursuant to clause (i) of this subparagraph and subparagraph two of this paragraph; and (iii) on or before December fifteenth, an estimated twenty-five percent of such remaining amount minus the sum of the amounts paid pursuant to clauses (i) and (ii) of this subparagraph and subparagraph two of this paragraph. Such amounts shall be payable only to the extent that reports due the commissioner have been filed.

(5) Remaining apportionment. The remaining moneys apportioned for the current year after deductions are made for the purposes of subparagraphs one, two and four of this paragraph, shall be payable pursuant to paragraph b of this subdivision to the extent that reports due the commissioner have been filed.

b. Individualized payments. (1) District expenditure need. To determine the payments a district shall be eligible to receive under this paragraph, a district expenditure need shall be computed, based on estimated data on file with the commissioner as of December first, which shall equal the general fund expenditures for the base year (i) minus the sum of base year aids and grants recorded as revenue to such general fund but not payable pursuant to this section; (ii) minus the district's base year general fund expenditures to the New York state teachers' retirement system; (iii) minus that portion of the district's base year

general fund expenditures for debt service eligible for an apportionment pursuant to subdivision six of section thirty-six hundred two of this chapter plus such general fund expenditures for debt service for the current year; and (iv) minus current year aid pursuant to subparagraphs two and four of paragraph a of this subdivision.

(2) Payment amounts. For remaining aid payments due prior to July, moneys apportioned shall be determined based on preliminary aid data on file with the commissioner on December first, provided that such commissioner shall recompute such amounts designated for the month of June based on aid data on file with the commissioner as of May first. (i) January amount. If the aid payable under this paragraph exceeds fifty percent of the expenditure need of the district, then such excess amount shall be designated for the month of January. (ii) February amount. If such aid, minus any aid payable pursuant to clause (i) of this subparagraph, exceeds forty percent of such expenditure need, then such excess amount shall be designated for the month of February. (iii) March amount. If such aid, minus any aid payable pursuant to clauses (i) and (ii) of this subparagraph, exceeds thirty percent of such expenditure need, then such excess amount shall be designated for the month of March. (iv) April amount. If such aid, minus any aid payable pursuant to clauses (i), (ii) and (iii) of this subparagraph, exceeds twenty percent of the expenditure need of the district, then such excess amount shall be designated for the month of April. (v) May amount. If such aid, minus any aid payable pursuant to clauses (i), (ii), (iii) and (iv) of this subparagraph, exceeds ten percent of such expenditure need, then such excess amount shall be designated for the month of May. (vi) June amount. Any moneys apportioned not designated pursuant to clauses (i), (ii), (iii), (iv) and (v) of this subparagraph shall be designated for the month of June.

(3) Payments. (i) Winter payments. The amounts designated for January, February and March pursuant to clauses (i), (ii) and (iii) of subparagraph two of this paragraph shall be paid on or before the last state business day of such months.

(ii) Sustaining advance payments. In order to sustain all advance payments made in previous school years pursuant to subparagraph five of this paragraph or the comparable provisions of section thirty-six hundred nine of this article, the commissioner shall establish a

schedule to distribute the sustaining advance payment amount among school districts. Such sustaining advance payments due to school districts shall be, first, in the same proportion as such school district's share bears to the total moneys designated for payment in the month of April, second, as a share of the total moneys designated for May and last, if applicable, as a share of the total moneys designated for June to all such school districts pursuant to clauses (iv), (v), and (vi) of subparagraph two of this paragraph. The sustaining advance payment due shall be deducted first from a school district's designated amount for April, then from a school district's designated amount for May and finally from any moneys due in June. The commissioner shall transmit a schedule to the comptroller, the director of the budget and the chairs of the legislative fiscal committees displaying for each district, the sustaining advance payment due, the portion of such amount to be withheld pursuant to subparagraph four of this paragraph and the remainder, if any, to be paid to the school district on or before March thirty-first.

(iii) Determining final payment for the state fiscal year. Prior to transmitting the March payment to the state comptroller, based on current year, base year and prior school year state aid payments made or scheduled to be made from the general support for public schools appropriations for the state fiscal year ending March thirty-first, the commissioner shall determine the extent to which the amount designated for June pursuant to clause (vi) of subparagraph two of this paragraph, as adjusted in accordance with clause (ii) of this subparagraph, net of any disallowances, would need to be advanced and paid on or before March thirty-first in order to use the remainder of such appropriations, excluding amounts assigned to the department of health pursuant to subdivision one of section thirty-six hundred nine-b of this article, on or before March thirty-first, or to the extent to which the amount designated for March would need to be proportionally reduced so as not to exceed such state fiscal year appropriations. The commissioner shall report the amount of money required to be advanced or deferred and the percent it represents of the June or March amounts, as the case may be, to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee. To the extent that moneys are advanced or deferred pursuant to this

paragraph, they shall be in the same proportion as each school district's share bears to the total of such June or March amount. Upon approval of the director of the budget, the commissioner shall transmit the schedule of any such partial June prepayments or such reduced March payments to the state comptroller. Any portion of the March payment deferred shall be added to the June payment; any portion of the June payment advanced shall be paid on or before March thirty-first.

(iv) April and May payments. Any amount designated for and remaining to be paid in April or May pursuant to clauses (iv) and (v) of subparagraph two of this paragraph minus any portion of such amounts advanced pursuant to clause (ii) of this subparagraph shall be paid on or before the last state business day of such months.

(v) June payment. The moneys apportioned to school districts and designated for June pursuant to clause (vi) of subparagraph two of this paragraph shall be paid on or before the last state business day of such month, to the extent that moneys are owed to school districts pursuant to this section for the current year, including claims for current year aid for debt service on bond anticipation notes aidable in June and/or new bonds and capital notes aidable in June pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part and claims for current year aid for conversion to full day kindergarten, after taking into account any adjustments made in accordance with clauses (ii) and (iii) of this subparagraph, net of any disallowances.

(vi) Deferred July payment of certain claims for debt service on bond anticipation notes and on bonds or capital notes first issued in the current year. The moneys apportioned to school districts for claims for current year aid for debt service on bond anticipation notes aidable in July following the current year and/or new bonds and capital notes aidable in July following the current year pursuant to subdivisions six and fourteen, if applicable, of section thirty-six hundred two of this part shall be paid on or before the last state business day of July immediately following the current school year, to the extent that moneys are owed to school districts pursuant to this section for the current year, net of any disallowances.

(vii) Deferred September payments. Any amounts payable to a school district pursuant to this section which exceeded one hundred percent of

the respective amount set forth for such district as payable pursuant to this section in the school aid computer listing for the current school year shall be designated for payment for the month of September next following the close of the current school year. Such payments shall be made on or before the last state business day of the month of September, based on data on file as of August first.

(4) State share of medicaid reimbursements. For the purposes of this subparagraph, for aid payable in the two thousand ten--two thousand eleven school year, the first reporting period shall run from May first of the base year through January thirty-first of the current year, and the second reporting period shall run from February first of the current year through March thirty-first of the current year. For aid payable in the two thousand eleven--two thousand twelve school year and thereafter, the first reporting period shall run from April first of the base year through December thirty-first of the current year, and the second reporting period shall run from January first of the current year through March thirty-first of the current year. Notwithstanding any inconsistent provisions of law to the contrary, the sustaining advance payment due any school district pursuant to clause (ii) of subparagraph three of this paragraph in March shall be reduced by fifty percent of any federal participation during the first reporting period pursuant to title XIX of the social security act, in special education programs provided pursuant to article eighty-nine of this chapter for services provided on or before June thirtieth, two thousand nine; the June payment due any school district pursuant to clause (v) of subparagraph three of this paragraph shall be reduced by fifty percent of any federal participation during the second reporting period for services provided on or before June thirtieth, two thousand nine. Not later than ten days after the end of the first reporting period ending on January thirty-first, two thousand eleven, not later than forty-one days after each first reporting period thereafter and not later than forty days after the end of each second reporting period, the commissioner of health, as the authorized fiscal agent of the state education department, shall certify to the commissioner and the director of the budget the total amount of such federal moneys paid to a school district for such services during such reporting period. Following each cycle payment, the commissioner of health shall report to the commissioner the

aggregate amount of such federal medicaid payments to each school district. The commissioner shall recoup such amounts first, to the extent possible, from the specified payment, then by withholding any other moneys due the school district and finally by direct billing to any school district still owing moneys to the state. All moneys withheld or paid to the state on account of this paragraph shall be credited by the comptroller to the local assistance account for general support for public schools.

(5) Advance payments. To the extent that any moneys payable pursuant to clauses (iv) and (v) of subparagraph two of this paragraph, are paid in advance of April first, such moneys shall be paid in accordance with chapter two hundred twenty of the laws of nineteen hundred ninety, as amended, and in the same proportion as such school district's share bears to the total moneys, payable to all such school districts pursuant to such clauses (iv) and (v) provided however, that any moneys so advanced shall be deducted first from a school district's payment due in April, then from any moneys due in May and finally from any remaining moneys due in June.

(6) Apportionments to the city school district of the city of New York under the provisions of this paragraph shall be computed and paid on a city-wide basis.

c. Deficit reduction assessment for two thousand nine--two thousand ten. Notwithstanding any other provision of law, the commissioner shall reduce payments due to each district pursuant to this section by an amount equal to the amounts set forth for each school district as "DEFICIT REDUCTION ASSESSMENT" in the school aid computer listing produced by the commissioner in support of the executive budget request for the two thousand nine--two thousand ten school year and entitled "BT112-1", and such amount shall be deducted from moneys apportioned for the purposes of payments made pursuant to section thirty-six hundred nine-a of the education law and provided further that the amount of such reduction shall be deemed to have been paid to the district pursuant to this section for the school year in which such deduction is made. The commissioner shall provide a schedule of such reductions in payments to the state comptroller, the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means

committee.

d. Supplemental deficit reduction assessment for the two thousand nine--two thousand ten school year. (1) Notwithstanding any other provision of law to the contrary, the commissioner shall reduce payments due to each district for the two thousand nine--two thousand ten school year pursuant to this section by an amount equal to the supplemental deficit reduction assessment computed for such district, and such amount shall be deducted from moneys apportioned for the purposes of payments made pursuant to this section and if the reduction is greater than the sum of the amounts available for such deductions, the remainder of the reduction shall be withheld from payments scheduled to be made to the district pursuant to this section for the two thousand ten--two thousand eleven school year, and provided further that an amount equal to the amount of such deduction shall be deemed to have been paid to the district pursuant to this section for the school year in which such deduction is made. The commissioner shall compute such supplemental deficit reduction assessment and shall provide a schedule of such reduction in payments to the state comptroller, the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee.

(2) The supplemental deficit reduction assessment shall be computed as the product of thirty-five and sixty-two one-hundredths of a percent (0.3562) multiplied by the absolute value of the deficit reduction assessment established pursuant to paragraph c of this subdivision.

2. a. Such moneys shall be payable to the treasurer of each city school district, and the treasurer of each union free school district and of each central school district and of each other school district, if there be a treasurer, otherwise to the collector or other disbursing officer of such district, who shall apply for and receive the same as soon as payable.

b. In the case of city school districts of cities with one hundred twenty-five thousand inhabitants or more, any payment which pursuant to this section is required to be made to the treasurer of the city school district, shall be made to the city treasurer or chamberlain.

3. Except as otherwise provided by law, payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district provided, however that any payments for debt service for school building purposes on debt which has been excluded in ascertaining the power of the school district to contract indebtedness shall be used solely for the purpose of payment of the interest on and amortization of or payment of such indebtedness.

§ 3609-b. Moneys apportioned for students with disabilities, when and how payable. Moneys apportioned to school districts for the excess cost aid setaside pursuant to subdivision four of section thirty-six hundred two of this article and the apportionments for students with disabilities due in accordance with the provisions of subdivisions five and five-a of section thirty-six hundred two of this article and section forty-four hundred five of this chapter, shall be paid to or on behalf of school districts in accordance with the provisions of this section, provided, however, that payments made to or on behalf of any school district pursuant to this section shall be adjusted subsequent to the filing, in an acceptable manner, of aid claim forms prescribed by the commissioner.

For aid payable in the two thousand seven--two thousand eight school year and thereafter, "moneys apportioned" shall mean the sum of; (i) the lesser of (A) one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing for the current year, as defined in the opening paragraph of section thirty-six hundred nine-a of this article, or (B) the apportionment calculated by the commissioner for the current year based on data on file at the time the payment is processed plus (ii) the excess cost aid setaside computed pursuant to subdivision four of section thirty-six hundred two of this article, based on data utilized in producing such school aid listing for the current year. The definitions "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this article shall apply to this section.

1. Assignment of certain moneys. a. Any moneys to be apportioned by the commissioner to school districts during the school year pursuant to this section for services provided on or before June thirtieth, two thousand nine that were reimbursed by the state on or before April first, two thousand eleven shall, in the first instance, be designated as the state share of moneys due a school district pursuant to title XIX of the social security act, on account of school supportive health services provided to students with disabilities in special education programs pursuant to article eighty-nine of this chapter and to those pupils who are qualified handicapped persons as defined in the federal rehabilitation act of nineteen hundred seventy-three, as amended. Some or all of such state share may be assigned on behalf of school districts to the department of health, as provided herein; any remaining state share moneys shall be paid to school districts on the same schedule as the federal share of such title XIX payments and shall be based on the monthly report of the commissioner of health to the commissioner; and any remaining moneys to be apportioned to a school district pursuant to this section shall be paid in accordance with the provisions of subdivision two of this section. The amount to be assigned to the department of health, as determined by the commissioner of health, for any school district shall not exceed the federal share of any moneys due such school district pursuant to title XIX. Moneys designated as state share moneys shall be paid to such school districts based on the submission and approval of claims related to such school supportive health services, in the manner provided by law.

a-1. Any moneys to be apportioned by the commissioner to school districts during the school year pursuant to this section for services provided during the two thousand nine--two thousand ten school year and thereafter, or for services provided in a prior school year that were not reimbursed by the state on or before April first, two thousand eleven, shall, in the first instance, be designated as the state share of moneys due a school district pursuant to title XIX of the social security act, on account of school supportive health services provided to students with disabilities in special education programs pursuant to article eighty-nine of this chapter and to those pupils who are

qualified handicapped persons as defined in the federal rehabilitation act of nineteen hundred seventy-three, as amended. Such state share shall be assigned on behalf of school districts to the department of health, as provided herein; the amount designated as such nonfederal share shall be transferred by the commissioner to the department of health based on the monthly report of the commissioner of health to the commissioner; and any remaining moneys to be apportioned to a school district pursuant to this section shall be paid in accordance with the provisions of subdivision two of this section. The amount to be assigned to the department of health, as determined by the commissioner of health, for any school district shall not exceed the federal share of any moneys due such school district pursuant to title XIX. Moneys designated as state share moneys shall be paid to such school districts by the department of health based on the submission and approval of claims related to such school supportive health services, in the manner provided by law.

b. Any moneys remaining to be apportioned to a school district pursuant to this section shall, in the second instance, be used to reimburse the commissioner for any moneys due from a school district found to be financially responsible, in accordance with the provisions of paragraph e of subdivision four of section thirty-two hundred two of this chapter, for the cost of instruction of a student with a disability placed by a local social services district or other state department or agency in a family home at board that receives program support from a child care institution affiliated with a special act school district which is located in another school district which contracts for the education of such student, upon the recommendation of its committee on special education, for the instruction of such student pursuant to paragraph c, d, e or f of subdivision two of section forty-four hundred one of this chapter or for a nonresidential placement pursuant to paragraph one of such subdivision. In the event that a district owes more than the moneys remaining to be apportioned to the district pursuant to this section, the commissioner shall withhold such excess from any other moneys due the district.

2. Payments to school districts. a. The moneys apportioned by the

commissioner to school districts in accordance with the provisions of subdivisions five and five-a of section thirty-six hundred two of this article and section forty-four hundred five of this chapter and the moneys apportioned to school districts for the excess cost aid setaside pursuant to subdivision four of section thirty-six hundred two of this article, during the school year and remaining due after deductions are made for the purposes of subdivision one of this section, shall be payable, for the two thousand seven--two thousand eight school year and thereafter in accordance with the following schedule:

(1) December payment. On or before December fifteenth, a portion shall be paid equal to the positive remainder of twenty-five percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one of this section for the current year.

(2) March payment. On or before March fifteenth, a portion shall be paid equal to the positive remainder of seventy percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one of this section and subparagraph one of this paragraph for the current year.

(3) June payment. On or before June fifteenth, a portion shall be paid equal to the positive remainder of eighty-five percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one of this section and subparagraphs one and two of this paragraph for the current year.

(4) August payment. To the extent that any moneys are owed to a school district pursuant to this section, a portion shall be paid on or before August fifteenth equal to the positive remainder of one hundred percent of the moneys apportioned less any payments made pursuant to paragraph a of subdivision one of this section and subparagraphs one, two and three of this paragraph for the current year.

(5) Deferred September payment. Any amount payable to a school district pursuant to this section which exceeded one hundred percent of the respective amount set forth for such district as payable pursuant to this section in the school aid computer listing for the current school year shall be designated for payment for the month of September next following the close of the current school year. Such payments shall be made on the first state business day of the month of September, based on data on file as of August first; provided however, that for the

September two thousand six payment such calculation shall be based on the computer listing for the current year using data on file as of August first.

b. Such moneys shall be payable to the treasurer of each city school district, and the treasurer of each union free school district and of each central school district and of each other school district, if there be a treasurer, otherwise to the collector or other disbursing officer of such district or board of cooperative educational services, who shall apply for and receive the same as soon as payable. In the case of city school districts of cities with one hundred twenty-five thousand inhabitants or more, any payment which pursuant to this section is required to be made to the treasurer of the city school district, shall be made to the city treasurer or chamberlain.

3. Due minimum supplemental apportionment. Notwithstanding any inconsistent provisions of subdivisions five and five-a of section thirty-six hundred two of this article and section forty-four hundred five of this chapter, for the two thousand seven--two thousand eight school year and thereafter, the due minimum supplemental apportionment shall equal the positive remainder resulting when the sum of the apportionments due a school district pursuant to such subdivisions five and five-a and such section forty-four hundred five for any school year and, the moneys apportioned for the excess cost aid setaside pursuant to subdivision four of section thirty-six hundred two of this article, is subtracted from the amount designated as the state share of moneys due a school district pursuant to title XIX of the social security act, on account of school supportive health services provided to pupils with disabilities in special education programs pursuant to article eighty-nine of this chapter as determined in accordance with the provisions of subdivision one of this section. Any additional apportionment pursuant to this subdivision shall be computed and recomputed by the commissioner in the normal course of auditing school district claims for aid.

4. In addition to any other payments due a district pursuant to this section, the commissioner shall also reimburse districts for any amounts

due in accordance with the provisions of paragraph e of subdivision four of section thirty-two hundred two of this chapter as follows:

a. thirty-five percent of any amounts due shall be payable on or before December fifteenth;

b. seventy percent of any amounts due, minus any payment made pursuant to paragraph a of this subdivision, shall be payable on or before March fifteenth; and

c. any remaining amount due shall be payable on or before June fifteenth.

§ 3609-d. Moneys apportioned for board of cooperative educational services aidable expenditures when and how payable commencing July first, two thousand four. Notwithstanding the provisions of section thirty-six hundred nine-a of this article, apportionments payable pursuant to section nineteen hundred fifty of this chapter shall be paid pursuant to this section. For aid payable in the two thousand four--two thousand five school year and thereafter, "moneys apportioned" shall mean the lesser of (i) one hundred percent of the respective amount set forth for each school district as payable pursuant to this section in the school aid computer listing produced by the commissioner in support of the budget including the appropriation for support of boards of cooperative educational services for payments due prior to April first for the current year, or (ii) the apportionment calculated by the commissioner based on data on file at the time the payment is processed; provided however, that for the purposes of any payment to be made in the month of June of two thousand six such calculation shall be based on the school aid computer listing for the current year using updated data at the time of each payment. For districts subject to chapter five hundred sixty-three of the laws of nineteen hundred eighty, thirty-six hundred two-b, or two thousand forty of this chapter, for aid payable in the two thousand four--two thousand five school year and thereafter, "moneys apportioned" shall mean the apportionment calculated by the commissioner based on data on file at the time the payment is processed. The "school

aid computer listing for the current year" shall be as defined in the opening paragraph of section thirty-six hundred nine-a of this article. The definitions "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this article shall apply to this section.

1. Prescribed payments. Of the moneys to be apportioned by the commissioner to school districts during the school year, that portion payable pursuant to section nineteen hundred fifty of this chapter shall be used in the first instance to make payments on behalf of boards of cooperative educational services to the teachers' retirement system in the same manner as payments made on behalf of school districts pursuant to subparagraph one of paragraph a of subdivision one of section thirty-six hundred nine-a of this article, and additional payments shall be paid to boards of cooperative educational services as follows: the greater of any payments made to the teachers' retirement system pursuant to this paragraph or twenty-five percent of the moneys apportioned less any payments made to the teachers' retirement system pursuant to this paragraph on the first state business day of February, to the extent that acceptable data has been filed with the commissioner; fifty-five percent of the moneys apportioned, less the payment made in February and less any payments made to the teachers' retirement system pursuant to this paragraph, on the first state business day of June; and a final apportionment equal to the amount calculated based on data on file as of August first next following the close of the current year, provided however, that for the September two thousand six payment such calculation shall be based on the computer listing for the current year using data on file as of August first, less payments made to date, on the first state business day of September next following the close of the current year; provided, however, that any obligation of a board of cooperative educational services to the bond trustee of the dormitory authority shall be paid in accordance with the applicable provisions of the public authorities law.

2. Such moneys shall be payable to the treasurer of each board of cooperative educational services, if there be a treasurer, otherwise to the collector or other disbursing officer of such board of cooperative

educational services, who shall apply for and receive the same as soon as payable.

3. Notwithstanding any inconsistent provisions of this chapter, for aid payable in the nineteen hundred ninety-six--ninety-seven school year the apportionment calculated pursuant to section nineteen hundred fifty of this chapter shall be reduced by two percent.

§ 3609-e. School tax relief aid, when and how payable commencing July first, nineteen hundred ninety-eight. Notwithstanding any other provisions of this article, school tax relief aid shall be paid pursuant to this section.

1. Definitions. As used in this section the following terms shall be defined as follows:

a. "Amount of tax levy" shall mean the amount of property taxes levied for school purposes in the current year pursuant to subdivision one of section thirteen hundred six of the real property tax law, except that for a city school district of a city with one hundred twenty-five thousand inhabitants or more "amount of tax levy" shall mean an amount equal to the product of the tax rate computed pursuant to paragraph e of this subdivision for aids payable in the current year multiplied by such district's actual valuation as defined in subdivision one of section thirty-six hundred two of this article.

b. "Phase-in factor" shall mean: (i) for aid payable in the two thousand--two thousand one school year, seventy-five percent and (ii) for aid payable in the two thousand one--two thousand two school year and thereafter, one hundred percent.

c. "STAR portion of the tax levy" shall mean the quotient of the school tax relief aid payable in the current year divided by the amount of tax levy expressed as a decimal to four places without rounding.

d. The definitions of "school tax relief aid," "current year" and

"base year" as set forth in subdivision one of section thirty-six hundred two of this article shall apply to this section.

e. "Tax rate" shall mean the amount computed by dividing a school district's total revenues from real property and non-property tax levies for the base year levied for school purposes exclusive of library purposes plus any payments in lieu of taxes received pursuant to section four hundred eighty-five of the real property tax law and exclusive of any balances in excess of six percent of general fund expense remaining in the general fund of the district at the end of the base year, by such district's actual valuation as defined in subdivision one of section thirty-six hundred two of this article including any actual valuation equivalent of payments in lieu of taxes determined pursuant to section four hundred eighty-five of the real property tax law, provided, however, that in the instance of a fiscally dependent city school district, the tax rate shall be computed by dividing (i) such district's total general fund expenditures, plus inter-fund transfers outgoing from the general fund, and plus general fund reserve expenditures, less any and all general fund non-tax revenue of such city school district which has been paid and identified by an original payer as being specifically on behalf of such city school district, and less any and all non-tax revenue of the city upon which such city school district is fiscally dependent which has been paid and identified by an original payer as being specifically on behalf of such city school district but which has not been identified as revenue of such city school district, and less any and all other general fund revenues of such city school district which are determined by the commissioner to be non-tax revenue of the city upon which such city school district is fiscally dependent, by (ii) such district's actual valuation as defined in subdivision one of such section thirty-six hundred two. Revenues raised by a school district in support of a central high school district shall be included in the revenue of the district raising such revenue, and no local revenue shall be attributed to such central high school districts. Such tax rate shall be computed to five decimals without rounding and shall be multiplied by one thousand to be expressed in mills.

2. Prescribed payments. a. October payment for aids payable in the

nineteen hundred ninety-eight--ninety-nine through two thousand two--two thousand three school years and the two thousand four--two thousand five through two thousand eight--two thousand nine school years. On or before October fifteenth, a portion of the school tax relief aid payable to the school district for the current year shall be paid equal to the product of the total school tax relief aid for the current school year adjusted to reflect adjustments to payments for prior years and thirty-five one-hundredths.

b. October payment for aids payable in the two thousand three--two thousand four school year, and the two thousand nine--two thousand ten school year and thereafter. On or before October fifteenth, a portion of the school tax relief aid payable to the school district for the current year adjusted to reflect adjustments to payments for prior years, not to exceed one hundred percent of such aid payable, shall be paid equal to the product of the amount of tax levy and the positive difference, if any, of the STAR portion of the tax levy minus the product of twenty-five one-hundredths and the phase-in factor.

c. November payment for the aids payable in the nineteen hundred ninety-eight--ninety-nine through two thousand two--two thousand three school years and the two thousand four--two thousand five through two thousand eight--two thousand nine school years. On or before November fifteenth, a portion of the school tax relief aid payable to the school district for the current year shall be paid equal to the product of the total school tax relief aid for the current school year adjusted to reflect adjustments to payments for prior years and seventy-one hundredths less any payments made pursuant to paragraph a of this subdivision.

d. November payment for aids payable in the two thousand three--two thousand four school year, and the two thousand nine--two thousand ten school year and thereafter. On or before November fifteenth, a portion of the school tax relief aid payable to the school district for the current year adjusted to reflect adjustments to payments for prior years, not to exceed one hundred percent of such aid payable, shall be paid equal to: (i) the product of the amount of tax levy and the

positive difference, if any, of the STAR portion of the tax levy minus the product of twenty one hundredths and the phase-in factor less (ii) any payments made pursuant to paragraph b of this subdivision.

e. December payment for aids payable in the nineteen hundred ninety-eight--ninety-nine through two thousand two--two thousand three school years and the two thousand four--two thousand five through two thousand eight--two thousand nine school years. On or before December fifteenth, a portion of the school tax relief aid payable to the school district for the current year shall be paid equal to the product of the total school tax relief aid for the current school year adjusted to reflect adjustments to payments for prior years and eighty one-hundredths less any payments made pursuant to paragraphs a and c of this subdivision.

f. December payment for aids payable in the two thousand three--two thousand four school year, and the two thousand nine--two thousand ten school year and thereafter. On or before December fifteenth, a portion of the school tax relief aid payable to the school district for the current year adjusted to reflect adjustments to payments for prior years, not to exceed one hundred percent of such aid payable, shall be paid equal to: (i) the product of the amount of tax levy and the positive difference, if any, of the STAR portion of the tax levy minus the product of fifteen one-hundredths and the phase-in factor less (ii) any payments made pursuant to paragraphs b and d of this subdivision.

g. January payment. On or before the first business day of January, a portion of the school tax relief aid payable to the school district for the current year shall be paid equal to one hundred percent of such total school tax relief aid payable for the current school year adjusted to reflect adjustments to payments for prior years less any payments made pursuant to paragraph a, b, c, d, e or f of this subdivision.

h. On or before March thirty-first a portion of the school tax relief aid payable to the school district for the current year shall be paid equal to one hundred percent of any increase in such aid over the total of such aids paid through the first business day of January, adjusted to

reflect adjustments to payments for prior years, as certified to the commissioner by the office of real property services on or before March first.

3. a. Such moneys shall be payable to the treasurer of each city school district, and the treasurer of each union free school district and of each central school district and of each other school district, if there be a treasurer, otherwise to the collector or other disbursing officer of such district, who shall apply for and receive the same as soon as payable.

b. In the case of city school districts of the cities with one hundred twenty-five thousand inhabitants or more, any payments which pursuant to this section is required to be made to the treasurer of the city school district, shall be made to the city treasurer or chamberlain.

4. Any payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district.

§ 3609-f. Moneys apportioned to school districts for lottery grants pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law, when and how payable commencing July first, two thousand seven. Notwithstanding the provisions of section thirty-six hundred nine-a of this article, apportionments payable pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law shall be paid pursuant to this section. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this article shall apply to this section.

1. Prescribed payments. The moneys apportioned by the commissioner to school districts pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law during the school year shall be paid as follows:

(a) September payment. The product of the moneys apportioned to such

district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by ten percent, and such amount shall be payable on the same date as the payment computed pursuant to subparagraph two of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(b) October payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (i) of subparagraph four of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(c) November payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (ii) of subparagraph four of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(d) December payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (iii) of subparagraph four of paragraph a of subdivision one of section thirty-six hundred nine-a of this article.

(e) January payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as the payment computed pursuant to clause (i) of subparagraph two of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

(f) February payment. The product of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law multiplied by fifteen percent, and such amount shall be payable on the same date as

the payment computed pursuant to clause (ii) of subparagraph two of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

(g) March payment. The positive difference, if any, of the moneys apportioned to such district pursuant to subparagraph two-a of paragraph b of subdivision four of section ninety-two-c of the state finance law less the sum of the payments made pursuant to paragraphs (a), (b), (c), (d), (e) and (f) of this subdivision, and such amount shall be payable on the same date as the payment computed pursuant to clause (iii) of subparagraph two of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

2. Any payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district.

§ 3609-g. Moneys apportioned to school districts for reimbursement of article twenty-three of the tax law payments commencing in the 2009-2010 school year. Notwithstanding any other provision of law to the contrary, school districts shall be reimbursed for payments made pursuant to article twenty-three of the tax law pursuant to this section.

1. Definition. As used in this section the following term shall be defined as follows: "School district" shall mean a public school district and shall not include a special act school district as defined in section four thousand one of this chapter.

2. Prescribed payments. On or after the first business day of June of each school year, commencing June first, two thousand ten, a school district shall be paid an amount equal to one hundred percent of the payments made by a school district on or after May first of the prior school year and before May first of the current school year to the commissioner of taxation and finance pursuant to article twenty-three of the tax law. No payment may be made pursuant to this subdivision until such amount for each school district is certified by the commissioner of taxation and finance and transmitted to the commissioner. Such

certification shall be made on or before May thirty-first so as to facilitate payments to be made pursuant to this section.

3. (a) Moneys paid pursuant to this section shall be payable to the treasurer of each city school district, and the treasurer of each union free school district and of each central school district and of each other school district, if there be a treasurer, otherwise to the collector or other disbursing officer of such district, who shall apply for and receive the same as soon as payable.

(b) In the case of city school districts of the cities with one hundred twenty-five thousand inhabitants or more, any payment which pursuant to this section is required to be made to the treasurer of the city school district, shall be made to the city treasurer or chamberlain.

4. Any payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district.

5. It is the intent of the governor to submit and the legislature to enact for each fiscal year after the two thousand nine--two thousand ten fiscal year in an annual budget bill an appropriation in the amount to be paid to school districts pursuant to this section.

§ 3609-h. Moneys apportioned to school districts for commercial gaming grants pursuant to subdivision six of section ninety-seven-nnnn of the state finance law, when and how payable commencing July first, two thousand fourteen. Notwithstanding the provisions of section thirty-six hundred nine-a of this part, apportionments payable pursuant to subdivision six of section ninety-seven-nnnn of the state finance law shall be paid pursuant to this section. The definitions of "base year" and "current year" as set forth in subdivision one of section thirty-six hundred two of this part shall apply to this section.

1. The moneys apportioned by the commissioner to school districts pursuant to subdivision six of section ninety-seven-nnnn of the state

finance law for the two thousand fourteen-two thousand fifteen school year and thereafter shall be paid as a commercial gaming grant, as computed pursuant to such subdivision, as follows:

a. For the two thousand fourteen--two thousand fifteen school year, one hundred percent of such grant shall be paid on the same date as the payment computed pursuant to clause (v) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

b. For the two thousand fifteen--two thousand sixteen school year through the two thousand eighteen--two thousand nineteen school year, seventy percent of such grant shall be paid on the same date as the payment computed pursuant to clause (ii) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article, and thirty percent of such grant shall be paid on the same date as the payment computed pursuant to clause (v) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

c. For the two thousand nineteen--two thousand twenty school year and thereafter, one hundred percent of such grant shall be paid on the same date as the payment computed pursuant to clause (ii) of subparagraph three of paragraph b of subdivision one of section thirty-six hundred nine-a of this article.

2. Any payment to a school district pursuant to this section shall be general receipts of the district and may be used for any lawful purpose of the district.

§ 3610. Apportionment for apprenticeship training. 1. Apprenticeship training programs. Local education agencies which provide related or supplemental instruction to apprentices registered by the state department of labor pursuant to article twenty-three of the labor law shall be eligible for an apportionment pursuant to the provisions of this section for the operation of apprenticeship training programs as

approved by the commissioner. Priority shall be given to local education agencies which provide for an increased number of participants in the related or supplemental instructional component of apprentice training programs. Designated local education agencies may provide such programs directly, or by contracting with school districts, boards of cooperative educational services and other providers of apprentice training services, including postsecondary institutions and other providers authorized to confer degrees in this state or in which the course of instruction is licensed, registered or approved pursuant to any provision of this chapter.

2. Apprenticeship training hours. For the purpose of computing an apportionment under this section, apprenticeship training hours shall be the total number of hours of related or supplemental instruction given all apprentices in approved apprenticeship training programs in the area served by the designated local education agency between July first and June thirtieth of the base year as reported to the commissioner by September first of the current year.

3. Maximum apportionment per hour. For aid payable for school year nineteen hundred eighty-nine--ninety the maximum apportionment per apprenticeship training hour shall be computed by dividing the state appropriation for related and supplemental instruction for apprentices by the total number of apprenticeship training hours of all designated local education agencies in the state, computed in accordance with the regulations of the commissioner. For aid payable for school year nineteen hundred ninety--ninety-one and thereafter, this apportionment shall be at the rate of one dollar per training hour.

4. Apprenticeship training program apportionment. The apportionment pursuant to this section shall be the product obtained when the apportionment per hour is multiplied by the number of apprenticeship training hours of the designated local education agency. Notwithstanding the provisions of section thirty-six hundred nine of this article, payment of such apportionment shall be made by November first of the current year.

5. State aid. No designated local education agency may receive under the provisions of this section an amount which when added to all other state aid received by such designated local education agency for the purpose of this section, exceeds one-half the cost of such program in that year. Notwithstanding any provision of law to the contrary, if the total aid received exceeds one-half the cost of the program, any state aid payable to the designated local education agency shall be reduced in the amount of such excess.

6. Apprentices. Apprentices in apprenticeship training programs shall not be included in any attendance count of this article and shall not generate aid under any other provisions of this chapter.

7. Apportionment for administrative costs. In addition to the apportionment under subdivision four of this section, any designated local education agency which has reported by September first the processing of more than one hundred fifty apprentices shall receive an amount equal to three dollars per apprentice served.

8. Regulations. The commissioner may adopt regulations to implement any of the provisions of this section.

§ 3611. Racial and cultural awareness fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the racial and cultural awareness fund.

2. Such fund shall consist of all revenues received from any source, public or private, for the purposes provided in this section and all other moneys credited or transferred thereto from any other fund or source pursuant to law. No monies from the state general fund shall be transferred to, or otherwise made available for deposit into this fund.

3. Moneys of the fund, following appropriation by the legislature, may be expended for operational and planning grants to local school districts to promote racial and cultural understanding and awareness, as

provided in this section. Moneys shall be paid out of the fund on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner.

4. A school district, or two or more school districts acting jointly, shall be eligible to receive a planning or operational grant, or both, pursuant to the provisions of this section for the purposes of developing and implementing programs designed to meet local needs in the reduction and prevention of racial and cultural conflict, such programs to be approved by the commissioner in accordance with regulations adopted by him for such purpose. A school district which applies for a planning grant pursuant to subdivision five of this section for such new programs shall not be eligible for an operational grant pursuant to subdivision six of this section until the school year following the year in which the planning grant was received. For purposes of this section as applied within the city of New York, such city school district shall be eligible for multiple awards on behalf of each community school district or high school district as though each was a separate school district.

5. A school district shall be eligible to apply for a planning grant on a one-year competitive basis for the purpose of planning for the implementation of programs for prevention and reduction of racial and cultural conflict. Applications shall be evaluated on a competitive basis and such grants shall be awarded accordingly. Applications shall include the planning budget and program description for prevention and reduction of racial and cultural conflict. A school district which receives a competitive planning grant and implements a successful planning program shall be eligible to apply for a two-year operational grant. Reports may be required for the purposes of program evaluation.

6. A school district shall be eligible to receive an operational grant over a two-year period as provided in this section for programs for the prevention and reduction of racial and cultural conflict. First-year applications shall be evaluated on a competitive basis and grants shall be awarded accordingly. Both first-year applications and continuing applications shall include the operating budget and program description

for prevention and reduction of racial and cultural conflict for approval of the proposed program and the estimated expenditures for the current year. Reports may be required as necessary for the purposes of program evaluation.

7. An advisory committee shall be established and assigned to the department to consult, review and make recommendations concerning policy, procedure, program content and community needs. Such advisory committee shall consist of ten members appointed by the commissioner. Such appointees shall include representatives from civil/human rights organizations; educators; community-based organizations and members of parent associations.

8. The commissioner may adopt rules and regulations as are necessary and appropriate to carry out the provisions of this section.

9. The commissioner shall issue an annual report to the legislature concerning the overall and individual programs, detailing their impact; and shall include any report or materials produced by the advisory committee.

§ 3612. Teachers of tomorrow teacher recruitment and retention program. 1. Definitions. a. The term "teacher shortage area" means a public school or subject area in which there was a shortage of certified teachers in the previous school year and there is a projected shortage in the current school year as determined by the commissioner.

b. The term "certified teacher" means a teacher who holds a state teaching certificate appropriate to the teaching position, including the subject area if applicable, in which he or she is to be employed.

c. The term "school district" shall mean a common, union free, central, central high school, or city school district.

d. The term "board of education" shall mean the governing board of any public school or public school district defined in paragraph c of this

subdivision.

e. The term "low performing school" shall mean a school building which is under registration review or a school building performing significantly below state standards as defined by the commissioner.

f. The term "year of service" shall mean ten months of continuous full-time service as a teacher during a school year, generally occurring between September first and June thirtieth.

2. Application and funding. a. Grants shall be made to school districts for teacher recruitment, retention and certification activities necessary to increase the supply of qualified teachers in school districts experiencing a teacher shortage in accordance with subdivisions three, four, five, seven and eight of this section and in school districts containing a low-performing school pursuant to subdivision six of this section.

b. Such grants shall be awarded to school districts, within the limits of funds appropriated therefor, through a competitive process that takes into consideration the magnitude of any shortage of teachers in the school district, the number of teachers employed in the school district who hold temporary licenses to teach in the public schools of the state, the number of provisionally certified teachers, the fiscal capacity and geographic sparsity of the district, the number of new teachers the school district intends to hire in the coming school year and the number of summer in the city student internships proposed by an eligible school district, if applicable. Grants provided pursuant to this section shall be used only for the purposes enumerated in this section. Notwithstanding any other provision of law to the contrary, a city school district in a city having a population of one million or more inhabitants receiving a grant pursuant to this section may use no more than eighty percent of such grant funds for any recruitment, retention and certification costs associated with transitional certification of teacher candidates for the school years two thousand one--two thousand two through two thousand twenty-eight--two thousand twenty-nine.

c. Not more than sixty percent of the funds allocated pursuant to this section shall be made available to any one school district and provided further that a city school district in a city with populations in excess of one million inhabitants may, notwithstanding any other provision of this section, allocate a portion of the grant received pursuant to this section for teacher recruitment and outreach activities provided that any allocation for teacher recruitment and outreach activities shall not exceed two hundred twenty-five thousand dollars.

d. In allocating grants pursuant to this section, a school district shall give priority in the following order:

(1) first, to a school under registration review that is designated as a teacher shortage area;

(2) second, to any school performing significantly below state standards as defined by the commissioner; and

(3) third, to any school that is designated as a teacher shortage area.

e. Any school district receiving funds under this section shall maintain any local effort in the current year equivalent to such effort in the base year for any local program related to the recruitment or retention of teachers or any program that has purposes that are similar to any purpose of this section or the district shall provide a local match to state funds received pursuant to this section. State funds provided pursuant to this section shall not supplant local funds for any purpose similar to the purposes of this section.

f. Applications by a school district for funding pursuant to this section shall be filed with the commissioner, in a form determined by the commissioner, by June first of the base year and school districts shall be notified of their grant award by June thirtieth of the base year, provided that in any year such application and award dates may be modified by the commissioner for the reasonable administration of the program. Such application shall include a plan by the school district for the expenditure of the funds in each category of allowable expenses authorized by subdivisions three, four, five, six, seven and eight of this section, and such expenditures shall be consistent with such plan

and the provisions of this section.

g. A person receiving an award pursuant to any subdivision of this section shall not be eligible for an award pursuant to any other subdivision of this section in a school year.

3. Teachers of tomorrow teacher recruitment incentive program. Teachers of tomorrow teacher recruitment incentive awards may be available to teachers pursuant to the provisions of this subdivision to attract teachers to employment in teacher shortage areas.

a. Eligibility. To be eligible for an award pursuant to this subdivision, an applicant shall:

(1) have initial, provisional, permanent or professional certification to teach in New York state;

(2) agree to a service obligation of one year of service in a teacher shortage area as a condition of receiving an award pursuant to this subdivision; and

(3) be employed for the first time as a teacher in the school district.

b. Application and selection. (1) The board of education shall determine the form of the application and the application process for teachers deemed eligible for the award, and shall in its discretion select the number of eligible applicants who will receive an award pursuant to this subdivision.

(2) If the number of eligible applicants exceeds the number of awards determined by the board pursuant to this subdivision then the board shall use an objective competitive process based on educational qualifications to determine which eligible applicants shall receive awards.

c. Payment of awards. (1) Annual awards from state and local funds provided for this purpose shall be paid by the board of education to the award recipient. Award recipients shall be entitled to receive awards pursuant to the provisions of this subdivision and such awards shall be in addition to and not part of any award recipient's base salary.

(2) The initial annual award shall be three thousand four hundred dollars, and such initial award may be renewable each year, for up to three additional years, provided that the recipient agrees to one year of service as a full-time teacher in a teacher shortage area for each year of a renewed award and has provided satisfactory service in any prior year in which an initial or renewed award was granted to the recipient. No awards shall be made for less than one school year of service and the sum of any initial and renewed awards shall not exceed thirteen thousand six hundred dollars.

Awards made pursuant to this subdivision shall be used to reimburse any educational costs, including those for which student loans may have been taken, incurred by the recipient prior to receipt of the award for certification as a teacher in the public schools of the state.

(3) The board of education shall develop and secure from the award recipient a written agreement outlining the service obligation. Such agreement shall include provisions for the recipient to repay the amount of the award to the school district if the recipient fails to complete their service obligation in any year where an initial or renewed award is granted, and such repaid amounts shall be deducted from any grant amounts due to the district from the state pursuant to this section. Upon a written appeal by an award recipient, the board of education, in its discretion, may provide a waiver of repayment provisions for an award recipient who fails to complete his or her service requirement for documented reasons of health or other severe hardship, as determined by the commissioner.

d. Notification. The board of education shall notify both successful and unsuccessful applicants by September first of any school year for which an initial or renewed award is provided to teachers pursuant to this subdivision.

4. Teachers of tomorrow certification stipends. Teachers of tomorrow certification stipends may be available to eligible teachers pursuant to this subdivision for the purpose of providing additional training and education required for the applicants to obtain initial or provisional certification. Such additional training and education may be held during

the summer or during any other season or time of the year.

a. Eligibility. To be eligible for an award pursuant to this subdivision, an applicant shall:

(1) provide proof that he or she has received a temporary license to teach from the commissioner and at the time of application does not hold any initial, provisional, permanent or professional certification to teach in the public schools of the state; and

(2) agree to a service obligation of one year of service in a teacher shortage area as a condition for receiving an award pursuant to this subdivision.

b. Application and selection. (1) The board of education shall determine the form of the application and the application process for teachers deemed eligible for the award, and shall in its discretion select the number of eligible applicants who will receive an award pursuant to this subdivision.

(2) If the number of eligible applicants exceeds the number of awards determined by the board pursuant to this subdivision then the board shall use an objective competitive process based on educational qualifications to determine which eligible applicants shall receive awards.

c. Payment of awards. (1) Annual awards from state and local funds provided for this purpose shall be paid by the board of education to the award recipient. No award shall be made for less than one year of service.

(2) Allowable expenses. Awards may be used for the payment of expenses incurred by the recipient for the following purposes:

(i) tuition charged for test preparation workshops intended to prepare recipients to pass teacher certification exams required for initial or provisional teacher certification, which shall be provided by the board of education either through a contract for such services or by providing such services through employees of the board of education; and

(ii) tuition charged for any additional coursework at an accredited institution of higher education required of the recipient to receive initial or provisional teacher certification, as determined by the

commissioner.

(3) Certification stipends of two thousand dollars each may be provided pursuant to this subdivision to award recipients. Fifty percent of each award amount shall be payable from state funds provided to the school district pursuant to this section and the remaining fifty percent shall be payable by the board of education from other sources of revenue, provided that if the board of education elects to provide the services described in clause (i) of subparagraph two of this paragraph then such remaining fifty percent share may be paid by the board through in-kind direct services to the award recipient.

(i) Awards shall be paid to award recipients upon proof of the recipient's expenditure for allowable expenses as provided for in clauses (i) and (ii) of subparagraph two of this paragraph.

(ii) Such awards shall be in an amount of two thousand dollars per award or the actual expenses incurred by the recipient, whichever is less.

(iii) No person shall be eligible for more than one award pursuant to this subdivision.

(4) The board of education shall develop and secure from the award recipient a written agreement outlining the service obligation. Such agreement shall include provisions for the recipient to repay the amount of the award to the school district if the recipient fails to complete their service obligation in any year where an award is granted, and such repaid amounts shall be deducted from any grant amounts due to the district from the state pursuant to this section. Upon a written appeal by an award recipient, the board of education, in its discretion, may provide a waiver of repayment provisions for an award recipient who fails to complete his or her service requirement for documented reasons of health or other severe hardship, as determined by the commissioner.

d. Notification. The board of education shall notify both successful and unsuccessful applicants by September first of any school year for which an initial or renewed award is provided to teachers pursuant to this subdivision.

5. Teachers of tomorrow summer in the city internship program. City school districts in cities with populations in excess of one hundred and

twenty-five thousand inhabitants shall be eligible to apply for funding pursuant to this section for summer in the city student internships for the purpose of attracting prospective teachers to opportunities in urban education.

a. Eligibility. To be eligible for an award pursuant to this subdivision, a student shall:

(1) have completed sixty or more hours of credit bearing college courses, be in good academic standing as determined by the higher education institution of attendance, have attended an accredited New York state college or university full-time in the base year, be enrolled in a registered program for the preparation of teachers at an accredited New York state institution of higher education or have indicated a desire to enter the teaching profession, and are recommended by their college or university to participate in the program.

(2) agree to a service obligation of the full duration of the internship program, as determined by the board of education.

b. Application and selection. (1) Boards of education in school districts that are eligible for funding pursuant to this section shall develop and distribute an application to the accredited colleges and universities of the state which have approved teacher education programs. Such application shall include at a minimum a description of the program including:

(i) the duration of the program which shall operate for at least five or more weeks during the months of June through August generally;

(ii) the amount of any stipend for the program;

(iii) available housing for the program;

(iv) the training and professional development opportunities afforded to the student; and

(v) the amount of time the student will spend in direct contact with children participating in educational activities.

(2) The board of education shall determine the application process for students deemed eligible for the award, and shall in its discretion select the number of eligible applicants who will receive an award pursuant to this subdivision.

(3) If the number of eligible applicants exceeds the number of awards

determined by the board pursuant to this subdivision then the board shall use an objective competitive process based on educational qualifications to determine which eligible applicants shall receive awards.

c. Payment of awards. (1) Annual awards from state funds provided for this purpose shall be paid by the board of education to the award recipient. No award shall be made for less than the duration of the program, as determined by the board of education. Nothing shall prohibit a board of education from allowing an eligible applicant from participating in the program more than once, provided the eligible applicant provided satisfactory service in any prior year as determined by the board of education.

(2) Allowable expenses. Districts may expend funds pursuant to this subdivision for:

(i) stipends of up to two thousand dollars per student;

(ii) housing for a portion of the students participating in the program, which shall include provisions for the students to pay a portion of the housing costs and to pay a refundable security deposit on such housing;

(iii) orientation, training and professional development of the students participating in the program; and

(iv) other expenses appropriate to the operation of the program, as approved by the commissioner.

(3) The board of education shall develop and secure from the award recipient a written agreement outlining the service obligation. Such agreement shall include provisions for the recipient to repay the amount of any stipend provided pursuant to this subdivision to the school district if the recipient fails to complete their service obligation for any year where an award is granted, and such repaid amounts shall be deducted from any grant amounts due to the district from the state pursuant to this section. Upon a written appeal by an award recipient, the board of education, in its discretion, may provide a waiver of repayment provisions for an award recipient who fails to complete his or her service requirement for documented reasons of health or other severe hardship, as determined by the commissioner.

d. Colleges and universities may provide credit for the summer in the city program and may charge a fee for such credit or provide the credit free of charge. Participation in the summer in the city program shall qualify as a field experience for purposes of any graduation or certification requirement. Students eligible for the program shall submit their application to the board of education by the date determined by the board of education.

e. Notification. The board of education shall inform eligible applicants of their selection for the program by a date determined by the board of education.

6. New York state master teacher program. a. New York state master teacher awards may be available to teachers pursuant to the provisions of this subdivision to attract highly qualified, experienced, expert teachers to low performing schools.

b. The commissioner shall establish and maintain a list of persons eligible to serve as master teachers for the purposes of this subdivision.

c. School districts eligible to participate in this program are those districts which contain a school building that has been designated as a low performing school.

d. Such school districts, upon notification of eligibility by the commissioner, may apply for funding pursuant to this section to obtain master teachers to serve in low performing school buildings.

e. Eligibility. A person shall be eligible to serve as a master teacher if he or she meets the following criteria:

(1) he or she has received national board certification from the National Board for Professional Teaching Standards.

(2) he or she is to be employed full-time for the school year by a public school designated as a low performing school.

(3) he or she agrees to a service obligation of three years of service in a low performing school as a condition of receiving awards pursuant

to this subdivision.

f. Application and selection. (1) The board of education shall determine the form of the application and the application process for teachers deemed eligible for the award, and shall in its discretion select the number of eligible applicants who will receive an award pursuant to this subdivision.

(2) If the number of eligible applicants exceeds the number of awards determined by the board pursuant to this subdivision then the board shall use an objective competitive process based on educational qualifications to determine which eligible applicants shall receive awards.

g. Payment of awards. (1) Annual awards from state funds provided for this purpose shall be paid by the board of education to the award recipient.

(2) The initial annual award shall be ten thousand dollars, and such initial annual award may be renewable each year, for two additional years, provided that the recipient has provided satisfactory service in any prior year in which an initial or renewed annual award was granted to the recipient and the recipient continues to fulfill his or her service obligation. No annual awards shall be made for less than one year of service and provided further that the sum of any initial and renewed annual awards shall not exceed thirty thousand dollars.

(3) The board of education shall develop and secure from the award recipient a written agreement outlining the service obligation. Such agreement shall include provisions for the recipient to repay the amount of the annual award to the school district if the recipient fails to complete a year of service in any year where an initial or renewed award is granted, and such repaid amounts shall be deducted from any grant amounts due to the district from the state pursuant to this section. Upon a written appeal by an award recipient, the board of education, in its discretion, may provide a waiver of repayment provisions for an award recipient who fails to complete his or her service requirement for documented reasons of health or other severe hardship, as determined by the commissioner.

h. Each board of education and particular master teacher shall agree to a three-year term in an eligible school building for each master teacher appointment and each master teacher shall be assigned partner classroom teachers. In addition to assigned teaching duties, activities to be undertaken by the master teacher shall include, but are not limited to, engaging in daily and long-term planning and assessment with partner teachers, modeling teaching techniques and strategies, and serving as classroom experts who provide ongoing support to teachers and children.

i. Upon completion of such master teacher's term of participation in the program, the master teacher shall have the right to return to the position he or she held immediately prior to appointment as a master teacher without loss of tenure, seniority or other employment rights.

j. Notification. The board of education shall inform eligible applicants of their selection for the program by a date determined by the board of education.

7. Teacher recruitment tuition reimbursement program. A tuition reimbursement program may be available to teachers pursuant to the provisions of this subdivision, as an incentive to attract qualified teachers to teacher shortage areas.

a. Definition. The term "approved course" shall mean a course in a registered program for the preparation of teachers at an accredited New York state institution of higher education which is taken towards meeting requirements for permanent certification to teach in the public schools of the state.

b. Eligibility. A person shall be eligible for a tuition reimbursement award if he or she meets the following criteria:

(1) has received initial or provisional certification to teach in the public schools of the state and does not hold any permanent or professional certification to teach in the public schools of the state;

(2) he or she is employed full-time for the school year by a public school designated as a teacher shortage area; and

(3) he or she agrees to a service obligation of one year of service in a teacher shortage area as a condition of receiving the award.

c. Application and selection. (1) The board of education shall determine the form of the application and the application process for teachers deemed eligible for the award, and shall in its discretion select the number of eligible applicants who will receive an award pursuant to this subdivision.

(2) If the number of eligible applicants exceeds the number of awards determined by the board pursuant to this subdivision then the board shall use an objective competitive process based on educational qualifications to determine which eligible applicants shall receive awards.

d. Payment of awards. (1) Annual awards from state funds provided for this purpose shall be paid by the board of education to the award recipient.

(2) The initial reimbursement award shall be seven hundred dollars or the actual cost of one approved course, whichever is less, provided that a recipient shall be eligible to receive three initial reimbursement awards in the school year. Such initial award shall be renewable for up to one additional year and such renewed reimbursement award shall be seven hundred dollars or the actual cost of one approved course, whichever is less, provided that a recipient shall be eligible to receive three renewed reimbursement awards in the school year, and provided further that such eligible teacher has provided satisfactory service in the prior year as determined by the board of education to be eligible for any initial or renewed reimbursement awards. In no case shall the sum of any initial and renewed reimbursement awards exceed four thousand two hundred dollars.

(3) The board of education shall develop and secure from the award recipient a written agreement outlining the service obligation. Such agreement shall include provisions for the recipient to repay the amount of any reimbursement awards received to the school district if the recipient fails to complete a year of service in any year where any initial or renewed awards are granted, and such repaid amounts shall be deducted from any grant amounts due to the district from the state

pursuant to this section. Upon a written appeal by an award recipient, the board of education, in its discretion, may provide a waiver of repayment provisions for an award recipient who fails to complete his or her service requirement for documented reasons of health or other severe hardship, as determined by the commissioner.

e. After February first, two thousand four, any course for which tuition reimbursement is made shall not be counted toward any continuing education required of persons certified to teach in the public schools of the state.

f. Notification. The board of education shall inform eligible applicants of their selection for the program by a date determined by the board of education.

8. Summer teacher training program. In a city school district with a population of one million or more, intensive summer teacher training may be provided pursuant to this subdivision to certified teachers teaching in a teacher shortage area that will be employed for the first time in the city school district as a certified teacher.

a. Eligibility and selection. Such training may be provided to teachers who hold initial, provisional, permanent or professional certification to teach in the public schools of the state who will be employed for the first time in the city school district. The board of education shall establish a selection process by which new teachers are chosen to participate in this program. Such process at a minimum shall include:

(1) proof that the applicant has received, or is eligible to receive, initial, provisional, permanent or professional certification to teach in the public schools of the state; and

(2) proof that the applicant will be employed for the first time in the city school district as a certified teacher in a teacher shortage area.

b. Allowable expenses. Funds provided for summer teacher training may be used for the payment of expenses incurred by the district for

training and orientation of certified teachers employed by the district for the first time including team teaching with cooperating teachers, observing summer school classes, and training on meeting new standards and assessments provided such expenditures from state funds for this purpose shall not exceed one thousand dollars per eligible participant. Nothing in this subdivision shall limit the expenditure of local funds for the purposes of this subdivision.

9. Science, mathematics and bilingual education tuition reimbursement program. Of the amount appropriated for purposes of this section for grants to school districts for the two thousand seven--two thousand eight school year and thereafter, five million dollars ($5,000,000) shall be made available for a science, mathematics and bilingual education tuition reimbursement program developed by the commissioner to attract qualified teachers who have received or will receive a transitional teaching certificate, to teach mathematics, science, or bilingual education in a low-performing school.

10. Reporting. By November first following the completion of each school year, the commissioner shall report to the governor and the legislature regarding the teachers of tomorrow teacher recruitment and retention program. Such report shall list the amount of each school district's total grant pursuant to this section, the uses of the grant by each eligible category of expense, the number of awards granted by type pursuant to this section and, if applicable, the number of persons receiving more than one award of a single type or more than one type of award and the number of such awards for these individuals, as well as an analysis of the effectiveness of the program in recruiting and retaining teachers in the public schools of the state designated as teacher shortage areas.

§ 3613. School district reorganizations and real property tax rates. 1. When two or more school districts propose to reorganize pursuant to sections fifteen hundred eleven through fifteen hundred thirteen, fifteen hundred twenty-four, fifteen hundred twenty-six, seventeen hundred five, or eighteen hundred one through eighteen hundred three of

this chapter, and under the law that would otherwise be applicable, the reorganization would have an impact upon the school tax rates within the areas served by the school districts that existed prior to the reorganization, notwithstanding any other provision of law to the contrary, the boards of education or trustees of all the school districts participating in the proposed reorganization may opt to have that impact deferred for a one-year period and/or phased-in over a period as may be determined by the boards of education or trustees of all participating school districts in the manner prescribed by this section but which shall not exceed a ten-year period. To exercise such option, the boards of education or trustees of all participating school districts, after conducting a public hearing, may adopt a resolution at least forty-five days prior to the special district meeting at which the reorganization vote will be held, to defer and/or phase-in the impact as provided herein. If the board of education or trustees of any participating school district does not approve such a resolution opting for a common phase-in period, the provisions of this section shall not apply.

2. During the one-year deferral period, the tax rate for each portion of the school district shall be calculated in the following manner:

(a) Determine the assessed value tax rate that applied for the school year immediately preceding the school year in which the reorganization took effect.

(b) Multiply that assessed value tax rate by the state equalization rate applicable to the portion for the school year immediately preceding the school year in which the reorganization took effect.

(c) Divide the product so determined by the state equalization rate applicable to the portion for the first school year of the reorganized school district. The quotient is the assessed value tax rate for the portion for that school year. Provided, that if the sum of the real property tax levies in all of the portions in the school district, using the assessed value tax rates computed pursuant to this subdivision, would yield a real property tax levy that is above or below the total real property tax levy specified in the school district budget for the current school year, the assessed value tax rates shall all be decreased or increased proportionately so as to yield the specified real property

tax levy amount.

3. During each year of a phase-in period, whose duration up to ten years shall have been determined by the boards of education or trustees of the constituent school districts, the tax rate for each portion of the reorganized school district shall be calculated in the following manner:

(a) Determine the assessed value tax rate that applied for the school year immediately preceding the school year in which the reorganization took effect.

(b) Multiply that assessed value tax rate by the state equalization rate applicable to the portion for the school year immediately preceding the school year in which the reorganization took effect. The result is the base full value tax rate of the portion.

(c) Determine the assessed value tax rate that would have applied in the portion but for the provisions of this section.

(d) Multiply that assessed value tax rate by the state equalization rate that would have applied for the current school year but for the provisions of this section. The result is the target full value tax rate for the portion.

(e) Determine the difference between the target full value tax rate and the base full value tax rate for the portion.

(f) Divide the difference so determined by the total number of years in the phase-in period applicable to the school district.

(g) Multiply the quotient so determined by the number of years from the beginning of the phase-in period up to and including the year for which the tax rate is being determined.

(h) Add the product so determined to the base full value tax rate.

(i) Divide the sum so determined by the applicable equalization rate. The quotient is the assessed value tax rate for the portion for the current school year. Provided, that if the sum of the real property tax levies in all of the portions in the school district, using the assessed value tax rates computed pursuant to this subdivision, would yield a real property tax levy that is above or below the total real property tax levy specified in the school district budget for the current school year, the assessed value tax rates shall all be decreased or increased proportionately so as to yield the specified real property tax levy

amount.

4. As used herein the term "portion" means that part of an assessing unit located within a school district.

PART II
AIDABLE TRANSPORTATION EXPENSE

Section 3620. Application.
3621. Definitions.
3622. Routes.
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§ 3620. Application. Part two of this article applies to all school districts which receive a quota for the transportation of pupils. It is not intended by any provision in part two of this article to change or modify in any manner the provisions of this chapter providing and granting transportation to all children irrespective of the school they legally attend.

§ 3621. Definitions. As used in this part and subdivision seven of section thirty-six hundred two of this article:

1. "School district" means common school districts, to the extent that they provide transportation of students in grades seven through twelve to a school outside the district, consolidated school districts, central school districts, central high school districts, union free school districts, except special act school districts as defined in section

four thousand one of this chapter, and city school districts. Notwithstanding any provision contained in this chapter to the contrary, the transportation aid provided, pursuant to subdivision seven of section thirty-six hundred two of this article and this part shall not be apportioned and paid to any school district not maintaining a home school, or to a common school for pupils in kindergarten through grade six.

2. a. "Pupil" means a child for whom transportation aid is paid and who lives more than one and one-half miles from the school which he or she attends, measured by the nearest available road to such school, or a child who lives more than one mile from an approved route, measured by the nearest available road to such route, and also lives more than one and one-half miles from the school which he or she attends. Nothing contained in this subdivision shall be deemed to require a school district to furnish transportation to a child who, if a student in an elementary grade, lives less than two miles or, if a student in an academic grade, lives less than three miles from the school which he or she attends, measured by the nearest available road. "Pupil" also means a child living more than one and one-half miles from the school which he or she attends who is transported between home and school by a regional or joint transportation system. "Pupil" also means a child of a pupil legally attending an elementary or secondary school who receives transportation pursuant to paragraph f of subdivision one of section thirty-six hundred thirty-five of this article and who lives more than one and one-half miles from the school which his or her parent attends, measured by the nearest available road to such school, or such a child who lives more than one mile from an approved route, measured by the nearest available road to such route, and also lives more than one and one-half miles from the school which his or her parent legally attends.

b. Notwithstanding the provisions of paragraph a of this subdivision, any school district which provides transportation pursuant to an order of the commissioner, dated the fourth day of August, nineteen hundred seventy-eight, for pupils attending grades kindergarten through four who live more than eight-tenths of a mile but less than one and one-half miles from the school they legally attend shall be entitled to an

apportionment on the cost of such transportation pursuant to subdivision seven of section thirty-six hundred two of this article.

c. Notwithstanding the provisions of paragraph a of this subdivision, any school district which provides transportation pursuant to an order of the commissioner, dated the nineteenth day of August, nineteen hundred seventy-seven, for elementary pupils who live more than eight-tenths of a mile but less than one and one-half miles from the school they legally attend, or such other distance as the board of education may establish with the prior approval of the commissioner, shall be entitled to an apportionment on the cost of such transportation pursuant to subdivision seven of section thirty-six hundred two of this article.

3. "Route" means a highway or highways over and upon which a school bus regularly travels in accordance with a schedule maintained for the transportation of pupils from their homes to school.

4. "Total annual mileage" means the actual mileage for all purposes attributable to district-owned school buses for the school year period of July first through June thirtieth, based on odometer readings, including mileage for school buses disposed of during the July first through June thirtieth period.

5. "Total annual allowable mileage" means the actual mileage for transporting pupils to and from school once daily over scheduled routes attributable to district-owned or leased school buses for the school year period of July first through June thirtieth, based odometer readings, including mileage for school buses disposed of during the July first through June thirtieth period.

6. "School bus" means any vehicle or other means of conveyance used for the purpose of transporting pupils.

7. "Storage" means any school bus garage facilities or sites which may be approved by the commissioner.

8. "Regional or joint transportation system" means a transportation system in which a school district participates pursuant to a contract executed in accordance with paragraph h of subdivision twenty-five of section seventeen hundred nine of this chapter.

9. "District share of the cost of regional or joint transportation systems" shall mean the share of the cost of such transportation prorated among all the school district or districts and board or boards of cooperative educational services participating in the regional or joint transportation, as determined in accordance with regulations promulgated by the commissioner, provided that in no case shall there be any deduction made in determining transportation aid on the basis of bus mileage travelled in transporting children pursuant to a contract executed in accordance with paragraph h of subdivision twenty-five of section seventeen hundred nine of this chapter and provided that transportation aid for jointly operated transportation system shall be determined in the same manner as for individual school districts.

10. School bus stop-arm. The term "school bus stop-arm" means an auxiliary device conforming to the standards established by the commissioner pursuant to subdivision twenty-one-c of section three hundred seventy-five of the vehicle and traffic law.

11. School bus back up beeper. The term "school bus back up beeper" means an auxiliary device conforming to the standards established by the commissioner pursuant to subdivision twenty-one-d of section three hundred seventy-five of the vehicle and traffic law.

12. School bus front crossing arm. The term "school bus front crossing arm" means an auxiliary device conforming to the standards established by the commissioner pursuant to subdivision twenty-one-e of section three hundred seventy-five of the vehicle and traffic law.

13. School bus safety sensor device. The term "school bus safety sensor device" means an auxiliary device conforming to the standards established by the commissioner pursuant to subdivision twenty-one-f of section three hundred seventy-five of the vehicle and traffic law.

14. "Exterior reflective markings" shall mean the exterior reflective marking required to be attached to school buses pursuant to subdivision twenty-one-h of section three hundred seventy-five of the vehicle and traffic law.

15. School bus engine fire suppression system. The term "school bus engine fire suppression system" shall mean an auxiliary device required to be installed pursuant to subdivision twenty-one-i of section three hundred seventy-five of the vehicle and traffic law and which conforms to standards established by the commissioner of transportation pursuant to such subdivision.

§ 3622. Routes. The board of education or trustees shall plan each school transportation route, as defined in subdivision three of section thirty-six hundred twenty-one of this article, in such manner as to promote maximum efficiency in the operation of a school bus on such route. Whenever practicable each route shall be planned to operate within the boundary of a school district. If any or all pupils of a school district receive instruction in a school or schools beyond the boundary of such district, the board shall plan a route or routes beyond the boundary of such district to such school or schools for such pupils.

§ 3622-a. Aidable regular transportation. For the computation of transportation aid pursuant to the requirements of subdivision seven of section thirty-six hundred two of this article and this part, aidable regular transportation shall include the following, provided that the school district shall have voted to furnish such transportation, as provided by law, or that the commissioner shall have directed that such transportation be furnished; and provided further that transportation aid shall not be paid in a case where the provision made for transportation is inadequate and is disapproved by the commissioner:

1. Transportation of pupils to and from school once daily, provided, however, in no case shall there be any deduction made in determining

aidable regular transportation on the basis of bus mileage travelled in transporting children as part of a regional or joint transportation system;

2. For school districts that do not maintain a high school, transportation for its pupils who have completed the work of the sixth grade and are receiving instruction in another district;

3. Out-of-district transportation designed to relieve temporary overcrowding, subject to the approval of the commissioner;

4. Out-of-district transportation to nonpublic elementary or high schools;

5. Transportation of pupils during the school day to and from programs at a board of cooperative educational services or to or from approved shared programs at other school districts, which programs may lead to a diploma or a high school equivalency diploma or to or from career education programs operated within the district;

6. Transportation of pupils to and from approved summer school programs operated by a school district in the two thousand--two thousand one school year and thereafter, provided, however, that if the total statewide apportionment attributable to allowable transportation expenses incurred pursuant to this subdivision exceeds five million dollars ($5,000,000), individual school district allocations shall be prorated to ensure that the apportionment for such summer transportation does not exceed five million dollars ($5,000,000), provided that such prorated apportionment computed and payable as of September one of the school year immediately following the school year for which such aid is claimed shall be deemed final and not subject to change;

7. Transportation provided pursuant to section thirty-six hundred thirty-five-b of this article;

8. Notwithstanding any inconsistent provision of law, transportation provided in the two thousand nineteen--two thousand twenty school year

during the state disaster emergency declared pursuant to executive order 202 of 2020, provided that transportation was provided during the time period of school building closures ordered pursuant to executive order 202 of 2020. Such aidable transportation shall include transportation of meals, educational materials and supplies to students, and transportation to provide students with internet access; and

9. Notwithstanding any inconsistent provision of law, expenditures made for transportation during the period between the issuance of executive order 202.4 on March sixteenth, two thousand twenty and the issuance of executive order 202.28 on May seventh, two thousand twenty, without regard to whether such transportation was provided.

§ 3623. School buses. 1. a. The commissioner of transportation in consultation with the commissioner shall adopt, promulgate and enforce rules, standards and specifications regulating and controlling the efficiency and equipment of school buses used to transport pupils, with particular regard to the safety and convenience of such pupils and the suitability and adaptability of such school buses to the requirements of the school district. No school bus shall be purchased by a school district or used for the transportation of pupils unless and until it has been approved by the commissioner of transportation as complying with the rules, standards and specifications relating thereto.

b. No bus manufactured after January first, nineteen hundred seventy-four shall be used to transport pupils under any contract with a school district or board of cooperative educational services unless it has been similarly approved by the commissioner of transportation, except that no such approval shall be required for buses used to transport pupils and also used to serve the general public under a certificate of public convenience for the operation of a bus line, granted pursuant to the transportation law or for buses used to transport pupils, teachers and other persons acting in a supervisory capacity to and from school activities and which bus does not receive or discharge passengers on or along the public highways on regularly scheduled routes and is operating under a permit as a contract carrier

of passengers granted pursuant to the transportation law or by the interstate commerce commission. School buses manufactured or assembled prior to April first, nineteen hundred seventy-seven may not be used to transport pupils, teachers and other persons acting in a supervisory capacity to and from school activities.

c. The commissioner shall establish and provide for the enforcement of rules and regulations requiring instruction on the use of seat safety belts as specified in subdivision five of section three hundred eighty-three of the vehicle and traffic law and section thirty-six hundred thirty-five-a of this chapter, drills in safe boarding and exiting procedures and emergency drills to be conducted on all school buses and shall emphasize specific hazards encountered by children during snow, ice, rain and other inclement weather. All such drills shall include instruction in the importance of orderly conduct by all school bus passengers. A minimum of three such drills shall be had on each school bus during the school year, the first to be conducted during the first seven days of session of the fall term.

2. The commissioner shall, after public hearing, promulgate rules and regulations requiring drills on school buses for those pupils who do not participate in such drills required by subdivision one of this section, and the commissioner may provide by such rules and regulations for instructional alternatives to carry out the purposes of this subdivision.

§ 3623-a. Allowable transportation expense. For the computation of transportation aid pursuant to the requirements of subdivision seven of section thirty-six hundred two of this article and this part, allowable transportation expense shall include expenditures for aidable regular transportation as defined in section thirty-six hundred twenty-two-a of this part, provided that such expense shall be limited to expenditure items listed in subdivision one of this section as transportation operating expense and in subdivision two of this section as transportation capital, debt service and lease expense.

1. Transportation operating expense shall include base year expenditures for the following, provided that such transportation operating expense shall meet the requirements set forth in subdivision three of this section:

a. Computerized bus routing services;

b. Contracting for the transportation of any or all of the pupils attending school in such school district, other than a contract with a public service facility for such transportation operated on routes under franchise;

c. The use of public service facilities on routes operated under franchise or by a municipality or public authority for any or all of the pupils in the district, provided that the allowance for each pupil using such facilities shall not exceed two single fares a day for such pupil multiplied by the number of days which such pupil attends school;

d. The school district's share of the cost of a regional or joint transportation system;

e. The following expenses for district operated transportation systems, including operation of district owned or district leased school buses:

(1) salaries and retirement benefits related to transportation, except salaries and retirement benefits for assistant drivers on buses transporting nondisabled pupils;

(2) employers' social security contributions for transportation personnel for whom salaries are allowable;

(3) health, life and other insurance premiums for transportation personnel for whom salaries are allowable;

(4) premiums for collision and other insurance coverage for school buses;

(5) uniforms for transportation personnel for whom salaries are allowable;

(6) costs incurred by the employer for qualifying criminal history, drivers license, or other required testing attributable to special

requirements for drivers of school buses pursuant to state or federal law including pre-employment and random drug and alcohol testing as required under subdivision six of section five hundred nine-g of the vehicle and traffic law;

(7) fuel, oil, tires, chains, maintenance and repairs for school buses, provided that for purposes of this article, fuel shall include electricity used to charge or hydrogen used to refuel zero-emission school buses for the aidable transportation of pupils, but shall not include electricity or hydrogen used for other purposes;

(8) bridge tolls;

(9) transportation by boat or airplane, because of the location of the school district in relation to the school which the children of the district attend, or required room and board in connection therewith necessitated because of impassable waters or adverse weather conditions, which has been approved by the commissioner;

(10) the consideration for the contract or contracts made for the purpose of providing transportation by horse-drawn vehicle or vehicles, if any school district shall be required to provide such transportation; and

(11) other expenses for district operated transportation systems, as approved pursuant to regulations of the commissioner.

f. Other transportation operating expenses as approved pursuant to regulations of the commissioner.

2. Allowable transportation capital, debt service and lease expense shall include base year expenditures as described in this subdivision, net of revenue received with the express purpose of funding such expenditures as prescribed by the commissioner, except as provided in paragraph d of subdivision three of this section.

a. The purchase of school buses as approved by the commissioner;

b. The lease, as approved by the commissioner, of a school bus by a school district from another school district, board of cooperative educational services or a county vocational education and extension board, or any school bus leased by a school district from any other

source under emergency conditions, as determined by the commissioner, or any school bus leased by a school district from any other source as otherwise authorized by this chapter;

c. The purchase of equipment deemed a proper school district expense, including: (i) the purchase of two-way radios to be used on old and new school buses, (ii) the purchase of stop-arms, to be used on old and new school buses, (iii) the purchase and installation of seat safety belts on school buses in accordance with the provisions of section thirty-six hundred thirty-five-a of this article, (iv) the purchase of school bus back up beepers, (v) the purchase of school bus front crossing arms, (vi) the purchase of school bus safety sensor devices, (vii) the purchase and installation of exterior reflective marking on school buses, (viii) the purchase of automatic engine fire extinguishing systems for school buses used to transport students who use wheelchairs or other assistive mobility devices, and (ix) the purchase of other equipment as prescribed in the regulations of the commissioner;

d. Other transportation capital, debt service and lease expense, as approved pursuant to regulations of the commissioner;

e. Any approved cost of construction, reconstruction, lease or purchase of a transportation storage facility or site in the amount of ten thousand dollars or more shall be aidable in accordance with subdivision six of section thirty-six hundred two of this article and shall not be aidable as transportation expense; and

f. Approved costs relating to the lease, purchase, construction, or installation of zero-emission school bus electric charging or hydrogen fueling stations. For the purposes of this section, a zero-emission school bus electric charging station is a station that delivers electricity from a source outside a zero-emission school bus into one or more zero-emission school buses. An electric school bus charging station may include several charge points simultaneously connecting several zero-emission school buses to the station and any related equipment needed to facilitate charging plug-in zero-emission school buses. Any work related to the construction or installation of zero-emission school

bus electric charging or hydrogen fueling stations under this paragraph shall be considered public work and shall be subject to prevailing wage requirements in accordance with section two hundred twenty and two hundred twenty-b of the labor law.

3. a. The transportation operating expense for any school district furnishing transportation for pupils attending a school within such district shall be reduced by any moneys received for transportation.

b. If a district transports nonresident pupils, moneys received for such transportation shall also be deducted in calculating transportation aid, provided that in no case shall there be any deduction made in determining transportation aid on the basis of bus mileage travelled in transporting children pursuant to a contract executed in accordance with paragraph h of subdivision twenty-five of section seventeen hundred nine of this chapter.

c. Where a school district contracts for the transportation of its pupils with a contractor and such contract results in the joint use of one or more school buses with another district or districts contracting, independently, with the same contractor, the transportation operating expense applicable to such bus or buses for such route or routes shall be prorated to each district. The total transportation operating expense for all districts that are parties to such contract shall not exceed the consideration of the contract.

d. (1) For aid payable in the two thousand twenty-four--two thousand twenty-five school year and thereafter, notwithstanding any provision of law to the contrary, approved transportation capital, debt service, and lease expenses for apportionments to school districts under subdivision seven of section thirty-six hundred two of this article shall include the final value of any vouchers paid on behalf of a school district, payments, and grants authorized pursuant to section 58-0701 of the environmental conservation law for costs associated with the purchase of or conversion to zero-emission school buses and supporting infrastructure.

(2) (i) In the case of allowable expenses for transportation capital,

debt service, or leases which are related to costs associated with the purchase of or conversion to zero-emission school buses and supporting infrastructure and which are supported in whole or in part by vouchers, payments, or grants authorized under section 58-0701 of the environmental conservation law, such allowable expenses at the time in which the expense is claimed for aid shall be reduced by the quotient of (A) the positive difference, if any, of the maximum state support less allowable expenses, divided by (B) the transportation aid ratio calculated pursuant to subdivision seven of section thirty-six hundred two of this article, provided that allowable expenses after such reduction, if any, shall be greater than zero.

(ii) For purposes of this subparagraph "maximum state support" shall be equal to the sum of (A) the product of the transportation aid ratio calculated pursuant to subdivision seven of section thirty-six hundred two of this article multiplied by allowable expenses, plus (B) the final value of any such vouchers paid on behalf of a school district, payments, and grants authorized under section 58-0701 of the environmental conservation law.

(3) The entity authorized to provide state assistance payments or grants pursuant to subdivision two of section 58-0703 of the environmental conservation law shall provide to the commissioner a list of grants awarded and payments to each school district or vouchers paid on behalf of a school district for the purchase of or conversion to zero-emission school buses and supporting infrastructure no later than one month prior to the end of each calendar year and each school year. This list shall include the type and number of zero-emission school buses to be funded by these payments or grants, the supporting infrastructure to be funded by these payments or grants, the award amounts of each payment or grant, the direct recipient of each payment or grant, the district receiving such payment or grant or that benefitted from such voucher, the date on which the payment or grant was received, and any other information necessary for the calculation of aid pursuant to subdivision seven of section thirty-six hundred two of this article.

4. Notwithstanding the provisions of this section or any other provision of law to the contrary, for the computation of transportation

aid pursuant to the requirements of subdivision seven of section thirty-six hundred two of this article, allowable transportation expenses shall also include transportation operating expenses described in subdivision one of this section and transportation capital, debt service and lease expenses described in subdivision two of this section incurred in the two thousand nineteen--two thousand twenty school year: (i) during the state disaster emergency declared pursuant to executive order 202 of 2020 in the case of expenses pursuant to subdivision eight of section thirty-six hundred twenty-two-a of this part; and (ii) during the period between the issuance of executive order 202.4 on March sixteenth, two thousand twenty and the issuance of executive order 202.28 on May seventh, two thousand twenty in the case of expenses pursuant to subdivision nine of section thirty-six hundred twenty-two-a of this part. Such expenses shall be allowable transportation expenses even where aidable regular transportation as defined in section thirty-six hundred twenty-two-a of this part of transportation after four pm pursuant to section thirty-six hundred twenty-seven of this part was not provided.

§ 3624. Drivers, monitors and attendants. The commissioner shall determine and define the qualifications of drivers, monitors and attendants and shall make the rules and regulations governing the operation of all transportation facilities used by pupils which rules and regulations shall include, but not be limited to, a maximum speed of fifty-five miles per hour for school vehicles engaged in pupil transportation that are operated on roads, interstates or other highways, parkways or bridges or portions thereof that have posted speed limits in excess of fifty-five miles per hour, prohibitions relating to smoking, eating and drinking and any and all other acts or conduct which would otherwise impair the safe operation of such transportation facilities while actually being used for the transport of pupils. The employment of each driver, monitor and attendant shall be approved by the chief school administrator of a school district for each school bus operated within such chief school administrator's district. For the purpose of determining such driver, monitor and attendant's physical fitness, each driver, monitor and attendant may be examined on order of

the chief school administrator by a duly licensed physician or nurse practitioner within two weeks prior to the beginning of service in each school year as a school bus driver, monitor or attendant. The report of the physician or certified nurse practitioner, in writing, shall be considered by the chief school administrator in determining the fitness of the driver to operate or continue to operate any transportation facilities used by pupils and in determining the fitness of any monitor or attendant to carry out such monitor or attendant's functions on such transportation facilities. Nothing in this section shall prohibit a school district from imposing a more restrictive speed limit policy for the operation of school vehicles engaged in pupil transportation than the speed limit policy established by the commissioner.

§ 3625. Contracts. 1. Form of transportation contracts. Every contract for transportation of school children shall be in writing or in an electronic form approved by the commissioner when available, and before such contract is filed with the department as required by subdivision two of this section, the same shall be submitted for approval to the superintendent of schools of said district and such contract shall not be approved and filed by such superintendent unless he or she shall first investigate the same with particular reference to the type of conveyance, the character and ability of the driver, the routes over which the conveyances shall travel, the time schedule, and such other matters as in the judgement of the superintendent are necessary for the comfort and protection of the children while being transported to and from school. Every such contract for transportation of children shall contain an agreement upon the part of the contractor that the vehicle shall come to a full stop before crossing the track or tracks of any railroad and before crossing any state highway.

2. Filing of transportation contracts. Every transportation contract shall be filed with the department within one hundred twenty days of the commencement of service under such contract. No transportation expense shall be allowed for a period greater than one hundred twenty days prior to the filing of any contract for the transportation of pupils with the education department. No contract shall be considered filed unless it

bears an original signature, in the case of a written document, or a certification, in the case of an approved electronic form, of the superintendent of a school district or the designee of the superintendent and the sole trustee or president of the board of education of the school district. The final approval of any such contract by the commissioner shall not, however, obligate the state to allow transportation expense in an amount greater than the amount that would be allowed under the provisions of this part. The state, acting through the department of audit and control, may examine any and all accounts of the contractor in connection with a contract for the transportation of pupils, and every such contract shall contain the following provision: "The contractor hereby consents to an audit of any and all financial records relating to this contract by the department of audit and control."

3. Allowable expense for transportation contracts. The allowable transportation expense for any school district contracting for the use of a bus or buses for the transportation of any or all the pupils attending school in such school district, other than a contract with a public service facility for such transportation operated on routes under franchise or operated by a municipality or public authority, shall be determined in the same manner as though such bus or buses were district owned, except that the amount computed for such bus or buses used in the computation of the transportation expense may not exceed the amount of the contract or contracts for such bus or buses.

4. No transportation aid or other public moneys shall be apportioned and paid as provided in this chapter to any district furnishing transportation for pupils until the contract for transportation shall also have been approved by the commissioner. In defraying any expense incurred in providing transportation of any pupils or children under any provision of this chapter, public moneys apportioned to the district in which such pupils or children reside may be used therefor.

5. Transportation contract penalties. a. All acts done and proceedings heretofore had and taken, or caused to be had and taken, by school districts and by all its officers or agents relating to or in connection

with a transportation contract, to be filed with the department, where such contract was not timely executed and/or filed within one hundred twenty days of the commencement of service under such contract pursuant to subdivision two of this section and/or where the advertisement for bids for such contract did not meet the requirements set forth in paragraph a of subdivision fourteen of section three hundred five of this chapter, and all acts incidental hereto are hereby legalized, validated, ratified and confirmed, notwithstanding any failure to comply with such filing and/or advertising provision or provisions, provided that the conditions in subparagraphs one, two, three, and four of paragraph b of this subdivision are met.

b. The department is hereby directed to consider the aforementioned contracts for transportation aid as valid and proper obligations and shall not recover from such school districts any penalty arising from the failure to execute and/or file a transportation contract in a timely manner and/or meet such advertisement requirements, provided that any amounts already so recovered shall be deemed a payment of moneys due for prior years pursuant to paragraph c of subdivision five of section thirty-six hundred four of this article and shall be paid to the school district pursuant to such provision, provided that:

(1) such school district submitted the contract to the commissioner and such contract is for services in the two thousand twelve--two thousand thirteen school year or thereafter;

(2) such contract is approved by the commissioner;

(3) all state funds expended by the school district were properly expended for such transportation as approved by the commissioner; and

(4) the failure to execute or file such contract in a timely manner and/or meet such advertisement requirements was an inadvertent administrative or ministerial oversight by the school district or due to extenuating circumstances, and there is no evidence of any fraudulent or other improper intent by such district, as determined by the commissioner.

§ 3626. Data for administration. The commissioner may require the clerk of the board of education or the trustee of any school district

entitled to transportation aid to file any data deemed necessary for the proper and efficient administration of this part and subdivision seven of section thirty-six hundred two of this article.

§ 3627. Transportation after 4pm. 1. Notwithstanding any other provisions of this section to the contrary, for the two thousand thirteen--two thousand fourteen and two thousand fourteen--two thousand fifteen school year and thereafter, a city school district located in a city having a population of one million or more providing transportation pursuant to this chapter shall be responsible for:

(a) providing transportation for those children attending public and nonpublic schools in grades kindergarten through six who remain at the same school for which they are enrolled for regularly scheduled academic classes from half-past nine o'clock in the morning or earlier until four o'clock in the afternoon or later, on weekdays, and reside at least one mile from their school of attendance for grades three through six, and at least one-half mile from their school of attendance for grades kindergarten through two or

(b) reimbursing the cost incurred by licensed transportation carriers pursuant to contracts with such school district for providing transportation for those children attending public and nonpublic schools in grades kindergarten through six who remain at the same school for which they are enrolled for regularly scheduled academic classes from half-past nine o'clock in the morning or earlier until four o'clock in the afternoon or later, on weekdays, and reside at least one mile from their school of attendance for grades three through six, and at least one-half mile from their school of attendance for grades kindergarten through two.

2. Nothing herein shall prohibit the school district from reimbursing for costs incurred for contracts between the school district and any entity providing or contracting for such transportation service.

3. A district shall not be deemed to have satisfied its obligation under this section by providing public service transportation.

4. Notwithstanding any other provision of law to the contrary, any expenditures for transportation provided pursuant to this section in the two thousand thirteen--two thousand fourteen school year and thereafter and otherwise eligible for transportation aid pursuant to subdivision seven of section thirty-six hundred two of this article shall be considered approved transportation expenses eligible for transportation aid, provided further that for the two thousand thirteen--two thousand fourteen school year such aid shall be limited to eight million one hundred thousand dollars and for the two thousand fourteen--two thousand fifteen school year such aid shall be limited to the sum of twelve million six hundred thousand dollars plus the base amount and for the two thousand fifteen--two thousand sixteen school year through two thousand eighteen--two thousand nineteen school year such aid shall be limited to the sum of eighteen million eight hundred fifty thousand dollars plus the base amount and for the two thousand nineteen--two thousand twenty school year such aid shall be limited to the sum of nineteen million three hundred fifty thousand dollars plus the base amount and for the two thousand twenty--two thousand twenty-one school year such aid shall be limited to the sum of nineteen million eight hundred fifty thousand dollars plus the base amount and for the two thousand twenty-two--two thousand twenty-three school year such aid shall be limited to the sum of twenty-two million three hundred fifty thousand dollars plus the base amount and for the two thousand twenty-three--two thousand twenty-four school year such aid shall be limited to the sum of twenty-four million eight hundred fifty thousand dollars plus the base amount and for the two thousand twenty-four--two thousand twenty-five school year such aid shall be limited to the sum of twenty-nine million eight hundred fifty thousand dollars plus the base amount and for the two thousand twenty-five--two thousand twenty-six school year and thereafter such aid shall be limited to the product of (i) the maximum amount of aid authorized by this subdivision for the base year, and (ii) the sum of one plus the product of (a) two and one-half multiplied by (b) the percentage increase in the consumer price index as defined in paragraph hh of subdivision one of section thirty-six hundred two of this article. For purposes of this subdivision, "base amount" means the amount of transportation aid paid to the school district for expenditures incurred in the two thousand

twelve--two thousand thirteen school year for transportation that would have been eligible for aid pursuant to this section had this section been in effect in such school year, except that subdivision six of this section shall be deemed not to have been in effect. And provided further that the school district shall continue to annually expend for the transportation described in subdivision one of this section at least the expenditures used for the base amount.

5. Notwithstanding any other provision of this section to the contrary, in no event shall such city school district, in order to comply with the requirements of this section, be required to incur any costs in excess of the amount eligible for transportation aid pursuant to subdivision four of this section. In the event such amount is insufficient, the city school district of New York shall provide transportation services within such amount on an equitable basis, until such apportionment is exhausted.

6. The chancellor of such school district, in consultation with the commissioner, shall prescribe the most cost effective system for implementing the requirements of this section, taking into consideration: (a) the costs associated with paragraphs (a) and (b) of subdivision one of this section, and (b) policies that attempt to maximize student safety for the student to be transported, which for purposes of this section shall include whether the pick up or drop off site of the transportation is:

(i) not further than 600 feet from the student's residence; and/or

(ii) at the same locations for any family that have children at the same residence who attend two or more different schools.

7. (a) In the event the chancellor has not satisfied a district's obligation under this section, a parent or guardian or any representative authorized by such parent or guardian of a child eligible to receive transportation under this section may request the commissioner to arrange for the provision of the transportation to so satisfy the requirements of this section.

(b) If within sixty days of receiving a request from such a parent or guardian or any representative authorized by such parent or guardian,

the commissioner determines that the chancellor has not satisfied a district's obligation under this section, then the commissioner shall immediately direct the chancellor to contract with a licensed transportation carrier to provide the transportation required pursuant to this section.

(c) In the event the chancellor is directed by the commissioner to contract with a licensed transportation carrier to provide the transportation required pursuant to this section, the chancellor shall provide the commissioner with a copy of such proposed contract, before it becomes effective, and the commissioner shall have the power to approve, disapprove or require amendments to such contract before it shall become effective.

(d) A district, determined by the commissioner to not be in compliance with the requirements of this section, shall be responsible for the cost of any transportation contract awarded by the chancellor.

8. The parent or guardian, or any representative authorized by such parent or guardian, may submit a written request for transportation under this section, in the same manner and upon the same dates as are required for a request for transportation pursuant to subdivision two of section thirty-six hundred thirty-five of this article.

§ 3628. Excess expenditures. Unless otherwise provided in this part, any expenditure for transportation in excess of the allowable transportation expense as determined according to the provisions of this part shall not be used in determining the amount of any other form of state aid.

PART III

TRANSPORTATION SERVICES

Section 3635. Transportation.
3635-a. Safety belt usage.
3635-b. Authorization to provide pupil transportation in child safety zones.
3635-c. Standing passengers prohibited.

3636. Passage of school buses across railroad crossings.
3637. Idling school buses on school grounds.
3638. Zero-emission school buses.

§ 3635. Transportation. 1. a. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend and shall be provided for each such child up to a distance of fifteen miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than fifteen miles may be provided by the district with the approval of the qualified voters, and, if provided, shall be offered equally to all children in like circumstances residing in the district; provided, however, that this requirement shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article.

b. (i) School districts providing transportation to a nonpublic school for pupils living within a specified distance from such school shall designate one or more public schools as centralized pick-up points and shall provide transportation between such points and such nonpublic schools for students residing in the district who live too far from such nonpublic schools to qualify for transportation between home and school.

The district shall not be responsible for the provision of transportation for pupils between their home and such pick-up points. The district may provide school bus transportation to a pupil if the residence of the pupil is located on an established route for the transportation of pupils to the centralized pick-up point provided such transportation does not result in additional costs to the district. The cost of providing transportation between such pick-up points and such nonpublic schools shall be an ordinary contingent expense.

(ii) A board of education may, at its discretion, provide transportation for pupils residing within the district to a nonpublic school located more than fifteen miles from the home of any such pupil provided that such transportation has been provided to such nonpublic school pursuant to this subdivision in at least one of the immediately preceding three school years and such transportation is provided from one or more centralized pick-up points designated pursuant to this paragraph and that the distance from such pick-up points to the nonpublic school is not more than fifteen miles. The district shall not be responsible for the provision of transportation for pupils between pupils homes and such pick-up points. The cost of providing transportation between such pick-up points and such nonpublic schools shall be an ordinary contingent expense.

c. The foregoing provisions of this subdivision shall not require transportation to be provided for children residing within a city school district, but if provided by such district pursuant to other provisions of this chapter, such transportation shall be offered equally to all such children in like circumstances; provided further that in city school districts in cities having a population of one hundred twenty-five thousand inhabitants or less such transportation, if provided, shall be subject to the mileage limitations prescribed in paragraph a of this subdivision or such greater or lesser limitations as are approved by the board of education prior to July first, nineteen hundred ninety-six or as otherwise authorized in subdivision twelve of section twenty-five hundred three of this chapter. City school districts with a population of more than two hundred twenty-five thousand and less than three hundred thousand, according to the nineteen hundred eighty federal census, which elect to provide transportation shall do so in

accord with the grade and distance provisions of this subdivision including transportation outside the city limits.

d. Nothing contained in this subdivision, however, shall be deemed to require a school district to furnish transportation to a child directly to or from his or her home.

e. In lieu of the transportation provided pursuant to the foregoing provisions of this subdivision, a board of education may, at its discretion, provide transportation to any child attending grades kindergarten through eight between the school such child legally attends and before-and/or-after-school child care locations. For the purposes of this subdivision, a before-and/or-after-school child care location shall mean a place, other than the child's home, where care for less than twenty-four hours a day is provided on a regular basis for a child who attends school within the school district, provided that such place is situated within the school district. This definition includes, but is not limited to, a variety of child care services such as day care centers, family day care homes and in-home care by non-relatives. Such transportation may be provided for children attending grades kindergarten through eight where the distance between the school they legally attend and before-and/or-after-school child care locations is more than two miles, and may be provided for up to a distance of fifteen miles, the distance in each case being measured by the nearest available route from before-and/or-after-school child care locations to the school they legally attend, except that transportation for a lesser distance than two miles or a greater distance than fifteen miles may be provided if transportation for such distances is provided to students between home and school. Where a child receives transportation from a before-school child care location to the school he or she legally attends, such child shall be entitled to receive transportation from the school he or she legally attends to his or her home or to an after-school child care location in accordance with this subdivision. Where a child receives transportation from the school he or she legally attends to an after-school child care location, such child shall be entitled to receive transportation from home to the school he or she legally attends in accordance with this subdivision. Transportation may

be provided to any child attending grades kindergarten through eight between the school the child legally attends and before-and/or-after-school child care locations upon written request of the parent or legal guardian submitted not later than the first day of April preceding the next school year, provided, however, a parent or guardian of a child not residing in the district on such date shall submit a written request within thirty days after establishing residence in the district and provided further that in order to be considered eligible for such transportation in the nineteen hundred eighty-seven--eighty-eight school year, such request must be submitted by August first, nineteen hundred eighty-seven. The provision of transportation to or from before-and/or-after-school child care locations, if provided, shall be offered equally to all children in like circumstances residing in the district, provided that a board of education furnishing transportation pursuant to this paragraph may limit the provision of such transportation to child care locations located within the attendance zone of the school the child attends, and to child day care centers and school age child care programs licensed or registered pursuant to section three hundred ninety of the social services law located anywhere within the school district. The cost of providing such transportation between two or three miles, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district. Such substitute transportation expense shall be eligible for state aid in accordance with clause one of paragraph b of subdivision seven of section thirty-six hundred two of this chapter. Nothing in this subdivision shall be construed to impose a duty upon boards of education to provide transportation to or from before-and/or-after-school child care locations. Nothing in this subdivision shall be construed to authorize boards of education to provide to any child transportation between a before-and/or-after-school day care location and that child's home.

f. A board of education may, in its discretion, provide transportation pursuant to this subdivision to a child of less than school age residing within the school district to and from the school which his or her parent legally attends; provided that such child is accompanied by such parent, that such parent is under twenty-one years of age and has not

received a high school diploma, and that such transportation is furnished for the purpose of allowing the child to receive child care services and/or attend a nursery school, pre-school, or parenting program. For all purposes under this chapter, a child receiving such transportation shall be deemed a pupil legally attending the school which his or her parent legally attends. The cost of providing such transportation shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Such transportation expense shall be eligible for state aid in accordance with subparagraph (i) of paragraph b of subdivision seven of section thirty-six hundred two of this article.

g. Notwithstanding any other provision of law to the contrary, the trustees or board of education of any school district may, in its discretion, provide transportation for students attending a universal pre-kindergarten program in addition to transportation funded by such program or transportation for students attending another district sponsored or district-run pre-kindergarten program, within mileage limits established by the school district; if provided such transportation shall be offered equally to all children in like circumstances residing in the district. The cost of providing such transportation shall be a charge upon the district and for purposes of subdivision seven of section thirty-six hundred two of this chapter, such pupils shall be considered non allowable pupils and the costs of their transportation shall not be aidable.

2. A parent or guardian of a child residing in any school district, or any representative authorized by such parent or guardian, who desires for a child during the next school year any transportation authorized or directed by this chapter shall submit a written request therefor to the school trustees or board of education of such district not later than the first day of April preceding the next school year, provided, however, that a parent or guardian of a child not residing in the district on such date shall submit a written request within thirty days after establishing residence in the district. No late request of a parent or guardian for transportation shall be denied where a reasonable explanation is provided for the delay. If the voters, school trustees,

or board of education fail to provide the transportation authorized or directed by this chapter after receiving such a request, such parent, guardian or representative, or any taxpayer residing in the district, may appeal to the commissioner of education, as provided in section three hundred ten of this chapter. Except as hereinbefore provided, the commissioner of education shall not require that such parent, guardian or representative present a request for such transportation to any meeting of the voters, school trustees or board of education in order to appeal. Upon such appeal, the commissioner of education shall make such order as is required to effect compliance with the provisions of this chapter and this section.

2-a. The superintendent of each city school district, in a city having a population in excess of one million, shall prepare a public school calendar and shall notify officials of nonpublic schools to which transportation has been requested not later than the first day of June in each year, of the days on which the public schools will be in session in the following school year. Such school district which provides transportation to nonpublic schools shall provide such transportation for the same number of days as the public schools are open but shall not provide transportation services for more than one hundred eighty days. Officials of each nonpublic school to which transportation is provided by a city school district of a city having a population in excess of one million may notify such district, not later than the first day of July of each school year, of a maximum of five days, exclusive of Saturdays, Sundays or legal holidays upon which public schools are required to be closed, on which the public schools are scheduled to be closed, except that in any year in which the first or last day of Passover and Easter Sunday are separated by more than seven days, such officials may notify the district of a maximum of ten days, but such school district will be required to provide for transportation to such nonpublic school provided that such five or ten additional days, whichever is applicable, are limited to the following: the Tuesday, Wednesday, Thursday and Friday after Labor Day, Rosh Hashanah, Yom Kippur, the week in which public schools are closed for spring recess, December twenty-fourth and the week between Christmas day and New Year's day, the Tuesday, Wednesday, Thursday and Friday after the observance of Washington's birthday, the

first day of the second lunar month after the winter solstice in the preceding calendar year, known as Asian Lunar New Year, the fifteenth day of the eighth month of the Indian calendar in each year, known as Diwali, and, in the boroughs of Brooklyn and Queens only, Anniversary Day as designated in section twenty-five hundred eighty-six of this chapter.

3. Notwithstanding any other provision of law, rule or regulation to the contrary, in cities with a population of one million or more, the requirement of paragraph c of subdivision one of this section, requiring that a city school district providing transportation for children residing within such district offer such transportation equally to all such children in like circumstances, shall not apply to the use of existing contract bus service provided for children in elementary grades by pupils in grades seven and eight, but only where such use is a reinstatement of a service provided in the school year beginning in September, two thousand nine and ending in June two thousand ten.

5. For the purpose of affording the greatest possible protection to school children, drive-off places on public highways may be designated by the appropriate board of education or district superintendent to permit school busses to be driven off the highway to receive or discharge school children, and the state or municipality having jurisdiction of such highway, is authorized to provide construction and maintenance of such designated drive-offs.

6. In the event that the expenses entailed by the phase-out of omnibuses required by paragraph (k) of subdivision twenty of section three hundred seventy-five of the vehicle and traffic law are not otherwise provided for, such expenses shall be an ordinary contingent expense of a school district.

7. Notwithstanding any other provision of law, rule or regulation, where a child is permitted by a school district or board of education to attend a public school other than the school to which they would normally be assigned, a parent of such child may agree to waive provision of transportation which would otherwise be required under this

section and no such transportation shall be required. Any agreement to waive transportation must be renewed annually in writing.

* 8. a. The trustees or board of education of a school district may, at its discretion, provide student transportation based upon patterns of actual ridership. The actual ridership shall be determined by a school district based upon documented history and experience that yields a consistent pattern of eligible pupils not using district transportation; or modeling of future ridership; or the sharing of transportation regionally; or other criteria approved by the commissioner; provided however that any methodology shall require an additional ten percent in seating capacity above the number of seats derived using such methodology which shall be available in case of unanticipated riders.

Nothing in this subdivision shall be construed to reduce or relieve school districts from the responsibility of providing transportation to students otherwise eligible for such transportation. Nothing in this subdivision shall be construed to authorize a school district to have standing passengers in violation of section thirty-six hundred thirty-five-c of this article, and unanticipated ridership shall not be deemed an unforeseen occurrence for purposes of subdivision two of such section after the first day in which such unanticipated ridership occurs.

Any school district that, at its discretion, has elected to provide student transportation based upon patterns of actual ridership shall place such plans on the school district's website, if one exists, on or before August fifteenth of the school year in which the transportation plan will be implemented and shall be required to have a back up plan as part of their emergency management practices for pupil transportation in the event that a bus is filled beyond capacity.

b. The commissioner shall evaluate the effectiveness of this subdivision including the methodologies used by school districts to determine the patterns of actual ridership and whether such methodologies ensure that all students otherwise eligible receive transportation and that student safety is assured.

* NB Repealed June 30, 2029

§ 3635-a. Safety belt usage. 1. A board of education or board of trustees may, in its discretion, following a public hearing for the purpose of determining whether a resolution shall be adopted, provide for the use of seat safety belts on such school buses, in accordance with regulations and standards established by the commissioner under subdivision one of section thirty-six hundred thirty-eight of this chapter.

2. Such public hearing, conducted upon reasonable notice, shall be held to consider: (a) whether the district shall install seat safety belts on buses purchased and/or contracted for prior to the effective date of this section and require their use; (b) when such installation shall be provided, and (c) whether use of seat safety belts shall be required on all school buses within the district so equipped after a date to be determined by the board of education or board of trustees.

3. Such hearings shall consider the effect of seat safety belts installation on the total number of students that can be transported on such buses.

4. Within twenty days after the public hearing, the board of education or board of trustees shall, by resolution, determine whether to require installation and use of seat safety belts on some or all school buses.

5. This section shall apply only to vehicles owned or leased by school districts and nonpublic schools, and to vehicles used to perform contracts with such school districts and nonpublic schools for the purpose of transporting school children for hire.

6. Nothing in this section shall be construed to impose a duty upon boards of education or boards of trustees to provide seat safety belts on school buses purchased or contracted for prior to the effective date of this section, nor shall any board of education or board of trustees be held liable for failure to provide seat safety belts pursuant to this section. A school board member or trustee shall have immunity from any

civil or criminal liability that might otherwise be incurred or imposed as a result of the provisions of this section provided that such person shall have acted in good faith. For the purpose of any proceeding, civil or criminal, the good faith of any such person shall be presumed.

7. The provisions of this section shall not apply to school districts which are using safety belts on school buses or have installed or have contracted for the installation of seat safety belts prior to the effective date of this section.

§ 3635-b. Authorization to provide pupil transportation in child safety zones. 1. This section shall apply where the board of education or trustees of a common, central, central high school, union free school district, or city school district of a city with less than one hundred twenty-five thousand inhabitants adopts a resolution to make transportation in child safety zones available to resident pupils for a particular school year. Such resolution shall continue in effect for subsequent school years until the board adopts a resolution providing otherwise.

2. A board of education or board of trustees is authorized to adopt a resolution providing for pupil transportation in child safety zones, where applicable, of a proposition to expend money for such transportation presented pursuant to the provisions of subdivision nineteen of section two thousand twenty-one and section two thousand twenty-two of this chapter. Such transportation may be provided without regard to like circumstances based solely upon the fact that the pupil resides within two miles, in the case of a pupil in grade kindergarten through eight, and within three miles, in the case of a pupil in grade nine through twelve, from the school such pupil legally attends, notwithstanding the provisions of section thirty-six hundred thirty-five of this article. Such transportation may be provided upon the determination by the board that a hazardous zone exists which in the opinion of the board would be reasonably alleviated by the establishment of a child safety zone. For purposes of this section, child safety zone means a designated area of a school district, including at least one

personal residence, within which children who reside at a lesser distance from the school they legally attend than the minimum transportation limit of the district will be provided transportation on the basis that their most direct walking route to school will traverse a hazardous zone.

3. The commissioner of transportation shall establish regulations for determination of a hazardous zone including, but not limited to, such factors as the existence or nonexistence of sidewalks or walkways, the type of road surface, width of road, footpath or sidewalk, the volume and average speed of traffic, density of population, violent crime statistics, density of vacant buildings or structures, the commercial, industrial or residential character of the area and the existence or nonexistence of traffic safety features such as traffic lights, street lights and traffic patrols. In preparing such regulations, the commissioner of transportation shall consult with the commissioners of education and motor vehicles and representatives from the state police who have traffic safety responsibilities. Such regulations shall be used by boards of education in determining whether a hazardous zone exists.

4. The board of education of any school district shall, upon written petition of a parent or other person in parental relation of a child residing within such district or of any representative authorized by such parent or other person in parental relation, signed by twenty-five qualified voters of the district or five percent of the number of voters who voted in the previous annual election of the members of the board of education, whichever is greater, make an investigation to determine whether a hazardous zone exists requiring the establishment of a child safety zone. Petitions shall specify the geographic boundaries comprising the proposed hazardous zone and any child safety zone requested. Petitions and/or additional written requests from individual parents or persons in parental relation requesting designation of an area as a child safety zone in conjunction with any proposed or existing hazardous zone may be submitted provided that such petitions and/or requests shall not be submitted later than the first day of March preceding the school year for which transportation is requested. The school board shall make its determination before the board presents the

budget for the school year for which transportation is requested. The parent or other person in parental relation of a child not residing in the district on the first day of March may submit a request within thirty days after establishing residence in the district, but in no event later than the first day of July of the school year for which transportation is requested and the board shall make its determination within thirty days of receipt of such request.

5. The board of education or board of trustees of any school district may directly, or by appointment of an advisory committee, make an investigation to determine if a hazardous zone exists within such district. Such investigation shall be made pursuant to the regulations of the commissioner of transportation and shall include consultation with state or local transportation authorities and the investigation of other, less costly, reasonable alternatives to the creation of a child safety zone. If, after such investigation, the board shall determine that a hazardous zone exists which can be reasonably alleviated, in the opinion of the board, only by establishing a child safety zone and providing transportation in and through such child safety zone, and that no reasonable, less costly alternatives to such transportation exist to alleviate the situation, the board may adopt a separate resolution to expend money for transportation in child safety zones at the annual district meeting.

6. Where the trustees or board of education determines after the annual district meeting is held that the designation of a new hazardous safety zone is needed as a result of a change in circumstances that was unknown to the board and not reasonably foreseeable at the time of the annual meeting, the trustees or board of education may call a special district meeting to vote on a proposition to expend money for transportation in child safety zones. The trustees or board of education shall establish procedures for submission of petitions and requests by individual parents or persons in parental relation for the designation of child safety zones in conjunction with the proposed hazardous zone.

7. Whenever a school board determines that a hazardous safety zone exists or that a child safety zone should be established, it shall

notify the petitioner, each requestor of a child safety zone and any state or local entity with jurisdiction over roadways or property within such zone.

8. The board of education or board of trustees shall conduct a public hearing with appropriate public notice, upon the board's determination that a hazardous zone no longer exists or that the need for continuation of a child safety zone has been alleviated and that such designation is to be rescinded. Within twenty days after the public hearing, the board shall, by resolution, determine that a hazardous zone continues to exist or no longer exists and that the need for continuation of a child safety zone has or has not been alleviated and that the designation is or is not rescinded.

9. In the event that the school board determines that a hazardous zone does not exist, or that other, less costly, reasonable alternatives to the establishment of a child safety zone exist and may be used to alleviate the situation, it shall fully state the reasons for such determination in writing to the petitioner.

10. The cost of providing transportation, pursuant to the provisions of this section, shall be an ordinary contingent expense and shall be included as an item of expense for purposes of determining the transportation quota of such district.

12. Nothing in this section shall be construed to impose a duty upon school boards to provide transportation services pursuant to this section nor shall any board of education or board of trustees be held liable for failure to provide transportation pursuant to this section. The determination that a hazardous zone exists or that a child safety zone has been established, and the petitions, investigatory materials and decision making documents created or reviewed in making such determination, shall not be admissible as evidence or used in civil litigation or any suit or action for damages, nor shall any school board members, school board trustee, school employee, governmental official or any other individual be compelled or permitted, whether by subpoena or other process, to testify in any such civil litigation regarding such

determination. A school board member, trustee, school officer or employee shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as a result of the provisions of this section provided that such person shall have acted in good faith. For the purpose of any proceeding, civil or criminal, the good faith of any such person shall be presumed.

13. The commissioner shall submit a report on the status of pupil transportation in child safety zones to the governor, the speaker of the assembly, the temporary president of the senate, and the chairs of the assembly and senate standing education committees, prior to January first, two thousand one. The report shall, at a minimum, include the number of child safety zones established across the state and the total number of pupils transported per zone. The report shall also include the commissioner's recommendations for modification of the child safety zone provisions, including, but not limited to, the granting of state transportation aid for pupil transportation within such zones and the process by which child safety zones are established.

§ 3635-c. Standing passengers prohibited. Standing passengers shall not be carried on school buses owned by or contracted to a school district while such vehicles are employed exclusively for the transportation of pupils under the age of twenty-one and teachers and other persons acting in a supervisory capacity to or from school or school activities, except as provided in subdivision one or two of this section:

1. Standing passengers may be permitted on such a school bus provided that the number of standing passengers does not exceed the limit established in the following schedule for the applicable time period:

Period:	Not more than:
Through June 30, 2001	20% of approved seating capacity
Between July 1, 2001 and June 30, 2002	15% of approved seating capacity
Between July 1, 2002 and June 30, 2003	10% of approved seating capacity

Between July 1, 2003 and June 30, 2004	5% of approved seating capacity

2. Notwithstanding any other provision of this section to the contrary, standing passengers may be permitted without limitation as to number during the first ten days of session in each school year, and in circumstances where a breakdown, accident, or other unforeseen occurrence necessitates the transportation of standing passengers.

3. Nothing contained in this section shall be construed to restrict the power of a city with a population of one million or more to adopt and enforce local laws that comply with at least the minimum applicable standards set forth in this section.

§ 3636. Passage of school buses across railroad crossings. 1. No school bus transporting pupils between home and school or between schools which such pupils regularly attend either within or outside the district which operates or contracts for the operation of such bus, or transporting pupils for any purpose within such district, shall cross railroad tracks at grade except at a guarded railroad crossing, unless the governing body of the school district which operates the bus or contracts for the operation of the bus shall have adopted, at a regular meeting after a public hearing thereon, a resolution by which it shall have determined that the use of a route which would avoid an unguarded railroad crossing by the school bus would be impracticable.

A copy of any resolution adopted pursuant to the provisions of this section shall be filed with the department of education and the department of transportation at their respective offices in the city of Albany.

2. For the purpose of this section, a guarded railroad crossing shall be defined as follows:

a. Any railroad crossing having automatic electrically operated gates that meet the specifications for such gates in the rules and regulations

promulgated by the department of transporation.

b. Any railroad crossing where a member of the approaching train's crew disembarks from the train which has stopped before the crossing and positions himself at the crossing to halt traffic while the train passes. Such procedure must be in accordance with the rules and regulations promulgated by the department of transportation.

c. Any railroad crossing protected by an automatic warning signal which meets the specifications in the rules and regulations as promulgated by the department of transportation.

d. Any railroad crossing protected by one or more persons serving as a railroad crossing guard.

3. Each school district shall prepare and maintain a map indicating the intersection with any unguarded railroad crossing of each route used by a school bus transporting students to and from school either within or outside the district, or for any purpose within the district, and shall make such map available for inspection by any resident of the district at a place designated by the governing body of the district.

4. The commissioner of education shall have the authority to promulgate such regulations as he shall deem appropriate to implement the provisions of this section.

*** § 3637. Idling school buses on school grounds.** 1. On or before July first, two thousand eight, the commissioner shall promulgate regulations requiring school districts to minimize, to the extent practicable, the idling of the engine of any school bus, as defined in section one hundred forty-two of the vehicle and traffic law, and other vehicles owned or leased by the school district while such bus or vehicle is parked or standing on school grounds, or in front of any school. Such regulations shall apply to school districts identified by the commissioner, in consultation with the department of health, with a significant number of children with asthma and those other school

districts deemed by the commissioner as appropriate.

2. Such regulations shall include, but not be limited to, a requirement that the engines of all school buses and vehicles owned or leased by the school district be turned off while waiting for passengers to load or off load on school grounds. When necessary for heating, mechanical or emergency circumstances, the regulations may allow idling to the extent necessary to achieve such purpose. Provided, however, that such regulations shall not conflict with applicable state regulations and local laws.

3. School districts shall be required to annually provide their school personnel with notice of the provisions of this section, and the regulations promulgated pursuant to this section by the commissioner. The commissioner shall provide such notice for school districts to disseminate.

* NB Repealed June 30, 2029

§ 3638. Zero-emission school buses. 1. For the purposes of this section "zero-emission school bus" shall mean a school bus that: is propelled by an electric motor and associated power electronics which provide acceleration torque to the drive wheels during normal vehicle operations and draws electricity from a hydrogen fuel cell or battery; or otherwise operates without direct emission of atmospheric pollutants.

2. (a) No later than July first, two thousand thirty-two, every school district shall:

(i) only purchase or lease zero-emission school buses when purchasing or leasing new buses;

(ii) include requirements in any procurement for school transportation services that any contractors providing transportation services for the school district must only purchase or lease zero-emission school buses when purchasing or leasing new school buses; and

(iii) include requirements in any procurement for the manufacturing or retrofitting of a zero-emission school bus and charging or fueling infrastructure that the components and parts used or supplied in the

performance of the contract or any subcontract thereto shall be produced or made in whole or substantial part in the United States, its territories or possessions and that final assembly of the zero-emission school bus and charging or fueling infrastructure shall occur in the United States, its territories or possessions.

(b) The commissioner, in consultation with the New York state energy research and development authority and office of general services, may waive the contracting requirements set forth in subparagraph (iii) of paragraph (a) of this subdivision if the commissioner determines that the requirements would not be in the public interest, would result in unreasonable costs, or that obtaining such zero-emission school buses and charging or fueling infrastructure components and parts in the United States would increase the cost of a school district's contract for zero-emission school buses and charging or fueling infrastructure by an unreasonable amount, or such zero-emission school busses and charging or fueling infrastructure components and parts cannot be produced, made, or assembled in the United States in sufficient and reasonably available quantities or of satisfactory quality. Such determination must be made on an annual basis no later than December thirty-first, after providing notice and an opportunity for public comment, and be made publicly available, in writing, on the department's website with a detailed explanation of the findings leading to such determination. If the commissioner has issued determinations for three consecutive years that no such waiver is warranted pursuant to this paragraph, then the commissioner shall no longer be required to provide the annual determinations required by this paragraph.

3. No later than July first, two thousand forty, every school district shall:

(a) only operate and maintain zero-emission school buses; and

(b) include requirements in any procurement for school transportation services that any contractors providing transportation services for the school district must only operate zero-emission school buses when providing such transportation services to the school district.

4. (a) A school district may apply to the commissioner, and the department may grant a maximum of two extensions of up to twenty-four

months each to comply with the requirements of subdivision two of this section. The commissioner shall consider a school district's effort to meet the requirements of subdivision two of this section and any other factors outside of the control of the district when granting an extension, including but not limited to, procurement efforts made by the school district, applications for state or federal funds, changes needed to school district operations to meet the requirements of this section, employee training, receipt of technical assistance, market availability of zero-emission school buses or supporting infrastructure, and availability of state or federal funds. In order to receive a second extension pursuant to this paragraph, a school district must have at least engaged with the New York state energy research and development authority in the initiation and development of a fleet electrification plan.

The commissioner shall provide written notification to a school district where such school district is granted an extension and shall detail the grounds for granting such extension.

(b) The commissioner shall notify the New York state energy research and development authority when the first extension is granted to a school district pursuant to paragraph (a) of this subdivision. The New York state energy research and development authority or its designee shall meet with the school district at least annually during the extension period to provide technical assistance to address the grounds detailed in the extension.

(c) The New York state energy research and development authority shall make a recommendation to the commissioner if they determine a school district has the capacity to fulfill the requirements of subdivision two of this section based on the fleet electrification technical assessment and shall notify the education department and the school district of such recommendation in writing. No school district may be granted an extension pursuant to paragraph (a) of this subdivision where the New York state energy research and development authority has notified the commissioner of their recommendation that such school district has the capacity to fulfill the requirements of subdivision two of this section.

(d) The commissioner shall publish on the department's website no later than December thirty-first, two thousand twenty-five the

application school districts must use to apply for extensions pursuant to paragraph (a) of this subdivision and the requirements school districts must meet to qualify for such extensions.

5. (a) Nothing in this section shall alter the rights or benefits, and privileges, including, but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership, of any current employees of school districts or any entity contracted to provide pupil transportation services, or services attendant thereto, including but not limited to drivers, attendants, dispatchers, and mechanics.

(b) Nothing in this section shall result in: (i) the discharge, displacement, or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits; (ii) the impairment of existing collective bargaining agreements; (iii) the transfer of existing duties and functions; or (iv) the transfer of future duties and functions, of any currently employed worker impacted by the proposed purchase or lease who agrees to be retrained.

(c) Prior to the beginning of the procurement process for new zero-emission school buses, omnibuses, vehicles, charging infrastructure or equipment, fueling infrastructure or equipment, or other equipment, the school district, private school bus company, or other employer whose workers provide pupil transportation services or services attendant thereto, shall create and implement a workforce development report that: (i) estimates the number of current positions that would be eliminated or substantially changed as a result of the purchase or lease, and the number of positions expected to be created at the school district, private school bus company or other employer whose workers provide pupil transportation services or services attendant thereto by the proposed purchase or lease over the intended life of the proposed purchase or lease; (ii) identifies gaps in skills of its current workforce that are needed to operate and maintain zero-emission school buses, omnibuses, vehicles, charging infrastructure or equipment, fueling infrastructure or equipment, or other equipment; (iii) includes a comprehensive plan to transition, train, or retrain employees that are impacted by the proposed purchase or lease; and (iv) contains an estimated budget to

transition, train, or retrain employees that are impacted by the proposed purchase or lease.

(d) Nothing in this section shall: (i) limit rights of employees pursuant to a collective bargaining agreement, or (ii) alter the existing representational relationships among collective bargaining representatives or the bargaining relationships between the employer and any collective bargaining representative. Employees of public entities serving in positions in newly created titles shall be assigned to the appropriate bargaining unit.

(e) Prior to beginning the procurement process for zero-emission school buses, omnibuses, vehicles, charging infrastructure or equipment, fueling infrastructure or equipment, or other equipment, any employer of workers covered by this section shall inform its employees' collective bargaining representative of any potential impact on its members or unit, including positions that may be affected, altered, or eliminated as a result of the purchase.

6. When purchasing zero-emission school buses and charging or fueling infrastructure, school districts are encouraged to utilize the centralized contracts for zero emission school buses and charging or fueling infrastructure established by the office of general services.

* 7. Beginning in the two thousand twenty-four--two thousand twenty-five school year, every school district shall annually submit to the commissioner a progress report on the implementation of zero-emission school buses as required under this section in a format prescribed by the commissioner and approved by the director of the budget. The report shall include, but not be limited to, (i) sufficiency of the school district's electric infrastructure to support anticipated electrical needs, (ii) the availability and installation of charging or fueling stations and other components and capital infrastructure required to support the transition to and full implementation of zero-emission school buses, (iii) whether the workforce development report pursuant to paragraph (c) of subdivision five of this section has been created and implemented, (iv) the number and proportion of zero-emission school buses the school district or any contractor providing transportation services is utilizing in the current school year, and (v) the number and proportion of zero-emission school buses

purchased or leased by the school district or any contractor providing transportation services in the current school year and the total anticipated number for the next two years. The progress report shall be due on or before August first of each year. Beginning October first, two thousand twenty-four, the commissioner shall annually submit a report to the governor, the temporary president of the senate and the speaker of the assembly on the progress of implementation of zero-emission school buses as reported by the school districts.

* NB Repealed June 30, 2036

PART IV--SPECIAL APPORTIONMENTS AND GRANTS-IN-AID

Section 3640. Application.
3641. Special apportionments and grants-in-aid to school districts.
3641-a. Excelsior scholars program for grade seven mathematics and science students.
3641-b. Grants for summer institutes for mathematics and science teachers.
3642. Severability.

§ 3640. Application. Part IV of this article shall apply to the apportionment of public moneys for certain special apportionments and grants-in-aid to school districts that are payable to the special aid fund of the school district, and for certain grants-in-aid to other entities.

§ 3641. Special apportionments and grants-in-aid to school districts. 1. General provisions. a. The commissioner shall be authorized to provide funds for the programs included in this section only to the extent that an appropriation is available for the purpose of the specific program.

b. The payment schedule set forth in section thirty-six hundred nine-a of this article shall not apply to special apportionments or

grants-in-aid included in this section. Except where a specific payment schedule is set forth in this section, the commissioner is authorized to pay up to seventy percent of the sum appropriated for any program included in this section prior to April first of the school year for which such moneys are available, with the remainder payable on or after such date.

2. Full-day kindergarten transition and pre-kindergarten planning grants. Within the amount appropriated for such purpose, the commissioner is hereby authorized to award grants to: (i) school districts that operated half-day kindergarten programs in the two thousand six--two thousand seven school year and will continue to operate such half-day programs in the two thousand seven--two thousand eight school year to plan for conversion to full-day kindergartens only in the school year next following the school year in which the planning grant is received, but no later than the two thousand ten--two thousand eleven school year, and (ii) school districts for planning grants for the implementation or expansion of universal prekindergarten programs. The commissioner shall prescribe the procedures and criteria for the award of such grants, which shall be available to school districts to defray their additional costs for planning time, the cost of classroom materials, equipment, furniture and supplies not eligible for aid pursuant to subdivisions six, six-a, six-b, six-c or six-f of section thirty-six hundred two of this article, where such additional costs are incurred in planning for the facilities and staffing that will be needed for such conversion, implementation or expansion. No school district may receive more than one planning grant pursuant to this subdivision for conversion to full-day kindergarten. The commissioner shall be authorized to adopt regulations to implement the provisions of this subdivision.

3. Supplemental valuation impact grants. a. In addition to apportionments otherwise provided by section thirty-six hundred two of this article, for aid payable in the two thousand eight--two thousand nine and two thousand nine--two thousand ten school years, the amounts specified in paragraphs c and d of this subdivision shall be paid for the purpose of providing additional funding for school districts which

have experienced a significant financial hardship caused by an extraordinary change in the taxable property valuation or extraordinary judgments resulting from tax certiorari proceedings.

b. The purpose of this subdivision is to provide financial assistance to school districts which have experienced a significant reduction in the taxable full value of the school district or extraordinary tax certiorari judgments. The legislature finds that school districts for which a judgment was made resulting from a tax certiorari proceeding which is larger than the total budget of the school district for school year two thousand seven--two thousand eight or for school districts which have observed a reduction of taxable real property of more than seventy-five percent between school year two thousand five--two thousand six and school year two thousand eight--two thousand nine may benefit from temporary additional assistance.

c. To the Barker central school district, there shall be paid one million three hundred thousand dollars ($1,300,000). Such grant shall be payable to the Barker central school district in accordance with the payment schedules contained in section thirty-six hundred nine-a of this article, notwithstanding any provision of law to the contrary.

d. To the Haverstraw-Stony Point central school district, there shall be paid two million five hundred thousand dollars ($2,500,000). Such grant shall be payable to the Haverstraw-Stony Point central school district in accordance with the payment schedules contained in section thirty-six hundred nine-a of this article, notwithstanding any provision of law to the contrary.

4. Building condition survey services. a. Purpose. The purpose of this subdivision is to assess the need of routine maintenance, repairs, minor alterations, and operational improvements in order to safeguard and promote the health, safety and welfare of both pupils and staff. The legislature further finds that the existing aid formula does not provide for local assistance for such building condition surveys and that, therefore, additional funding is necessary to assist local public school districts with such necessary building condition survey activities.

b. Building condition surveys. To be eligible for aid pursuant to subdivision six-e of section thirty-six hundred two of this article, building condition surveys shall be conducted by a licensed architect or licensed professional engineer performing under a state contract entered into pursuant to paragraph c of this subdivision, shall assess the condition of all major building systems of a school building, and shall be in the form and contain the information prescribed by the commissioner. For purposes of this paragraph, "major building systems" shall mean the electrical, plumbing, heating, ventilation and air conditioning systems, and the roof and other major structural elements of a school building.

c. Powers and duties of the commissioner. (1) The commissioner shall develop a building condition survey matrix which would be used to assist public school districts to develop long range facilities plans in a consistent format.

(1-a) Commencing no sooner than the first day in January, two thousand twenty, the commissioner shall require school districts to conduct building condition surveys every five years in accordance with regulations of the commissioner. Such regulations shall prescribe the date or dates by which such surveys must be completed and submitted to the department and shall provide for staggered implementation so that such surveys are distributed as evenly as possible throughout the five-year period based on the number of public school buildings, provided that such implementation schedule shall ensure that no region of the state is overrepresented in a given scheduled year and shall to the extent practicable prioritize assigning to the first two years of such schedule those school districts with the greatest proportions of buildings which previously received relatively low overall condition ratings.

(2) The commissioner is hereby authorized to enter into the necessary contractual agreements with architects and/or engineers to state-wide contracts to provide building construction surveys on a regional basis for a fixed fee per square foot. Such building condition surveys shall be used to assist school districts with the development of their five-year capital facilities plan.

5. School district management efficiency awards program. a. Within the amount appropriated for such purpose, subject to a plan developed in consultation with the secretary of state and approved by the director of the budget, the commissioner shall award competitive grants pursuant to this subdivision for achieving school district management efficiencies.

(1) Such plan shall include but not be limited to: the process by which a request for proposals is developed; the scoring rubric by which such proposals will be evaluated; the form and manner by which applications will be submitted; the manner by which calculation of the amount of the award was determined, including establishing benchmarks based on actual cost savings that must be met before any awards are paid; and the timeline for the issuance and review of applications to ensure that grants will be first awarded within one hundred and twenty days following the end of the two thousand eleven--two thousand twelve school year.

(2) The commissioner shall be authorized, consistent with the plan required by this paragraph, to promulgate rules and regulations necessary for the implementation of this subdivision.

b. A response to a request for proposals issued pursuant to this subdivision may be submitted by a school district or jointly by two or more school districts who have demonstrated to the satisfaction of the commissioner that:

(1) one or more long term efficiencies in school district management, operations, procurement practices or other cost savings measures that have not and will not result in an increase in cost to the state or locality have been implemented;

(2) such efficiencies have been implemented within two years prior to a response to a request for proposals issued pursuant to this subdivision or will be implemented during the current school year;

(3) such efficiencies have resulted or will result in a significant reduction in total operating expenses compared to the prior year, in the administrative component, or the equivalent, of the school district budget, in transportation operating expenses, in transportation capital expenses, and/or in other non-personal service costs included in the program component of the school district budget, or the equivalent,

compared to the prior year; and

(4) such efficiencies are expected to result in substantial and sustainable cost savings in future years; and

(5) if two or more school districts are applying jointly, and have entered a shared services agreement as authorized by law, that significant savings would result from such shared services; provided that in no event shall districts that have entered into an aidable cooperative educational services agreement for any such services with a board of cooperative educational services pursuant to section nineteen hundred fifty of this chapter be eligible for an award pursuant to this subdivision for the same purpose, but may be eligible for an award pursuant to this subdivision for another shared long term efficiency or cost saving measure. Provided however, a district which has received an award pursuant to the local government efficiency grant program authorized by subdivision ten of section fifty-four of the state finance law, shall not be eligible to receive an award pursuant to this subdivision for the same purpose, but may be eligible for an award pursuant to this subdivision for another long term efficiency or cost savings measure.

c. The commissioner shall grant priority to applications that have demonstrated that the long term efficiencies that have been implemented: (1) are innovative in the manner that the management or organizational structure may be changed to generate significant savings while maintaining or improving student achievement; (2) have the participation of the teachers, parents and/or other stakeholders in the school district; (3) are measures or strategies that other school districts can replicate; or (4) have the greatest quantifiable savings that will be sustainable.

d. A school district that submits documentation that has been approved by the commissioner by September first, two thousand twelve demonstrating that it has fully implemented new standards and procedures for conducting annual professional performance reviews of classroom teachers and building principals to determine teacher and principal effectiveness, shall receive bonus points in the scoring of its grant application.

e. A school district or school districts seeking a grant shall submit an application to the commissioner in a form and manner and by a date as prescribed by the commissioner. The commissioner may consult with any other state agency about such grants and each such agency shall cooperate in assisting in the analysis of grant applications.

f. The amount of the grant award, including the maximum grant amount available to any district or districts, shall be determined by the commissioner, consistent with the plan developed pursuant to paragraph a of this subdivision provided that the amount of such awards shall be based upon the size of the district or school districts measured by public school enrollment of the district or districts, except that no single district receiving a grant and no group of districts receiving a grant jointly may be awarded more than forty percent of the total amount of grant awards made pursuant to this subdivision; and provided further that such amount may be adjusted based upon measures of district need.

g. For the two thousand thirteen--two thousand fourteen state fiscal year and thereafter, in addition to the competitive awards amount as defined in paragraph ee of subdivision one of section thirty-six hundred two of this article, a minimum of thirty-seven million five hundred thousand dollars shall be available for this purpose in each state fiscal year.

6. School district performance improvement awards grant. a. Within the amounts appropriated for such purpose, the commissioner shall award competitive grants to eligible school districts pursuant to this subdivision that have demonstrated the most improved academic achievement gains and student outcomes, as well as having implemented strategies that have the most potential for continued improvements in student performance, narrowing student achievement gaps and increasing academic performance in traditionally underserved student groups.

b. The commissioner shall:

(1) develop a competitive request for proposals, which shall be approved by the director of the budget, to be issued on or before

October first, two thousand eleven and shall ensure that grants will first be awarded pursuant to this subdivision during the two thousand eleven-two thousand twelve school year.

(2) create a peer review panel and process and a scoring rubric to be used in the evaluation of applications during such process. Such scoring rubric shall give priority to those eligible school districts that have the most significant measurable improvements in academic achievement and student outcomes; and have (A) implemented rigorous programs to improve middle school student performance; (B) newly established or expanded participation in college level or early college programs; (C) significantly increased college admission rates; (D) exemplary career and technical education programs with a record of successful student outcomes; or (E) other innovative and replicable strategies for student achievement. Provided further that such rubric shall grant priority to those eligible districts whose programs benefit students having the greatest educational needs, including but not limited to:

(A) students within traditionally underserved student groups;

(B) students who are English language learners;

(C) students in poverty;

(D) students with disabilities; and

(E) students with low academic achievement.

(3) be authorized to promulgate rules and regulations necessary for the implementation of this subdivision.

c. To be an eligible applicant, a school district must:

(1) have a race to the top final scope of work that was approved by the commissioner by February fifteenth, two thousand eleven; and/or

(2) have demonstrated satisfactory progress, as determined by the commissioner, towards implementation of elements such as high quality student assessments, use of data to improve instruction and student performance, provision of professional development to improve teacher performance; and

(3) be among the school districts showing the greatest gains in student performance in its category of district in the prior school year as reflected by increases in student outcome, as well as other measures for closing the achievement gap, improving high school performance and graduation rates, and increasing college attendance and retention rates

as compared to student performance in those areas in the applicable baseline year.

d. For purposes of this subdivision:

(1) "category of district" means:

(A) a high-need large city category consisting of city school districts having a population of one hundred twenty-five thousand inhabitants or more, provided that in the case of the city school district of the city of New York the chancellor shall have the option of applying on behalf of one or more community school districts and/or district seventy-five in lieu of applying on a citywide basis;

(B) a high-need urban-suburban category as defined by the commissioner based upon the need/resource capacity index applicable to such school districts;

(C) a high-need rural category as defined by the commissioner based upon the need/resource capacity index applicable to such school districts;

(D) an average need category as defined by the commissioner based upon the need/resource capacity index applicable to such school districts; and

(E) a low need category as defined by the commissioner based upon the need/resource capacity index applicable to such school districts.

(2) The commissioner shall establish a methodology for determining which districts in each category of district that have applied for a performance improvement grant have shown the greatest achievement gains. Provided, however, that where a school district does not have the minimum number of students specified by the commissioner for accountability purposes (minimum "n" size) in one or more of the five subgroups, such district shall not be disqualified from receiving a grant, but a preference shall be given to districts within each category of district with the highest number of subgroups meeting such minimum "n" size.

e. The commissioner shall grant awards to the school districts, as recommended by the peer review panel, among the various categories of districts and determine the amount of the grant award for each eligible school district based upon the public school enrollment of the district,

provided that no district receiving a grant may be awarded more than forty percent of the total amount of grant awards made pursuant to this subdivision; and provided further that such amount may be adjusted based upon measures of district need.

f. Any school district receiving an award pursuant to this subdivision shall expend grant funds in accordance with a high-quality plan submitted with its application in response to the request for proposals. Such plan must specify how such funds will be used to enhance the activities and strategies that have been or will be implemented that have been demonstrated to be effective in, or show the most promise for, increasing student performance, narrowing the student achievement gap, and increasing academic performance in traditionally underserved student groups.

g. For the two thousand thirteen--two thousand fourteen state fiscal year and thereafter, in addition to the competitive awards amount as defined in paragraph ee of subdivision one of section thirty-six hundred two of this article, a minimum of thirty-seven million five hundred thousand dollars shall be available for this purpose in each state fiscal year.

6-a. Community school grants. a. Within the amount appropriated for such purpose, subject to a plan developed by the state council on children and families in coordination with the commissioner and approved by the director of the budget, the commissioner shall award competitive grants pursuant to this subdivision to eligible school districts or in a city with a population of one million or more an eligible entity to implement, beginning in the two thousand thirteen--two thousand fourteen school year, a plan that targets school buildings as community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal and/or other services to students and their families in a manner that will lead to improved educational and other outcomes. In a city with a population of one million or more, eligible entities shall mean the city school district of the city of New York, or not-for-profit organizations, which shall include not-for-profit community based organizations. An eligible entity that is a

not-for-profit may apply for a community school grant provided that it collaborates with the city school district of the city of New York and receives the approval of the chancellor of the city school district of the city of New York.

(1) Such plan shall include, but not be limited to:

(i) The process by which a request for proposals will be developed;

(ii) The scoring rubric by which such proposals will be evaluated, provided that such grants shall be awarded based on factors including, but not limited to: measures of school district need; measures of the need of students to be served by each of the school districts; the school district's proposal to target the highest need schools and students; the sustainability of the proposed community schools program; and proposal quality;

(iii) The form and manner by which applications will be submitted;

(iv) The manner by which calculation of the amount of the award will be determined;

(v) The timeline for the issuance and review of applications; and

(vi) Program implementation phases that will trigger payment of set percentages of the total award.

(2) In assessing proposal quality, the commissioner shall take into account factors including, but not limited to:

(i) The extent to which the school district's proposal would provide such community services through partnerships with local governments and non-profit organizations;

(ii) The extent to which the proposal would provide for delivery of such services directly in school buildings;

(iii) The extent to which the proposal articulates how such services would facilitate measurable improvement in student and family outcomes;

(iv) The extent to which the proposal articulates and identifies how existing funding streams and programs would be used to provide such community services; and

(v) the extent to which the proposal ensures the safety of all students, staff and community members in school buildings used as community hubs.

b. A response to a request for proposals issued pursuant to this subdivision may be submitted by a single school district or jointly by a

consortium of two or more school districts, or in a city with a population of one million or more, an eligible entity.

c. The amount of the grant award shall be determined by the commissioner, consistent with the plan developed pursuant to paragraph a of this subdivision, except that no single district may be awarded more than forty percent of the total amount of grant awards made pursuant to this subdivision; and provided further that the maximum award to any individual community school site shall be five hundred thousand dollars; and provided further that the amount awarded will be paid out in set percentages over time upon successful implementation of each phase of a school district's approved proposal set forth pursuant to paragraph a of this subdivision; and provided further that none of the grants awarded pursuant to this subdivision may be used to supplant existing funding.

6-b. Extended learning grants. a. Within the amount appropriated for such purpose, subject to a plan that is developed by the commissioner, and approved by the director of the budget, the commissioner shall award competitive planning and implementation grants pursuant to this subdivision to eligible school districts or school districts in collaboration with not-for-profit community based organizations that put forward a proposal to improve student outcomes by adding at least twenty-five percent more time to the academic calendar by extending the school day, school year, or some combination thereof, either district-wide or in selected school buildings.

(1) Such plan shall include, but not be limited to:

(i) The process by which a request for proposals will be developed;

(ii) The scoring rubric by which such proposals will be evaluated, provided that priority shall be given to applicants based upon the school district's proposal to target the schools and students with the greatest need and upon proposal quality;

(iii) The form and manner by which applications will be submitted;

(iv) The timeline for the issuance and review of applications; and

(v) A requirement that school districts awarded grants under this subdivision submit to an annual evaluation of performance and impact as required by the commissioner.

(2) In assessing proposal quality in order to award implementation

grant funding, the commissioner shall take into account factors including, but not limited to:

(i) the extent to which the school district's proposal would maximize the use of the additional learning time through a comprehensive restructuring of the school day and/or year;

(ii) how the additional learning time would be utilized, including but not limited to additional time spent on core academics; and

(iii) the extent to which the proposal would provide additional learning time for students in grades six through eight.

b. A school district's school-wide extended learning implementation grant award shall equal its average daily attendance in the school-wide extended learning program multiplied by the expected cost per pupil of the additional learning time. For purposes of this subdivision, the expected cost per pupil of the additional learning time shall equal the greater of fifteen hundred dollars or (1) the quotient of (i) the school district's approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this article for the year prior to the base year divided by (ii) the district's public school district enrollment pursuant to subparagraph two of paragraph n of such subdivision for the year prior to the base year multiplied by (2) ten percent (0.10), multiplied by (3) the quotient of (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve month period preceding January first of the base year, divided by (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve month period preceding January first of the year two years prior to the base year.

c. In extraordinary cases, the commissioner may award a grant that exceeds the per pupil limit calculated pursuant to paragraph b of this subdivision.

d. No district shall receive a grant in excess of the total actual grant expenditures incurred by the district in the current year as approved by the commissioner.

e. No single district may be awarded more than forty percent of the total amount of grant awards made pursuant to this subdivision.

6-c. Teacher excellence fund. a. Within the amount appropriated for such purpose, subject to a request for proposals developed by the commissioner and approved by the director of the budget, the commissioner shall award teacher excellence fund grants pursuant to this subdivision to eligible school districts, beginning in the two thousand fourteen--two thousand fifteen school year, to provide teacher excellence fund performance awards to highly effective teachers.

(1) Teacher excellence fund performance awards shall be allocated in an annual amount of up to twenty thousand dollars to eligible teachers rated as "highly effective" based on the most recent annual professional performance review, in accordance with the requirements of section three thousand twelve-c of this chapter and regulations of the commissioner.

(2) On an annual basis, eligible school districts may submit an application to the commissioner, in a form and manner prescribed by the commissioner, to request funding pursuant to this subdivision.

(3) The commissioner shall make available such application on or before May fifteenth of the preceding school year and the commissioner shall issue preliminary teacher excellence fund grant awards on or before October fifteenth of the school year in which the eligible teacher shall receive a teacher excellence fund performance award.

(4) Applications submitted by eligible school districts shall include information required by the commissioner including, but not limited to, the extent to which the school district's plan is intended to recognize and reward highly-effective teachers: (i) in school buildings with the greatest academic need; (ii) in difficult-to-staff subject or certification areas and/or grade levels; and (iii) at critical points in a teacher's career in order to encourage highly effective teachers to remain in the classroom.

(5) The commissioner shall prioritize applications submitted by eligible school districts based on factors including, but not limited to, the factors described in subparagraph four of this paragraph and the quality of the proposal.

(6) Notwithstanding any other provision of law to the contrary, the teacher excellence fund performance awards provided by this subdivision

shall be in addition to, and shall not be considered part of, a teacher's basic annual salary, and shall not be included as compensation for retirement purposes. Teacher excellence fund performance awards shall supplement and shall not supplant compensation from sources exclusive of this subdivision agreed to as part of a collective bargaining agreement.

b. For the purpose of this subdivision:

(1) The term "eligible school district" shall mean a common, union free, central, central high school, city, or special act school district that has entered into an agreement with the collective bargaining representatives of certified teachers consistent with the provisions of the application submitted by the school district pursuant to paragraph a of this subdivision.

(2) The term "eligible teacher" shall mean a teacher who (i) holds an initial, provisional, transitional, permanent or professional state teaching certificate appropriate to the teaching positions, including the subject area if applicable, in which he or she is employed; (ii) is a classroom teacher subject to the annual professional performance review requirements of section three thousand twelve-c of this chapter; and (iii) is rated "highly effective" based on his or her most recent annual professional performance review, in accordance with the requirements of section three thousand twelve-c of this chapter and regulations of the commissioner.

7. Small government assistance. a. In addition to apportionments otherwise provided by section thirty-six hundred two of this article for payable in the two thousand eleven--two thousand twelve school year and thereafter the amounts specified in paragraph b of this subdivision shall be paid to school districts for small government assistance.

b. To school districts that received small government assistance in the state fiscal year two thousand ten--two thousand eleven, such apportionment in the same amount shall be apportioned to school districts on or before March thirty-first of the school year upon audit and warrant of the comptroller.

8. Supplemental educational improvement grants. a. In addition to apportionments otherwise provided by section thirty-six hundred two of this article, for aid payable in the two thousand seven--two thousand eight school year and thereafter, the amounts specified in paragraph b of this subdivision shall be paid for the purpose of providing additional funding for the costs of educational improvement plans required as a result of a court-ordered settlement in a school desegregation case to which the state was a party. Grant funds awarded pursuant to this subdivision shall be used exclusively for services and expenses incurred by the school district to implement such educational improvement plans.

b. To the Yonkers city school district there shall be paid seventeen million five hundred thousand dollars ($17,500,000) on an annual basis. Such grant shall be payable from funds appropriated for such purpose and shall be apportioned to the Yonkers city school district in accordance with the payment schedules contained in section thirty-six hundred nine-a of this article, notwithstanding any provision of law to the contrary.

9. Targeted instructional staff development grants. a. In the nineteen hundred ninety-eight--ninety-nine school year and thereafter, within the amount appropriated for such purpose, the commissioner shall provide grants pursuant to this subdivision to: (1) school districts, and (2) school districts working in collaboration with institutions of higher education and/or teacher resource and computer resource centers, and (3) providers of pre-kindergarten services which are receiving funding pursuant to section three thousand six hundred two-e of this article, for services and expenses related to targeted instructional staff development grants.

b. School districts and providers of pre-kindergarten services seeking a grant pursuant to this subdivision shall submit a plan for approval of the commissioner that details how the school district will use the grant funds to provide effective and grade-level appropriate staff development programs that are targeted on one or more of the instructional areas specified in paragraph c of this subdivision. Such plan shall be in a

form prescribed by the commissioner and shall include, but not be limited to, a proposed budget, and a description of:

(1) the program, including, but not limited to, its purpose and target population;

(2) how the new program shall be integrated with, and will supplement, the district's existing in-service staff development program;

(3) when the staff development program shall be offered to teachers and the arrangements made by the school district to assure that teachers are able to attend, including, but not limited to, arrangements for substitute teachers;

(4) the local funds, if any, that will be made available to support the new staff development program; and

(5) a plan for evaluation of the effectiveness of the program, which shall include, but need not be limited to, a survey of all participating teachers.

c. Staff development programs funded pursuant to this subdivision shall be targeted for specialized in-service training in one or more of the following areas:

(i) understanding and implementing the new higher standards and assessments as promulgated by the board of regents and the commissioner;

(ii) effective use of technology in instruction;

(iii) instruction of children who are participating in pre-kindergarten programs approved pursuant to section three thousand six hundred two-e of this article;

(iv) instruction of children with disabilities within a regular education setting;

(v) instruction of nondisabled children who demonstrate the need for increased academic attention; and

(vi) other areas of need demonstrated by the district that relate directly to student instruction and are approved by the commissioner.

d. Grants shall be awarded on a competitive basis in accordance with criteria established by the commissioner. Grant funds may be used for the approved expenses of the staff development program as defined by the commissioner, provided that such approved expenses shall include, but need not be limited to, reasonable travel costs for instructors,

reasonable costs for the use of technology to provide staff development programs at a distance, and the actual cost to the district of employing substitute teachers for teachers participating in the program exclusive of any state aid payable for such costs.

e. The commissioner shall be authorized to adopt regulations to implement the provisions of this subdivision.

f. In the event the appropriation for purposes of this paragraph in any year is insufficient to pay all claims received pursuant to this paragraph, the commissioner shall pay such claims on a prorated basis among all districts filing such claims until the appropriation is exhausted. For aid payable in the nineteen hundred ninety-eight--ninety-nine school year, the aid payable pursuant to this paragraph shall not exceed one million five hundred thousand dollars ($1,500,000); for the nineteen hundred ninety-nine--two thousand school year the aid payable pursuant to this paragraph shall not exceed five million dollars ($5,000,000); and for the two thousand--two thousand one school year and thereafter the aid payable pursuant to this paragraph shall not exceed ten million dollars ($10,000,000).

10. Aid for rebuilding schools to uphold education (RESCUE). In addition to the apportionments made pursuant to subdivisions six, six-a, and six-b and paragraph c of subdivision fourteen of section thirty-six hundred two of this article, school districts shall be eligible for an apportionment or apportionments pursuant to this subdivision for eligible school construction projects. The payment of such apportionment or apportionments shall be made in the manner provided for in paragraph d of this subdivision. An apportionment for any such eligible project shall initially be available in the state fiscal year commencing April first, nineteen hundred ninety-nine, provided that applications for approval of such eligible projects by the commissioner may be processed hereunder prior to such date.

a. Definitions. For purposes of this subdivision:

(1) "Eligible school construction project", or "eligible project," means a project for the design, planning, construction, acquisition,

reconstruction, rehabilitation or improvement of a public school building used primarily for instruction that is an accessibility project, an educational technology project, a health and safety project, and/or a physical capacity expansion project, that has been approved by the voters of the school district or approved by the trustees or board of education for school districts where voter approval is not required on or after July first, nineteen hundred ninety-eight or before July first, two thousand three; that such project is contained in the district's five year facilities plan; and such project is a critical and priority project as identified by such district's safety rating system required by sections four hundred nine-d and four hundred nine-e of this chapter, or, a construction emergency project.

(2) "Eligible minor maintenance and repair project" means a project, not otherwise eligible for an apportionment pursuant to subdivision six of section thirty-six hundred two of this article, that is related to maintaining and repairing public school buildings used primarily for instruction, including expenditures for minor repair and improvement activities performed to remedy existing minor maintenance deficiencies and expenditures for periodic, scheduled maintenance activities intended to mitigate the need for excessive capital renovation and rehabilitation in the future as documented by a plan developed by the district and submitted to the commissioner and which has been approved for funding on or after July first, nineteen hundred ninety-eight, or before July first, two thousand two by the commissioner.

(3) "Approved project" means an eligible school construction project that has been reviewed by the department and approved by the commissioner pursuant to this subdivision on or after July first, nineteen hundred ninety-eight and before July first, two thousand three (except as otherwise provided in subparagraph one of paragraph c of this subdivision) for funding disbursement by an apportionment or apportionments made hereunder.

(4) For the purposes of the expenditure of the maximum additional apportionment defined in subparagraph 11, "Approved building aidable project" means an approved project for which approved expenditures are eligible for an apportionment pursuant to subdivisions six, six-a, six-b and/or paragraph c of subdivision fourteen of section thirty-six hundred two of this article and one or more of the following conditions have

been met:

(i) Projects for which letters of intent are on file with the state education department by August 1, 1999;

(ii) Projects approved by the voters by January 15, 2000;

(iii) In the case of a school district in a city with a population of one million or more, projects specifically referenced in the five-year educational facilities capital plan pursuant to section 2590-p of the education law on file with the commissioner as of August 1, 1999; and

(iv) Projects for which letters of intent are filed with the state education department by July 1, 2000 that are determined to be priority projects necessary to: address the safety or health of students and staff including, but not limited to climate control; or to assure accessibility of individuals with disabilities.

(4-a) For the purposes of the expenditure of the maximum additional apportionment defined in subparagraph 11-a, "Approved building aidable project" means an approved eligible school construction project.

(5) "Accessibility project" means an eligible school construction project which, as a primary purpose, enhances accessibility to public school buildings used primarily for instruction for individuals with disabilities.

(6) "Construction emergency project" means an eligible school construction project to remediate emergency situations which arise in public school buildings used primarily for instruction as a result of significant damage caused by an unanticipated and sudden occurrence which results in the necessity for immediate repair.

(7) "Educational technology project" means an eligible school construction project which, as a primary purpose, enhances the use of technology in public school buildings used primarily for instruction, including but not limited to, electrical upgrades, wiring, cabling installations, fiber optics, conduits, raceways, telecommunication systems and wireless options.

(8) "Health and safety project" means an eligible school construction project which, as a primary purpose, addresses the reduction or elimination of the risk of personal injury or harm to occupants of public school buildings used primarily for instruction, including but not limited to environmental remediation, the eradication of fire and health code violations, the provision of adequate ventilation, and the

rehabilitation and repair of existing facilities.

(9) "Physical capacity expansion project" means an eligible school construction project which, as a primary purpose, expands the availability of adequate and appropriate instructional space in a public school building used primarily for instruction, including but not limited to expansions which provide for reduced class size.

(10) "District sharing ratio" means the quotient obtained when the sum of the resident public school district enrollment of a school district as defined in subparagraph four of paragraph n of subdivision one of section thirty-six hundred two of this article and its resident nonpublic school enrollment for such school year as defined in subparagraph five of such paragraph, is divided by the sum of such enrollments for all school districts for such school year, with the result expressed as a decimal carried to the sixth place without rounding. For any maximum additional apportionment calculated pursuant to subparagraph eleven of this paragraph, the resident public school district enrollment and its resident nonpublic school enrollment for the nineteen hundred ninety-eight--ninety-nine school year shall be used to calculate the district sharing ratio. For any maximum additional apportionment calculated pursuant to subparagraph eleven-a of this paragraph, the resident public school district enrollment and its resident nonpublic school enrollment for the nineteen hundred ninety-nine--two thousand school year shall be used to calculate the district sharing ratio.

(11) "Maximum additional apportionment" for any appropriation first made in support of this subdivision in the education, labor and family assistance budget bill enacted for the nineteen hundred ninety-nine--two thousand state fiscal year means the result calculated when one hundred forty-five million dollars is multiplied by the district sharing ratio for the school district provided, however, that such maximum additional apportionment shall not be less than twenty thousand dollars and provided further that in the event that the sum of the apportionments calculated pursuant to this section exceeds one hundred forty-five million dollars, all such apportionments in excess of twenty thousand dollars shall be adjusted downward on a prorated basis as determined by the commissioner, provided further that such adjustment shall not reduce any such apportionment below twenty thousand dollars. The commissioner

shall notify each school district by September fifteenth, nineteen hundred ninety-nine, of the amount of the maximum additional apportionment available to it as calculated hereinabove. The maximum additional apportionment for a school district shall be available to such school district for the purpose of allowing the commissioner to make an apportionment or apportionments of monies appropriated for such purpose to fund expenditures and disbursements made for approved projects of such school district for school years nineteen hundred ninety-eight--nineteen hundred ninety-nine through and inclusive of two thousand one--two thousand two, provided that an apportionment may be made by the commissioner beyond June thirtieth, two thousand two for certain approved projects as specifically authorized by subparagraph one of paragraph c of this subdivision. An apportionment of monies for an approved project which is an eligible school construction project (including a construction emergency project) shall be subject to a repayment being made to the comptroller by the dormitory authority as more particularly provided for in paragraph d of this subdivision.

(11-a) "Maximum additional apportionment" for any appropriation first made in support of this subdivision in the education, labor and family assistance budget bill enacted for the two thousand--two thousand one state fiscal year means the result calculated when fifty million dollars is multiplied by the district sharing ratio for the school district, provided, however, that such maximum additional apportionment shall not be less than twenty thousand dollars and provided further that in the event that the sum of the apportionments calculated pursuant to this section exceeds fifty million dollars, all such apportionments in excess of twenty thousand dollars shall be adjusted downward on a prorated basis as determined by the commissioner, provided further that such adjustment shall not reduce any such apportionment below twenty thousand dollars. The commissioner shall notify each school district by June fifteenth, two thousand, of the amount of the maximum additional apportionment available to it as calculated hereinabove. The maximum additional apportionment for a school district shall be available to such school district for the purpose of allowing the commissioner to make an apportionment or apportionments of monies appropriated for such purpose to fund expenditures and disbursements made for approved projects of such school district for school years nineteen hundred

ninety-eight--nineteen hundred ninety-nine through and inclusive of two thousand two--two thousand three, provided that an apportionment may be made by the commissioner beyond June thirtieth, two thousand three for certain approved projects as specifically authorized by subparagraph one of paragraph c of this subdivision. An apportionment of monies for an approved project which is an eligible school construction project (including a construction emergency project) shall be subject to a repayment being made to the comptroller by the dormitory authority as more particularly provided for in paragraph d of this subdivision.

b. Eligibility. All approved projects shall be eligible for an apportionment or apportionments by the commissioner pursuant to this subdivision in the nineteen hundred ninety-nine--two thousand through two thousand two--two thousand three school years, provided however: (1) notwithstanding any other provision of this subdivision, any school district eligible for a maximum additional apportionment pursuant to this subdivision in excess of one hundred thousand dollars applying to the commissioner for approval of an eligible project for an apportionment or apportionments pursuant to this subdivision shall demonstrate: (i) that any eligible project for which such school district is seeking funding is contained within its five year capital facilities plan and is a critical priority project as indicated by the district's safety rating system as required by sections four hundred nine-d and four hundred nine-e of this chapter, or (ii) that such project is considered a construction emergency as defined in subparagraph six of paragraph a of this subdivision, or (iii) that such project is an approved building aidable project; and (2) notwithstanding any other provision of this subdivision, that for any school district eligible for a maximum additional apportionment pursuant to this subdivision, in an amount less than or equal to one hundred thousand dollars, the requirements of clauses (i) - (iii) of subparagraph (1) hereof shall not apply.

c. Maximum additional apportionment. (1) A school district which has an approved project or projects shall be entitled to an apportionment or apportionments for such project or projects in an amount whether in the aggregate or otherwise, not to exceed the maximum additional

apportionment calculated for such school district. Such maximum additional apportionment shall be available to the school district for expenditure for such approved projects in the school years nineteen hundred ninety-nine--two thousand through two thousand two--two thousand three, provided that expenditures for such approved project may be made from such maximum additional apportionment on or after July first, two thousand three and prior to June thirtieth, two thousand four if: (i) such project is approved by the voters of the school district, or is approved by the trustees or board of education for such school district where voter approval is not required, prior to July first, two thousand three; (ii) application is made to the commissioner for approval of such eligible project as an approved project by August first, two thousand three; and (iii) the commissioner approves such eligible project as an approved project by October first, two thousand three. The maximum additional apportionment may be expended in whole or in part in any of such school years and beyond June thirtieth, two thousand three as specifically authorized by the immediately preceding sentence. The amount of such maximum additional apportionment not expended, disbursed or encumbered for any such year shall be carried over for expenditure and disbursement to the next succeeding school year, provided that for the purposes of this subdivision a carryover shall not be authorized beyond the school year two thousand two--two thousand three except as otherwise authorized hereinabove in this subparagraph. Such maximum additional apportionment may be used to supplement the apportionments available pursuant to subdivisions six, six-a and six-b and paragraph c of subdivision fourteen of section thirty-six hundred two and subdivision twelve of this section for expenditures or disbursements for approved building aidable projects, provided that, for any school district with an enhanced building aid ratio computed pursuant to clause (ii) of subparagraph two of paragraph b of subdivision six of section thirty-six hundred two of this article that is less than nine-tenths the total of such apportionments plus the apportionment payable pursuant to this subdivision for the approved project costs of the total apportionment for any approved building aidable project, as limited by the cost allowances specified in paragraph a of subdivision six of section thirty-six hundred two of this article, shall not exceed ninety-five percent of such approved project costs, and that, for any

school district with an enhanced building aid ratio computed pursuant to such clause (ii) that is equal to nine-tenths or more, the total of such apportionments plus the apportionment payable pursuant to this subdivision for such approved project costs of an approved building aidable project shall not exceed ninety-eight percent of such approved project costs, provided further that the apportionment provided pursuant to this subdivision shall not otherwise reduce the apportionments payable for approved project costs pursuant to subdivisions six, six-a and six-b and paragraph c of subdivision fourteen of section thirty-six hundred two and subdivision twelve of this section and may be used by an eligible school district to fund the principal amount of any costs that are in excess of the costs approved for an apportionment pursuant to such subdivisions six, six-a or six-b of section thirty-six hundred two or subdivision twelve of this section. Except as authorized in this paragraph, expenditures from the maximum additional apportionment shall not be eligible for aid under any other provision of this chapter.

(2) The commissioner shall report to the governor and to the legislature by February first, two thousand three concerning the amount of any maximum additional apportionment available to each school district, whether in total or in part, that has not been applied for by any such school district by January first, two thousand three. If the total amount of such maximum additional apportionment has not been applied for and approved by the commissioner by July first, two thousand three, or, at the latest, applied for by August first, two thousand three and approved by the commissioner by October first, two thousand three as expressly limited by subparagraph one of this paragraph, the commissioner shall report to the governor and to the legislature and notify all districts by November first, two thousand three the total remaining aggregate amount of maximum additional apportionments for all school districts which remain uncommitted by such school districts as of such date, which such total remaining aggregate amount shall then be distributed on a competitive basis established by the commissioner, with priority given to districts with outstanding needs as defined by the district's five year facility plan and approved by the voters of the school district, or approved by the trustees or board of education of a school district where voter approval is not required.

d. It is the intent of the legislature that school districts receive funding for approved projects in a timely manner. The payment of all apportionments to be made for approved projects pursuant to this subdivision shall be made from funds annually appropriated by the legislature for such purpose. An apportionment so made to a school district from appropriated funds by the commissioner for an approved project which is an eligible school construction project shall be repaid to the state comptroller by the dormitory authority from bond proceeds made available for such purpose pursuant to section sixteen hundred eighty-nine-a of the public authorities law.

e. Powers and duties of the commissioner. In administering the provisions of this subdivision, the commissioner shall:

(1) establish an application process for school districts which request the approval of the commissioner for funding for an apportionment or apportionments for eligible projects; and

(2) provide that approved projects which receive an apportionment or apportionments pursuant to this subdivision are designed, constructed and maintained in the most cost-effective manner possible, which minimizes waste and maximizes efficiency. The board of regents and the commissioner shall impose a mechanism for establishing guidelines for monitoring and documenting this process. The commissioner shall take appropriate action to ensure a district's compliance with this subparagraph.

f. Maintenance of projects. In order to assure effective discharge of state responsibility with respect to the implementation of this subdivision, the board of regents and the commissioner shall provide that no moneys shall be made available to a school district for an eligible school construction project, exclusive of a construction emergency project unless and until such school district has complied with the requirements of sections four hundred nine-d and four hundred nine-e of this chapter and has submitted to the commissioner its current five year capital facilities plan required pursuant to subdivision six of this section, section twenty-five hundred-p of this chapter or any other provision of this chapter, detailing the district's infrastructure needs. Notwithstanding the provisions of this paragraph any school

district receiving funds from the maximum additional apportionment shall provide an assurance to the commissioner that all projects funded under this subdivision will be maintained in good repair.

g. Compliance with other laws. Funds provided pursuant to this subdivision shall be subject to the applicable provisions of the state finance law and all other applicable federal, state and local laws.

11. Special academic improvement grants. a. In addition to apportionments otherwise provided by section thirty-six hundred two of this article, for aid payable in the school year two thousand one--two thousand two and every year thereafter, the amounts specified in paragraph b of this subdivision shall be paid for the sole purpose of enhancement of the academic programs of school districts that have become subject to removal of the board of education as a result of failure of one or more schools to meet state school accountability standards and serious financial problems that impact the ability of the school district to support program improvements without endangering the fiscal stability of the school district's residents and businesses. Grant funds awarded pursuant to this subdivision shall be used exclusively for services and expenses incurred by the school district to support and maintain the improvement of the academic performance of the schools of the school district, in accordance with a plan of expenditure prepared at the direction of the commissioner and approved by the commissioner.

b. To the Roosevelt union free school district there shall be paid twelve million dollars ($12,000,000) on an annual basis. For school years commencing on July first, two thousand seven and thereafter, such special academic improvement grant shall be payable from funds appropriated for such purpose and shall be apportioned to the Roosevelt union free school district in accordance with the payment schedules contained in section three thousand six hundred nine-a of this article, notwithstanding any provision of law to the contrary.

b-1. For the two thousand fourteen--two thousand fifteen school year, six million dollars shall be paid pursuant to paragraph b of this

subdivision and the remaining six million dollars shall be paid after the submission of an expenditure plan by the superintendent of the Roosevelt union free school district to the speaker of the assembly, the temporary president of the senate and the members of the legislature representing such school district. Such plan shall focus on improving academic performance.

c. For the purposes of ensuring improvement in academic achievement consistent with the provisions of this grant, in any year in which an apportionment is provided pursuant to this section, the Roosevelt union free school district shall:

(1) Submit to the commissioner a five-year educational plan, in a manner prescribed by the commissioner, and such plan shall include specific courses of action that will be taken and details describing how additional state and federal funds will be used to improve educational outcomes for students and increase the quality of teachers and principals. This five-year educational plan will be updated and submitted to the commissioner by September first of each year.

(2) Submit a five-year fiscal stabilization plan in a manner prescribed by the commissioner, and aligned with the five-year educational plan for approval by the commissioner or his designee by September first of each year.

(3) Provide a proposed annual budget to the commissioner by the first business day of May of each year.

(4) Provide an annual approved budget to the commissioner by July first of each year.

(5) Provide quarterly budget status reports including compliance with the annual approved budget of the district.

(6) Take any additional actions or submit additional documentation identified by the commissioner deemed necessary to ensure the fiscal integrity of the Roosevelt union free school district.

12. Capital outlay transition grants. a. Capital outlay transition grants. (1) The commissioner shall, upon application therefor, certify to the dormitory authority of the state of New York the amounts to be awarded as grants to school districts in the two thousand two--two thousand three state fiscal year for reimbursement of approved

expenditures for capital outlays incurred in the two thousand one--two thousand two school year, as calculated pursuant to subdivision six of section thirty-six hundred two of this article and this subdivision.

(2) School districts which would have been eligible for an apportionment for base year approved expenditures for capital outlays pursuant to subdivision six of section thirty-six hundred two of this article in the two thousand two--two thousand three school year under the provisions of such subdivision six in effect in the two thousand one--two thousand two school year shall be eligible to apply for a grant pursuant to this paragraph in lieu of an apportionment of aid for such approved expenditures pursuant to subdivision six of section thirty-six hundred two of this article. Application for such grant shall be made on or before the first business day of September, two thousand two in such form as the commissioner shall determine, and shall include documentation of actual approved expenditures for capital outlays incurred in the two thousand one--two thousand two school year.

(3)(i) Upon approval of such application by the commissioner, the district shall be eligible for a grant in an amount equal to the lesser of: (1) the product of the amount of the district's base year approved expenditures for capital outlays for school building purposes determined pursuant to subdivision six of section thirty-six hundred two of this article from its general fund, capital fund or from a reserve fund, based on data on file with the commissioner on the first business day of September, two thousand two, multiplied by the sum of the aid ratio computed for such expenditures pursuant to the provisions of paragraph c of subdivision six of section thirty-six hundred two of this article, plus the incentive decimal, if any, calculated pursuant to subparagraph two of paragraph b of such subdivision six, provided that the amount of reimbursement attributable to approved expenditures for capital outlays for joint facilities shall be determined pursuant to subparagraph four of this paragraph, and (2) the amount set forth for such school district in the school aid listing for the current year produced by the commissioner in May two thousand two and entitled "SA0203".

(ii) In the event that the sum of the grants calculated by the commissioner for school districts pursuant to clause (i) of this subparagraph is less than one hundred forty million dollars the districts shall be eligible for an additional grant in an amount up to

the difference between (1) the product of the amount of the district's base year approved expenditures for capital outlays for school building purposes determined pursuant to subdivision six of section thirty-six hundred two of this article from its general fund, capital fund or from a reserve fund that was approved by the board of education in a city with a population of more than one hundred twenty-five thousand as of May fifteenth, two thousand two or by the voters in another school district prior to July first, two thousand two, based on data on file with the commissioner on the first business day of September, two thousand two, multiplied by the sum of the aid ratio computed for such expenditures pursuant to the provisions of paragraph c of subdivision six of section thirty-six hundred two of this article, plus the incentive decimal, if any, calculated pursuant to subparagraph two of paragraph b of such subdivision six, provided that the amount of reimbursement attributable to approved expenditures for capital outlays for joint facilities shall be determined pursuant to subparagraph four of this paragraph, minus, (2) the amount calculated pursuant to clause (i) of this subparagraph. Such additional grants shall be approved in the order of the date of receipt of the district's application by the commissioner, up to the total amount of the appropriation; provided that in the even that two or more school districts submit application on the same day and full payment of the amounts so requested exceed such appropriation, the commissioner shall adjust the grant amounts to conform to such appropriation. In no event shall any grant not be awarded due to an inability of the commissioner to make a full award of the amount on the application.

(4) In the case of two or more school districts eligible for operating aid pursuant to section thirty-six hundred two of this article that have entered into an agreement in accordance with section one hundred nineteen-o of the general municipal law and subdivision six-b of section thirty-six hundred two of this article for approved expenditures for the construction or reconstruction of one or more single site joint facilities where the general contract for the project shall have been awarded on or after July first, nineteen hundred ninety-three, and the project and joint agreement shall have been approved by the commissioner and, for participating school districts in which the school budget is subject to voter approval, the joint agreement has been approved by the

voters of the district, the lead district shall be eligible for the product of such base year approved expenditures for capital outlays for school building purposes, multiplied by the sum of (i) the product for each of the participating districts of the district's aid ratio computed for such expenditures pursuant to the provisions of paragraph c of subdivision six of section thirty-six hundred two of this article multiplied by the district's share of the use of the facility, plus (ii) the incentive decimal, if any, calculated pursuant to subparagraph two of paragraph b of such subdivision six.

(5) Notwithstanding any other provisions of law to the contrary, the amounts payable pursuant to this paragraph shall be certified by the commissioner in accordance with section sixteen hundred eighty-nine-f of the public authorities law and shall be paid to school districts by the dormitory authority of the state of New York, within the amounts appropriated for such purpose, from the proceeds of bonds and notes issued pursuant to such section sixteen hundred eighty-nine-f. Such payment shall fulfill any obligation of the state or the commissioner to apportion funds pursuant to this paragraph, and whenever a school district has been apportioned more money pursuant to this paragraph than that to which it is entitled, the commissioner may deduct such amount from the next apportionment to be made to such school district.

b. Excess capital outlay transition grants. (1) For aid payable in the two thousand three--two thousand four school year, the commissioner shall, within the amounts appropriated for such purpose, provide grants to school districts in the amount of any excess of the product of the amount of such school district's approved expenditures incurred in the two thousand one--two thousand two school year for capital outlays for school building purposes determined pursuant to subdivision six of section thirty-six hundred two of this article from its general fund, capital fund or from a reserve fund, multiplied by the sum of the aid ratio selected for use in the two thousand two--two thousand three school year for such expenditures pursuant to the provisions of paragraph c of subdivision six of section thirty-six hundred two of this article, plus the incentive decimal, if any, calculated for the two thousand two--two thousand three school year pursuant to subparagraph two of paragraph b of such subdivision six, provided that the amount of

reimbursement attributable to approved expenditures for capital outlays for joint facilities shall be determined pursuant to subparagraph four of paragraph a of this subdivision, based on data on file on the first business day of September, two thousand three, over the amount reimbursed as capital outlay transition grants pursuant to the provisions of paragraph a of this subdivision.

(2) A school district which was eligible for a grant pursuant to paragraph a of this subdivision and where the product of the amount of such school district's approved expenditures incurred in the two thousand one--two thousand two school year for capital outlays for school building purposes determined pursuant to subdivision six of section thirty-six hundred two of this article from its general fund, capital fund or from a reserve fund, multiplied by the sum of the aid ratio selected for use in the two thousand two--two thousand three school year for such expenditures pursuant to the provisions of paragraph c of subdivision six of section thirty-six hundred two of this article, plus the incentive decimal, if any, calculated for the two thousand two--two thousand three school year pursuant to subparagraph two of paragraph b of such subdivision six, provided that the amount of reimbursement attributable to approved expenditures for capital outlays for joint facilities shall be determined pursuant to subparagraph four of paragraph a of this subdivision, is in excess of the amount it received under paragraph a of this subdivision shall be eligible to apply for a grant pursuant to this subdivision in lieu of an apportionment of aid for such approved expenditures pursuant to subdivision six of section thirty-six hundred two of this article. Application for such grant shall be made on or before the first business day of September, two thousand three in such form as the commissioner shall determine, and shall include documentation of actual approved expenditures for capital outlays incurred in the two thousand one--two thousand two school year.

(3) Notwithstanding any other provision of law to the contrary, grants awarded pursuant to this paragraph shall be payable from funds appropriated for such purpose and shall be apportioned in accordance with the payment schedule contained in section thirty-six hundred nine-a of this article.

c. Notwithstanding any other provision of law to the contrary, approved expenditures for capital outlays incurred in the two thousand one--two thousand two school year shall not be eligible for an apportionment pursuant to subdivision six of section thirty-six hundred two of this article, provided that nothing in this subdivision shall be construed to limit the eligibility of a school district for reorganization incentive building aid in the two thousand two--two thousand three school year based on computations pursuant to subdivision six of section thirty-six hundred two of this article. Expenditures incurred for lease or other annual payments under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three or subdivision six of section twenty-five hundred fifty-four of this chapter, other than payments under a lease-purchase agreement or an equivalent agreement, and expenditures aidable pursuant to subdivisions six-c, six-d, or six-e of section thirty-six hundred two of this article, shall not be deemed capital outlay for purposes of this subdivision.

13. Transportation capital expense transition grants. a. The commissioner shall, upon application therefor, certify to the authorized issuer established pursuant to subdivision (b) of section sixty-one of the chapter of the laws of two thousand four which added this subdivision the amounts to be awarded as grants to school districts in the two thousand four--two thousand five state fiscal year for reimbursement of approved expenses for transportation capital, debt service and leases for the two thousand three--two thousand four school year, as calculated pursuant to subdivision seven of section thirty-six hundred two of this article and this subdivision.

b. School districts which would have been eligible for an apportionment for base year approved expenses for transportation capital, debt service and leases, as defined in subdivision two of section thirty-six hundred twenty-three-a of this article, pursuant to subdivision seven of section thirty-six hundred two of this article in the two thousand four--two thousand five school year under the provisions of such subdivision seven in effect in the two thousand three--two thousand four school year shall be eligible to apply for a

grant pursuant to this paragraph in lieu of an apportionment of aid for such approved expenses pursuant to subdivision seven of section thirty-six hundred two of this article. Application for such grant shall be made on or before the first business day of November, two thousand four in such form as the commissioner shall determine, and shall include documentation of actual approved transportation capital, debt service and/or lease expense incurred in the two thousand three--two thousand four school year or that would otherwise have been eligible for an apportionment in the two thousand four--two thousand five school year pursuant to subdivision seven of section thirty-six hundred two of this article as it existed in the two thousand three--two thousand four school year.

c. Upon approval of such application by the commissioner, the district shall be eligible for a grant in an amount equal to the apportionment computed pursuant to subdivision seven of section thirty-six hundred two of this article on its approved expenses for transportation capital, debt service and leases, as if such expenses continued to be aidable under such subdivision seven, based on data on file with the commissioner as of November first, two thousand four.

d. Notwithstanding any other provisions of law to the contrary, the amounts payable pursuant to this paragraph shall be certified by the commissioner in accordance with section sixty-one of the chapter of the laws of two thousand four which added this subdivision and shall be paid to school districts by the authorized issuer established pursuant to subdivision (b) of section fifty-four of the chapter of the laws of two thousand four which added this subdivision from the proceeds of bonds and notes issued pursuant to such section thirty-six. Such payment shall fulfill any obligation of the state or the commissioner to apportion funds pursuant to this paragraph or subdivision seven of section thirty-six hundred two of this article for approved expenses for transportation capital, debt service or leases, and whenever a school district has been apportioned more money pursuant to this paragraph than that to which it is entitled, the commissioner may deduct such amount from the next apportionment to be made to such school district.

* 14. Expanding our children's education and learning (EXCEL) a.

Establishment of the EXCEL program. There is hereby established the expanding our children's education and learning (EXCEL) program to provide project financing or assistance in the form of grants to eligible school districts, in addition to, or in lieu of, the apportionments made pursuant to subdivisions six, six-a, six-b, six-c, six-d, six-e, six-f and paragraph c of subdivision fourteen of section thirty-six hundred two of this article, and subdivisions ten and twelve of this section, for the costs of EXCEL school facility projects. An apportionment for any such project shall initially be available in the state fiscal year commencing April first, two thousand six. Such apportionment shall be used to fund projects certified by the commissioner in accordance with subdivision six of section sixteen hundred eighty-nine-i of the public authorities law prior to December thirty-first, two thousand twenty-eight. Notwithstanding any provision of law to the contrary, the dormitory authority of the state of New York shall be authorized to issue bonds or notes in an aggregate amount not to exceed two billion six hundred million dollars for purposes of the EXCEL program.

b. Definitions. The following terms, whenever used or referred to in this subdivision, unless the context indicates otherwise, shall have the following meanings:

(1) "EXCEL project". An EXCEL project shall be certified by the commissioner prior to December thirty-first, two thousand twenty-eight and shall include, but not be limited to, the acquisition, design, planning, construction, reconstruction, rehabilitation, preservation, development, improvement or modernization of an EXCEL school facility, where such project:

(i) is (a) for a school district other than the city school district of the city of New York, a construction project that has been reviewed by the department and approved by the commissioner pursuant to this subdivision, where a certification that a general construction contract had been awarded for such project by or on behalf of the district was not on file with the commissioner as of April first, two thousand six or (b) for the city school district of the city of New York, a project which is listed and contained in the five year capital plan, which has been approved and adopted by the city council pursuant to section

twenty-five hundred ninety-p of this chapter, for the two thousand five through two thousand nine fiscal years, and provided that such project must commence, as close as practicable, according to the schedule set forth in the five year capital plan as amended and approved by the city council as of July, two thousand five, and

(ii) falls within one or more of the following categories:

(a) An education technology project which, as a primary purpose, enhances the use of technology including but not limited to, instructional content with video streaming, electrical upgrades, wiring, cabling installations, internet connections, fiber optics, conduits, raceways, telecommunication systems, hardware, electronic commerce and wireless options;

(b) A health and safety project which, as a primary purpose, addresses the reduction or elimination of the risk of personal injury or harm to occupants of public school buildings used primarily for instruction, including but not limited to environmental remediation, the eradication of fire and health code violations, the provisions of adequate ventilation including heating, ventilation and air conditioning equipment, and the rehabilitation and repair of existing facilities;

(c) An accessibility project which, as a primary purpose, enhances accessibility to public school buildings used primarily for instruction for individuals with disabilities;

(d) A physical capacity expansion project or school construction project which, as a primary purpose, expands the availability of adequate and appropriate instructional space in a public school building used primarily for instruction, including but not limited to expansions which provide for reduced class size and science laboratories; and

(e) An energy project which, as a primary purpose, reduces energy costs and/or energy consumption.

(2) "EXCEL school facility". An EXCEL school facility shall mean an existing or proposed facility or other property real and personal, and other appurtenances thereto to be utilized by a school district for education purposes.

(3) "Eligible project costs". Eligible project costs, for purposes of the EXCEL program shall mean any expenditures for an EXCEL project, where such project is eligible for an apportionment pursuant to subdivisions six, six-a, six-b, six-f and/or paragraph c of subdivision

fourteen of section thirty-six hundred two of this article.

(4) "Eligible school district" means a school district eligible to receive an apportionment in lieu of operating aid in the two thousand six--two thousand seven school year, apportioned pursuant to section thirty-six hundred two of this article, or eligible to receive an apportionment of total foundation aid in the two thousand seven--two thousand eight school year and thereafter, pursuant to such section thirty-six hundred two of this article.

(5) "Maximum additional apportionment" means the sum of the following amounts:

(i) For an eligible school district that is eligible for the high-need supplemental building aid ratio pursuant to the provisions of clause (c) of subparagraph two of paragraph c of subdivision six of section thirty-six hundred two of this article, other than a city school district in a city having a population of one million inhabitants or more, an amount equal to the product of seven hundred seventy-eight dollars and twenty-two cents ($778.22) multiplied by the public school district enrollment of the district in the two thousand five--two thousand six school year, as computed pursuant to subparagraph two of paragraph n of subdivision one of section thirty-six hundred two of this article as based on data on file for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand six--two thousand seven school year and entitled "SA060-7".

(ii) For any other eligible school district, other than a city school district in a city having a population of one million inhabitants or more, an amount equal to the product of three hundred twenty dollars and forty-six cents ($320.46) multiplied by the public school district enrollment of the district in the two thousand five--two thousand six school year, as computed pursuant to subparagraph two of paragraph n of subdivision one of section thirty-six hundred two of this article as based on data on file for the school aid computer listing produced by the commissioner of education in support of the enacted budget for the two thousand six--two thousand seven school year and entitled "SA060-7".

(iii) For an eligible city school district in a city having a population of one million inhabitants or more one billion eight hundred million dollars.

c. EXCEL apportionment. (1) EXCEL apportionment for school enhancement. Funds in an aggregate amount not to exceed eight hundred million dollars shall be available for grants to eligible school districts other than a city school district in a city having a population of one million inhabitants or more. Each eligible school district which has an EXCEL project or projects shall be entitled to a grant or grants for such project or projects in an amount whether in the aggregate or otherwise, not to exceed the maximum additional apportionment calculated for such school district. The amount of such maximum additional apportionment not expended, disbursed or encumbered for any such year shall be carried over for expenditure and disbursement to the next succeeding school year. Such maximum additional apportionment may be used, at the option of the school district, in lieu of, or to supplement, the apportionments available pursuant to subdivisions six, six-a, six-b, six-c, six-d, six-e, six-f and paragraph c of subdivision fourteen of section thirty-six hundred two of this article, and subdivisions ten and twelve of this section, provided that the total of such apportionments less any semiannual payments of interest computed pursuant to subparagraph three of paragraph e of subdivision six of section thirty-six hundred two of this article plus the grant payable pursuant to this subdivision for the total project costs of any EXCEL project shall not exceed such total project costs, provided further that where the school district opts to use the EXCEL apportionment provided pursuant to this subdivision to supplement the apportionments payable for approved project costs pursuant to subdivisions six, six-a, six-b, six-c, six-d, six-e, six-f and paragraph c of subdivision fourteen of section thirty-six hundred two of this article, and subdivisions ten and twelve of this section, such EXCEL apportionment shall not otherwise reduce such apportionments. Except as authorized in this paragraph, expenditures from the maximum additional apportionment shall not be eligible for aid under any other provision of this chapter.

(2) EXCEL apportionment for city facilities enhancement. Funds in an aggregate amount not to exceed one billion eight hundred million dollars shall be available for grants to a city school district in a city having a population of one million inhabitants or more. Such school district shall be entitled to a grant or grants for each EXCEL project or

projects in an amount whether in the aggregate or otherwise, not to exceed the maximum additional apportionment calculated for such school district. The amount of such maximum additional apportionment not expended, disbursed or encumbered for any such year shall be carried over for expenditure and disbursement to the next succeeding school year. Such maximum additional apportionment may be used, at the option of the school district, in lieu of, or to supplement, the apportionments available pursuant to subdivisions six, six-a, six-b, six-c, six-d, six-e, six-f and paragraph c of subdivision fourteen of section thirty-six hundred two of this article, and subdivisions ten and twelve of this section, provided that the total of such apportionments less any semiannual payments of interest computed pursuant to subparagraph two of paragraph e of subdivision six of section thirty-six hundred two of this article plus the grant payable pursuant to this subdivision for the total project costs of any EXCEL project shall not exceed such total project costs, provided further that where the school district opts to use the EXCEL apportionment provided pursuant to this subdivision to supplement the apportionments payable for approved project costs pursuant to subdivisions six, six-a, six-b, six-c, six-d, six-e, six-f and paragraph c of subdivision fourteen of section thirty-six hundred two of this article, and subdivisions ten and twelve of this section, such EXCEL apportionment shall not otherwise reduce such apportionments. Except as authorized in this paragraph, expenditures from the maximum additional apportionment shall not be eligible for aid under any other provision of this chapter.

(3) The commissioner shall, upon application therefor in such form as the commissioner may require, determine the amounts to be awarded as grants to school districts as calculated pursuant to this subdivision. The amounts determined pursuant to this subdivision shall be certified by the commissioner in accordance with subdivision six of section sixteen hundred eighty-nine-i of the public authorities law. Upon the issuance of bonds by the dormitory authority of the state of New York pursuant to such section sixteen hundred eighty-nine-i, the amounts of money so certified shall be paid to school districts by the dormitory authority from the proceeds of such bonds, provided, however, that the payment schedule set forth in subdivision one of this section shall not apply to such payments. Such payment shall fulfill any obligation of the

state or the commissioner to apportion funds pursuant to this subdivision, and whenever a school district has been apportioned more money pursuant to this subdivision than that to which it is entitled, the commissioner may deduct such amount from the next apportionment to be made to such school district.

* NB Repealed December 31, 2029

15. Annual professional performance reviews transition grants. a. For the two thousand eleven--two thousand twelve school year and/or the two thousand twelve--two thousand thirteen school year provided, if a school district has submitted a plan pursuant to paragraph k of subdivision two of section three thousand twelve-c of this chapter before June thirtieth, two thousand twelve and the commissioner finds that such plan does not meet the requirements of section three thousand twelve-c of this chapter under paragraph k of subdivision two of section three thousand twelve-c of this chapter, and that the cost of implementing the locally-developed components of an approved plan pursuant to paragraph k of subdivision two of section three thousand twelve-c of this chapter are more costly than the plan that is originally submitted, the commissioner is authorized to award annual professional performance reviews transition grants to eligible school districts pursuant to this subdivision.

b. Prior to the submission of the plan for approval under paragraph k of subdivision two of section three thousand twelve-c of this chapter a school district may submit for review to the commissioner prior to June thirtieth, two thousand twelve locally developed components to meet the requirements of section three thousand twelve-c of this chapter for the two thousand eleven--two thousand twelve school year and/or the two thousand twelve--two thousand thirteen school year. A school district shall have the authority to submit locally developed components to the commissioner only if successfully determined through collective bargaining. The commissioner shall have the discretion and authority to review such locally developed components and in such cases if the commissioner determines that changes to the submitted locally developed components are necessary to meet the requirements of section three thousand twelve-c of this chapter and further the commissioner

determines such changes are more costly than the locally developed components originally submitted under this paragraph, the commissioner is authorized to award annual professional performance reviews transition grants to eligible school districts pursuant to this subdivision upon final approval of the plan under paragraph k of subdivision two of section three thousand twelve-c of this chapter.

c. The school district may provide a schedule of such additional expenses, if any, on a form prescribed by the commissioner, that were necessarily incurred by the school district in order to implement the specific requirements of the commissioner contained in the approved plan. The commissioner shall have the discretion and authority to approve or disapprove such expenses from such schedule for grants under this subdivision. The commissioner may require supporting documentation from the school district in order to determine whether or not such additional expenses were valid, reasonable, and essential to implementing the specific requirements of the commissioner and to determine whether or not such claim, or any part of such claim, be approved. The commissioner may also consider the manner in which the components of the plan were developed and if such requirements were not met as a result of a lack of good faith.

d. Approved additional expenses for annual professional performance reviews transition grants pursuant to this subdivision for the two thousand twelve--two thousand thirteen school year shall continue to be eligible for reimbursement. Such approved expenses shall be eligible for payment on or after September first following the end of the school year in which such expenses were approved. In the event the appropriation for purposes of this subdivision in any year is insufficient to pay all approved claims pursuant to this subdivision, the commissioner shall pay such claims on a prorated basis among all districts filing such claims until the appropriation is exhausted. The commissioner shall promulgate rules and regulations necessary to implement the provisions of this subdivision within sixty days of the effective date of the chapter of the laws of two thousand thirteen that amended this paragraph.

16. Implementation of the smart schools bond act of 2014. a.

Definitions. The following terms, whenever used or referred to in this subdivision, unless the context indicates otherwise, shall have the following meanings:

(1) "Bonds" shall mean general obligation bonds issued pursuant to the "smart schools bond act of 2014" in accordance with article VII of the New York state constitution and article five of the state finance law.

(2) "Smart schools investment plan" shall mean a document prepared by a school district setting forth the smart schools project or projects to be undertaken with such district's smart schools allocation.

(3) "Smart schools project" shall mean a capital project as set forth and defined in subparagraphs four, five, six or seven of this paragraph.

(4) "Pre-kindergarten or transportable classroom unit (TCU) replacement project" shall mean a capital project which, as a primary purpose, expands the availability of adequate and appropriate instructional space for pre-kindergarten or provides for the expansion or construction of adequate and appropriate instructional space to replace TCUs.

(5) "Community connectivity project" shall mean a capital project which, as a primary purpose, expands high-speed broadband or wireless internet connectivity in the local community, including school buildings and campuses, for enhanced educational opportunity in the state.

(6) "Classroom technology project" shall mean a capital project to expand high-speed broadband or wireless internet connectivity solely for school buildings and campuses, or to acquire learning technology hardware for schools, classrooms, and student use, including but not limited to whiteboards, computer servers, desktop computers, laptop computers, and tablet computers.

(7) "School safety and security technology project" shall mean a capital project to install high-tech security features in school buildings and on school campuses, including but not limited to video surveillance, emergency notification systems and physical access controls, for enhanced educational opportunity in the state.

(8) "Selected school aid" shall mean the sum of the amounts set forth as "FOUNDATION AID", "FULL DAY K CONVERSION", "BOCES", "SPECIAL SERVICES", "HIGH COST EXCESS COST", "PRIVATE EXCESS COST", "HARDWARE & TECHNOLOGY", "SOFTWARE, LIBRARY, TEXTBOOK", "TRANSPORTATION INCL SUMMER", "OPERATING REORG INCENTIVE", "CHARTER SCHOOL TRANSITIONAL",

"ACADEMIC ENHANCEMENT", "HIGH TAX AID", and "SUPPLEMENTAL PUB EXCESS COST" under the heading "2013-14 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the executive budget proposal for the two thousand fourteen-fifteen school year.

(9) "Smart schools allocation" shall mean, for each school district, the product of (i) two billion dollars ($2,000,000,000) multiplied by (ii) the quotient of such school district's selected school aid divided by the total selected school aid to all school districts.

b. Smart schools investment plans. (1) Subject to the approval of the director of the budget, the commissioner shall issue guidelines setting forth required components and eligibility criteria for smart schools investment plans to be submitted by school districts. Such guidelines shall include but not be limited to: (i) a timeline for school district submission of smart schools investment plans; (ii) any requirements for the use of available state procurement options where applicable; (iii) any limitations on the amount of a district's smart schools allocation that may be used for assets with a short probable life; and (iv) the loan of smart schools classroom technology pursuant to section seven hundred fifty-five of this chapter.

(2) No school district shall be entitled to a smart schools grant until such district shall have submitted a smart schools investment plan to the department and received the commissioner's approval of such investment plan. In developing such investment plan, school districts shall consult with parents, teachers, students, community members and other stakeholders.

(3) The commissioner shall review all smart schools investment plans for compliance with all eligibility criteria and other requirements set forth in the guidelines. The commissioner may approve or reject such plans, or may return such plans to the school district for modifications; provided that notwithstanding any inconsistent provision of law, the commissioner shall approve no such plan first submitted to the department on or after April fifteenth, two thousand seventeen, unless such plan calculates the amount of classroom technology to be loaned to students attending nonpublic schools pursuant to section seven hundred fifty-five of this chapter in a manner that includes the amount

budgeted by the school district for servers, wireless access points and other portable connectivity devices to be acquired as part of a school connectivity project. Upon approval, the smart schools project or projects described in the investment plan shall be eligible for smart schools grants. A smart schools project included in a school district's smart schools investment plan shall not require separate approval of the commissioner unless it is part of a school construction project required to be submitted for approval of the commissioner pursuant to section four hundred eight of this chapter and/or subdivision six of section thirty-six hundred two of this article. Any department, agency or public authority shall provide the department with any information it requires to fulfill its duties pursuant to this subdivision.

(4) Any amendments or supplements to a smart schools investment plan shall be submitted to the department for approval, and shall not take effect until such approval is granted.

c. Expenditure of money. (1) Smart schools grants. Each school district which has an approved smart schools investment plan including a smart schools project or projects shall be entitled to a grant or grants for the smart schools project or projects included therein in an amount, whether in the aggregate or otherwise, not to exceed the smart schools allocation calculated for such school district. The amount of such allocation not expended, disbursed or encumbered for any school year shall be carried over for expenditure and disbursement to the next succeeding school year. Expenditures from the smart schools allocation shall not be eligible for aid under any other provision of this chapter.

(2) The amounts determined pursuant to this subdivision to be paid to school districts shall be certified by the commissioner in accordance with this subdivision. If, upon the option of a school district, a smart schools investment plan directs that an amount be transferred or suballocated to a department, agency, or public authority to be spent on behalf of the school district, such amounts shall be transferred or suballocated, consistent with such plan, upon the approval of the director of the budget. The amounts of money so certified or made available shall be paid by the comptroller in accordance with appropriations therefor, provided, however, that the payment schedule set forth in subdivision one of this section shall not apply to such

payments. Such payment shall fulfill any obligation of the state or the commissioner to apportion funds pursuant to this subdivision, and whenever a school district has been apportioned more money pursuant to this subdivision than that to which it is entitled, the commissioner may deduct such amount from the next apportionment to be made to such school district.

d. Consistency with federal tax law. All actions taken pursuant to this subdivision shall be reviewed for consistency with provisions of the federal internal revenue code and regulations thereunder, in accordance with procedures established in connection with the issuance of any tax exempt bonds pursuant to this subdivision, to preserve the tax exempt status of such bonds.

e. Compliance with other law. Every recipient of funds to be made available pursuant to this subdivision shall comply with all applicable state, federal and local laws.

17. Learning loss grants. a. For the two thousand twenty-one--two thousand twenty-two school year, eligible school districts shall receive grants in aid equal to the positive difference, if any, of the base ARPA allocation less ninety percent of the funds from the elementary and secondary school emergency relief fund made available to school districts pursuant to the American rescue plan act of 2021, (P.L. 117-2), but not less than seven hundred thousand dollars ($700,000), and not more than ten million dollars ($10,000,000) or ten percent (0.1) of the total expenditures from the district's general fund for the two thousand twenty--two thousand twenty-one school year, whichever is less. School districts where the base ARPA allocation is less than or equal to ninety percent of the funds from the elementary and secondary school emergency relief fund made available to school districts pursuant to the American rescue plan act of 2021, shall not be eligible for these grants. Such grant funds shall remain available for obligation by such school districts until the deadline therefor prescribed in federal law.

b. The "base ARPA allocation" shall be equal to the product of the adjusted per pupil amount multiplied by public school district

enrollment for the base year as computed pursuant to paragraph n of subdivision one of section thirty-six hundred two of this article. The "adjusted per pupil amount" shall be equal to the product of: (1) four thousand five hundred fifty dollars and twenty-six cents ($4,550.26); multiplied by (2) the regional cost index calculated in two thousand eighteen, reflecting an analysis of labor market costs based on median salaries in professional occupations that require similar credentials to those of positions in the education field, but not including those occupations in the education field; multiplied by (3) the modified EN index; and multiplied by (4) the learning loss wealth factor.

(1) For purposes of this paragraph, the "learning loss wealth factor" shall be equal to the positive difference, if any, of seventy-five hundredths (0.75) less half of the combined wealth ratio computed pursuant to subparagraph one of paragraph c of subdivision three of section thirty-six hundred two of this article.

(2) For purposes of this paragraph, the "modified EN index" shall be equal to the modified EN percent divided by the statewide average modified EN percent, provided that for the two thousand twenty-one--two thousand twenty-two school year, the statewide average modified EN percent shall be equal to five thousand five hundred sixty-five ten-thousandths (0.5565).

(3) For purposes of this paragraph, the "modified EN percent" shall be equal to the modified EN count divided by public school district enrollment for the base year computed pursuant to paragraph n of subdivision one of section thirty-six hundred two of this article.

(4) For purposes of this paragraph, the "modified EN count" shall equal the sum of (A) the product of fifty percent (0.5) multiplied by the English language learner count computed pursuant to paragraph o of subdivision one of section thirty-six hundred two of this article, plus (B) the sparsity count computed pursuant to paragraph r of subdivision one of section thirty-six hundred two of this article, plus (C) the product of sixty-five hundredths (0.65) multiplied by the three-year average small area income and poverty estimate rate computed pursuant to paragraph mm of subdivision one of section thirty-six hundred two of this article and multiplied further by public school district enrollment for the base year as computed pursuant to paragraph n of subdivision one of section thirty-six hundred two of this article, plus (D) the product

of sixty-five hundredths (0.65) multiplied by the three-year average economically disadvantaged rate defined pursuant to paragraph ll of subdivision one of section thirty-six hundred two of this article and multiplied further by public school district enrollment for the base year as computed pursuant to paragraph n of subdivision one of section thirty-six hundred two of this article.

c. Districts receiving learning loss grants shall use: (1) fourteen and two hundred eighty-six thousandths percent (0.14286) of such grants for implementation of evidence-based summer enrichment programs; (2) fourteen and two hundred eighty-six thousandths percent (0.14286) for implementation of evidence-based comprehensive afterschool programs; and (3) the remaining funds for activities to address learning loss by supporting the implementation of evidence-based interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, or extended school year programs. School districts shall ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on low-income students, children with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.

§ 3641-a. Excelsior scholars program for grade seven mathematics and science students. The commissioner shall establish an excelsior scholars program for grade seven mathematics and science students pursuant to this section and regulations of the commissioner adopted for such purpose. Within the amounts appropriated for this purpose, the commissioner shall award grants on a competitive basis to public and independent colleges and universities to conduct summer programs that shall provide advanced coursework in mathematics and science to students designated as excelsior scholars and, as funds permit, other high-performing students who have completed seventh grade.

1. Each year, the commissioner shall identify up to three thousand high performing seventh grade students in mathematics and science from students nominated by each public middle school, junior high school,

intermediate school or junior/senior high school, or kindergarten through secondary school. The commissioner by regulation shall prescribe the maximum number of students that may be nominated by each school, which may vary based on the size of the school, which shall include equal numbers of male and female students. After review by the commissioner, qualified students shall be certified to the governor for recognition as an excelsior scholar.

2. The commissioner shall conduct a competitive process under which financial grants are awarded to each college and university approved to provide appropriate advanced coursework to excelsior scholars in the summer months, subject to the availability of funds appropriated for such purpose.

3. The regulations of the commissioner shall provide for coordination of the program with the seven centers for excellence in technology and the programs offered by such centers, to the extent practicable.

§ 3641-b. Grants for summer institutes for mathematics and science teachers. The commissioner shall establish a program of competitively awarded grants within the amount appropriated for such purpose, to public and independent colleges and universities offering teacher education programs, in partnership with school districts, to conduct summer institutes for teachers of science and mathematics in grades five through eight in middle schools, junior high schools, intermediate schools or junior/senior high schools with priority given as practicable to teachers in schools identified as schools in need of improvement or in corrective action or restructuring status, schools under registration review or schools requiring academic progress. Such summer institutes shall be designed to advance the content knowledge and pedagogy of participating science and mathematics teachers and shall, to the extent practicable, be aligned and integrated with programs offered to excelsior scholars pursuant to section thirty-six hundred forty-one-a of this article. Teachers shall be selected for participation by their building principal.

§ 3642. Severability. If any clause, sentence, paragraph, or section of this part shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section of this part directly involved in the controversy in which the judgment shall have been rendered. The provisions of this section shall apply to all sections of this part except those sections which are expressly subject to separate severability provisions contained hereinbefore in this part.

PART V

COMPREHENSIVE SCHOOL BUS DRIVER SAFETY TRAINING PROGRAM

Section 3650. Comprehensive school bus driver safety training program.
3650-a. State comprehensive school bus driver safety training council.
3650-b. Drivers and instructors; training and safety.
3650-c. Accident report data base.

§ 3650. Comprehensive school bus driver safety training program. 1. The commissioner, in consultation with the state comprehensive school bus driver safety training council and subject to appropriation by the legislature, shall:

a. Develop a uniform and comprehensive school bus driver safety training program for school bus drivers transporting students to and from school by school bus including instruction to such school bus drivers concerning the latest safety techniques using the latest instructional materials.

b. Include within the safety training program the development of curriculum and training materials including a school bus driver safety training manual.

c. Develop and conduct professional development school bus driver safety training seminars statewide.

d. Establish and maintain a data base containing data relative to school bus accidents and fatalities reported within the state.

e. Engage the services of consultants on a contract basis for rendering professional and tactical assistance.

f. Award and distribute grants, following appropriation by the legislature which appropriation may include funds of the school bus motorist education fund established pursuant to section eighty-nine-j of the state finance law, for the study of issues involving the illegal passing of stopped school buses, the development of proposals to reduce the number of motorists passing school buses in violation of section eleven hundred seventy-four of the vehicle and traffic law, and to promote school bus safety.

2. The commissioner, in consultation with the justice center for the protection of people with special needs, shall promulgate rules and regulations requiring every school bus driver operating a school bus which has or will have one or more students with a disability as passengers to receive training and instruction relating to the understanding of, and attention to, the special needs of such students. Such training and instruction may be included with the training and instruction required pursuant to paragraph a of subdivision one of this section and shall be provided at least once per year or more frequently as determined by the commissioner in consultation with the state comprehensive school bus driver safety training council. For the purposes of this subdivision, the term "student with a disability" shall have the same meaning as such term is defined in subdivision one of section forty-four hundred one of this chapter. Any person employed as a school bus driver on January first, two thousand nine who is subject to the provisions of this subdivision shall comply with the requirements of this subdivision by July first, two thousand nine. Any school bus driver hired after January first, two thousand nine who is subject to the requirements of this subdivision shall complete such training and

instruction prior to assuming his or her duties.

§ 3650-a. State comprehensive school bus driver safety training council. 1. There is hereby created and established in the department of education a council, to be known as the state comprehensive school bus driver safety training council. The council shall advise and assist the commissioner in the development and updating of the school bus driver safety training program and such other related matters as the council and commissioner shall deem appropriate. Such council shall consist of the commissioner of education as chair, the superintendent of state police, the commissioner of transportation and the commissioner of motor vehicles and eight other members to be appointed by the governor including the following:

a. Two members to be appointed upon the recommendation of the speaker of the assembly.

b. Two members to be appointed upon the recommendation of the temporary president of the senate.

c. One member to be appointed upon the recommendation of the minority leader of the assembly.

d. One member to be appointed upon the recommendation of the minority leader of the senate.

2. The members of the council, other than the ex officio members, shall serve for terms of two years. Such terms shall coincide with the election of the members of the state legislature and shall commence on the fifteenth day of January. Vacancies shall be filled for unexpired terms in the same manner as the original appointments.

3. The council shall meet at least semi-annually at the call of the chair. Additional meetings may be called upon at least five days notice by the chair or by petition of five members of the council.

4. No member of the council shall be disqualified from holding any other public office, nor shall employment be forfeited by reason of the member's appointment hereunder, notwithstanding the provisions of any general, special or local law, ordinance, county or city charter.

5. Each member of the council shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

6. The council shall, during its first year, consider and may make recommendations on the following issues:

a. inclement weather procedures;

b. emergency school bus evacuation techniques;

c. safety equipment training;

d. promotion of public safety;

e. unauthorized boarding of buses; and

f. services for students with disabilities.

7. The council shall make, on or before January first of each year, an annual report of its activities and such recommendations as it may deem appropriate to the board of regents concerning school bus driver safety training programs.

§ 3650-b. Drivers and instructors; training and safety. 1. The commissioner shall establish training and safety technique requirements for school bus drivers and school bus safety training instructors and shall make rules and regulations implementing such requirements on a statewide basis.

2. The commissioner shall prepare and distribute school bus driver safety training manuals to each school district. Such manual shall be

periodically updated and shall provide the framework for continuing school bus safety education programs for school districts.

3. Every school district shall certify to the commissioner that its school bus drivers have successfully completed the school bus driver safety training program established pursuant to the provisions of this article and shall make an annual report to the commissioner on the implementation and effectiveness of the program. Each school district shall have the option of having its employees certified as school bus driver safety training instructors or contracting with certified instructors to provide such training to the district.

4. The commissioner, in consultation with the commissioner of motor vehicles, shall establish a certification program for school bus driver safety training instructors.

§ 3650-c. Accident report data base. The commissioner, in consultation with the commissioner of motor vehicles, shall establish an electronic data file containing accident reports relating to school buses.

ARTICLE 74

RESERVE FUNDS

Section 3651. Reserve fund.
3652. Investment of moneys in reserve funds.
3653. Insurance reserve funds.
3653*2. Reserves funded by resolution.

§ 3651. Reserve fund. 1. A reserve fund may be established by the school authorities of any school district, provided, however, that no such fund shall be established (a) until approved by a majority vote of the qualified voters of the district voting on a proposition therefor submitted at a regular or special school district meeting, or in school districts which do not have such meetings, at an election called for such purpose, and (b) unless the notice of such meeting or election

shall have stated that a proposition to establish a reserve fund would be so submitted, the purpose of the fund, the ultimate amount thereof, its probable term and the source from which the funds would be obtained. Such reserve fund may be established for financing, in whole or in part, the cost of any object or purpose for which bonds may be issued by, or for the objects or purposes of, the school district pursuant to the local finance law. The proposition shall specify the purpose for which the fund is established, the ultimate amount, the probable term and the source from which the funds are to be obtained. There shall be paid into any such fund an annual amount sufficient to meet the requirements of the proposition. In addition, the voters may from time to time direct the school authorities to pay into such fund moneys derived from any other source.

1-a. Notwithstanding the provisions of subdivision one of this section, any school district may establish a reserve fund for the payment of judgments and claims in tax certiorari proceedings in accordance with article seven of the real property tax law, without approval by the qualified voters of the district, provided, however, that the total of the monies held in such reserve fund shall not exceed that amount which might reasonably be deemed necessary to meet anticipated judgments and claims arising out of such tax certiorari proceedings. Any monies deposited to such reserve fund which are not expended for the payment of judgments or claims arising out of such tax certiorari proceedings for the tax roll in the year such monies are deposited to the said fund and/or which will not reasonably be required to pay any such judgment or claim shall be returned to the general fund on or before the first day of the fourth fiscal year following the deposit of such monies to said reserve fund. For purposes of this subdivision, such monies shall be deemed reasonably required to pay any such judgment or claim if the proceeding or claim has not been finally determined or otherwise terminated or disposed of after the exhaustion of all appeals.

1-b. Notwithstanding the provisions of subdivision one of this section, where the city or county is not required to pay to the treasurer of a city school district unpaid taxes during the fiscal year

for which such real property taxes are levied, the board of education of such city school district may establish a reserve for uncollected taxes without approval of the qualified voters of the school district, provided that the ratio of the amount of such reserve to the total principal amount of the district's tax levy for such fiscal year shall not be less than the ratio of the principal amount of the school district taxes as levied by the school district for the last completed fiscal year but not received by the district before the end of such fiscal year to the total principal amount of the tax levy for such last completed fiscal year. If the city or county is not required to pay to the treasurer of a city school district unpaid taxes pursuant to section thirteen hundred thirty-two of the real property tax law, the board of education of the city school district shall establish a reserve pursuant to this subdivision, provided that such reserve shall not be less than the amount of taxes for the fiscal year for which such budget is being prepared which are estimated to be unpaid during such fiscal year under the aforesaid provisions of the real property tax law.

2. The moneys in each such fund shall be deposited in one or more of the banks or trust companies designated as depositories of the funds of such school district and shall be known as the "_____reserve fund" of such district. The school authorities may direct the treasurer of such school district to invest the moneys in each such fund in the manner provided in section thirty-six hundred fifty-two of this article. Any interest earned or capital gains realized on the money so deposited or so invested shall accrue to and become a part of each such fund. The separate identity of each such fund shall be maintained whether its assets consist of cash or investments or both.

3. An expenditure shall be made from a reserve fund only by authorization of the voters and for the specific purpose specified in the proposition.

3-a. Notwithstanding the provisions of subdivision three of this section, any school district which establishes a reserve fund in accordance with subdivision one-a of this section may make expenditures from such fund for the purposes specified in such subdivision without

authorization of the voters.

4. The voters may authorize the transfer of all or any part of any reserve fund to any other reserve fund established pursuant to this section.

5. Whenever the voters shall determine that the original purpose for which a reserve fund has been established is no longer desirable, the school authorities may liquidate the fund by first applying its proceeds to any outstanding bonded indebtedness and applying the balance, if any, to the annual tax levy, provided, however, that the amount so applied in any one year shall not be greater than the amount which will reduce the tax rate for school purposes below five mills on actual valuation; provided, however, that the school authorities in any school district having no outstanding bonded indebtedness may, in any year in which no state aid is payable thereto under the provisions of this chapter, liquidate such fund by applying the balance thereof to the annual tax levy, regardless of the tax rate for school purposes, subject to the approval of a majority of the qualified electors of the district voting on a proposition therefor submitted at a regular or special school district meeting, or in school districts which do not have such meetings, at an election called for such purpose.

6. The school authorities shall cause a separate account to be kept of each fund established. Such account shall show:

a. The date and amount of each sum paid into the fund.

b. The interest earned by such fund.

c. The capital gains or losses resulting from the sale of investments of the fund.

d. The interest or capital gains which have accrued to the fund.

e. The amount and date of each withdrawal from the fund.

f. The assets of the fund indicating the cash balance therein and a schedule of the amounts invested in federal or state obligations.

7. The school authorities shall render annually a detailed report of the operation and conditions of each of such funds. Copy of such report shall be filed with the commissioner of education.

8. a. Notwithstanding the foregoing provisions of this section, if in any city any taxes raised on real estate for the purposes of the school district must be included in computing the amount which the city may raise by tax on real estate for city purposes pursuant to the provisions of section ten of article eight of the constitution, the establishment of a reserve fund by the school authorities of the school district shall be subject to the consent of the legislative body of the city.

b. Notwithstanding the foregoing provisions of this section, in any school district which is wholly or partly in the Adirondack park and has within its boundaries state lands subject to taxation assessed at more than thirty per centum of the aggregate taxable assessed valuation of the real property within the bounds of such school district, the school district shall not establish a reserve fund unless, on the recommendation of the commissioner of education, the state comptroller, on behalf of the state, shall consent thereto. Upon the expiration of fifteen days from the date of the filing in his office of the application for such consent, together with the recommendation of the commissioner of education, and upon reaching a determination, the state comptroller shall make an order, in triplicate, granting or denying such consent. One copy of such order shall be filed in the office of the state department of audit and control at Albany, New York, another in the state department of education at Albany, New York, and the third in the office of the clerk of such school district.

9. Notwithstanding the foregoing provisions of this section, in a city school district in a city having a population of one hundred twenty-five thousand inhabitants or more, such a reserve fund may be established, expenditures may be made therefrom, moneys may be paid into such fund, all or any part of such fund may be transferred to any other reserve

fund established under this section, and such reserve fund may be liquidated, all pursuant to the provisions of this section, except that any such action may be authorized or taken by the board of education of such city school district, without approval or authorization of the qualified voters of such district.

§ 3652. Investment of moneys in reserve funds. The school authorities of any school district or the district treasurer or other officer having custody of the moneys, if the school authorities shall delegate such duty to him, may invest moneys in any fund established pursuant to this article in the manner provided by section eleven of the general municipal law.

*** § 3653. Insurance reserve funds.** In addition to the provisions of this article and to the provisions of section six-n of the general municipal law, any school district that establishes and maintains an insurance reserve fund to make expenditures from such reserve fund for any loss, claim, action, or judgment for which the school district is authorized or required to purchase or maintain insurance for the kinds of risks for which insurance is authorized pursuant to paragraph three of subsection (a) of section eleven hundred thirteen of the insurance law, pursuant to section six-n of the general municipal law or any other chapter of law, shall make all reserve fund transactions transparent to the public by adopting a written insurance reserve fund policy, to be posted on the school district's website, that includes: the purpose of the reserve fund, the optimal amount of funding of the reserve fund, its intended duration, the conditions under which reserve fund assets will be used or replenished, a periodic analysis by the school board of the reserve fund balances to determine if reserves are at reasonable and appropriate levels, how the school authorities should reduce reserve funds to reasonable levels when conditions warrant, how school authorities will discontinue the reserve fund if no longer needed and any additional policies that the school authorities deem appropriate.

* NB There are 2 § 3653's

*** § 3653. Reserves funded by resolution.** In addition to any other requirements, no monies shall be paid or transferred into any reserve fund, established pursuant to this chapter or any other chapter of law, for the purpose of increasing the funding of such reserve fund, unless expressly authorized by a resolution of the board of education or trustees of a school district.

* NB There are 2 § 3653's

ARTICLE 75

TRUSTS FOR SCHOOLS; GOSPEL AND SCHOOL LOTS

Section 3701. Property to be held in trust for public schools.
3702. Control and supervision of trusts for public schools.
3703. Report of trusts to commissioner of education.
3704. Report of supervisor regarding gospel or school lots.
3705. Apportionment of gospel funds.
3706. Authorization of apportionment of gospel funds.
3707. Payment of apportionment of gospel funds.
3708. Bond required of collector or treasurer.
3709. Penalties of certain bonds.
3710. Application of moneys.
3711. Sale of gospel or school lots on division of town.
3712. State agency for surplus property.
3712-a. Transfer of gospel funds to general fund of town.
3713. Acceptance of funds appropriated by federal government.

§ 3701. Property to be held in trust for public schools. Real and personal estate may be granted, conveyed, devised, bequeathed and given in trust and in perpetuity or otherwise, to the state, or to the regents or to the commissioner of education for the support or benefit of the public schools, within the state, or within any part or portion of it, or of any particular public schools within it; and to any county, or the district superintendents of any county, or to any city or any board of officers thereof, or to any supervisory district or its superintendent, or to any town, or supervisor of a town, or to any school district or

its trustees or board of education, for the support and benefit of public schools within such county, city, supervisory district, town or school district, or within any part or portion thereof respectively, or for the support and benefit of any particular public schools therein. No such grant, conveyance, devise or bequest shall be held void for the want of a named or competent trustee or donee, but where no trustee or donee, or an incompetent one is named, the title and trust shall vest in the people of the state, subject to its acceptance by the legislature, but such acceptance shall be presumed.

§ 3702. Control and supervision of trusts for public schools. The legislature may control and regulate the execution of all such trusts; and the commissioner of education shall supervise and advise the trustees, and hold them to a regular accounting for the trust property and its income and interest at such times, in such forms, and with such authentications, as he shall, from time to time, prescribe.

§ 3703. Report of trusts to commissioner of education. The common council or other legislative body of every city, the board of supervisors or other governing elective body of every county, the trustees of every village, the supervisor of every town, the trustees or board of education of every school district, and every other officer or person who shall be required to do so by the commissioner of education shall report to him whether any, and if any, what trusts are held by them respectively, or by any other body, officer or person to their information or belief, for school purposes, and shall transmit, therewith, an authenticated copy of every will, conveyance, instrument or paper embodying or creating the trust; and shall, in like manner, forthwith report to him the creation and terms of every such trust thereafter created.

§ 3704. Report of supervisor regarding gospel or school lots. Every supervisor of a town shall report to the commissioner of education whether there be, within the town, any gospel or school lot, and, if

any, shall describe the same, and state to what use, if any, it is put by the town; and whether it be leased, and, if so, to whom, for what term and upon what rents; and whether the town holds or is entitled to any land, moneys or securities arising from any sale of such gospel or school lot, and the investment of the proceeds thereof, or of the rents and income of such lots and investments, and shall report a full statement and account of such lands, moneys and securities.

§ 3705. Apportionment of gospel funds. It shall be lawful for the supervisor of any town having money arising from the sale of gospel lands, and known as gospel funds, to apportion such funds among the several school districts of his respective town when authorized under the provisions of section thirty-seven hundred six.

§ 3706. Authorization of apportionment of gospel funds. 1. The town board of any town having a gospel fund of five hundred dollars or less may authorize the supervisor of the town to apportion such fund among the several school districts of the town.

2. The voters of any town having a gospel fund of more than five hundred dollars may at any regular or special town election authorize the supervisor of the town to apportion such fund among the several school districts of the town.

§ 3707. Payment of apportionment of gospel funds. 1. When such apportionment is authorized the supervisor shall pay to the collector, or if the district has a treasurer to the treasurer, of the several school districts of his town its pro rata share according to the aggregate school attendance of each school district in the preceding year.

2. In the event that any of the school districts of the town shall have been included in any central school district the pro rata share belonging to such district shall be paid to the treasurer of the central

school district, to be used for school purposes of such central district.

§ 3708. Bond required of collector or treasurer. The collector or the treasurer, if the district has a treasurer, of each of such school districts shall execute and file with the supervisor of such town a bond of twice the amount of such apportionment with sufficient sureties, to be approved by such supervisor.

§ 3709. Penalties of certain bonds. Whenever a school district officer is required to furnish a bond under the provisions of section thirty-seven hundred eight in the penalty of double the amount of moneys apportioned or to be received, and such district officer furnishes the bond of a surety or bonding company authorized by law to transact business in this state and to execute such bond, the penalty thereof may be fixed at the amount of moneys so apportioned or to be received, in lieu of the double penalty prescribed in such section.

§ 3710. Application of moneys. Such moneys shall be held by such collector or treasurer and paid upon the written order of the trustee or board of education of the district for such purposes as the annual or a special meeting of the district shall direct.

§ 3711. Sale of gospel or school lots on division of town. 1. Whenever a town having lands assigned to it for the support of the gospel or of schools, shall be divided into two or more towns, or shall be altered in its limits by the annexing of a part of its territory to other towns, such lands shall be sold by the supervisor of the town, in which such lands were included immediately before such division or alteration; and the proceeds thereof shall be apportioned between the towns interested therein, in the same manner as the other public moneys of towns, so divided or altered, are apportioned.

2. The shares of such moneys, to which the towns shall be respectively entitled, shall be paid to the supervisors of the respective towns, and shall thereafter be subject to the provisions of section twenty-one hundred forty-two.

§ 3712. State agency for surplus property. The commissioner of education, or such other state officer as may, from time to time, be designated by the governor, shall be the state agency for surplus property and is hereby authorized and empowered (1) to acquire from the United States of America under and in conformance with the provisions of section two hundred three (j) of the federal property and administrative services act of nineteen hundred forty-nine as amended, such property including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes of education, public health or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law; (2) to warehouse such property; and (3) to distribute such property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the state, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which are exempt from taxation under section five hundred one (c) (3) of the United States internal revenue code of nineteen hundred fifty-four, to civil defense organizations of the state, or political subdivisions and instrumentalities thereof, which are established pursuant to state law, and to such other types of institutions or activities as may now be or hereafter become eligible under federal law to acquire such property. The commissioner of education, or such other state officer as may be designated by the governor, is hereby authorized to appoint advisory board or committees and to do any and all acts necessary to carry out the foregoing duties of such agency for surplus property in accordance with such federal property and administrative services act of nineteen hundred forty-nine as amended and the rules and regulations of any of the departments or agencies of the United States of America duly adopted in accordance therewith.

§ 3712-a. Transfer of gospel funds to general fund of town. In lieu of the apportionment and payment of gospel funds as otherwise authorized by this article, the town board of any town may, by resolution duly adopted by it and approved by the voters of such town at any regular or special town meeting, authorize the supervisor thereof to transfer such funds to the general fund of the town, to be expended for any lawful town purpose.

§ 3713. Acceptance of funds appropriated by federal government. 1. The state, any school district or its trustees or board of education is hereby authorized and empowered to accept the provisions of any law of the United States making appropriations for the purpose of defraying the cost of providing the public education, the cost of planning and constructing public school facilities or any other educational purpose.

2. The commissioner of education, hereby designated as the state educational agency, is authorized and empowered to cooperate with such agency as the federal government shall designate to carry out the provisions of such law.

3. The commissioner of taxation and finance and the state comptroller are appointed as joint custodians of all money given to the state by the United States under the authority of such law, and such money shall be paid out in the manner provided by such act for the purposes therein specified.

ARTICLE 77

FINES, PENALTIES, FORFEITURES AND COSTS

Section 3801. Disposition of fines for benefit of common schools.
3802. Disposition of fines for benefit of schools of town, district or city.
3803. Disposition of fines in case of joint district.
3804. Report and payment of fines.

3805. Penalty for falsely claiming to represent commissioner of education, regents or other school officer.
3806. Penalty for failure to render an account or pay over any balance.
3807. Penalty for false reports and misapplication of public funds.
3808. Forfeiture of amount of penalty where suit is neglected.
3809. Forfeiture of amount of moneys lost by neglect.
3810. No costs to plaintiffs in certain cases.
3811. Costs, expenses and damages a district charge in certain cases.
3812. Payment of costs, charges and expenses by vote of district meeting.
3813. Presentation of claims against the governing body of any school district or certain state supported schools.
3814. Appeal to county judge.
3815. Hearing before county judge.
3816. Duty of trustees or board of education to carry out order.

§ 3801. Disposition of fines for benefit of common schools. Whenever, by any statute, a penalty or fine is imposed for the benefit of common schools, and not expressly of the common schools of a town or school district, it shall be taken to be for the benefit of the common schools of the county within which the conviction is had; and the fine or penalty, when paid or collected, shall be paid forthwith into the county treasury, and the treasurer shall credit the same as school moneys of the county, unless the county comprise a city, in which case he shall report it to the commissioner of education, who shall apportion it upon the basis of population by the last census, between the city and the residue of the county, and the portion belonging to the city shall be paid into its treasury.

§ 3802. Disposition of fines for benefit of schools of town, district or city. Whenever a fine or penalty is inflicted or imposed for the benefit of the common schools of a town or school district, the

magistrate, constable or other officer collecting or receiving the same shall forthwith pay the same to the county treasurer of the county in which the schoolhouse is located, who shall credit the same to the town or district for whose benefit it is collected. If the fine or penalty be inflicted or imposed for the benefit of the common schools of a city, or of any part or district of a city, it shall be paid into the city treasury.

§ 3803. Disposition of fines in case of joint district. Whenever a penalty or fine is imposed upon any school district officer for a violation or omission of official duty, or upon any person for any act or omission within a school district, or touching property or the peace and good order of the district, and such penalty or fine is declared to be for the use or benefit of the common schools of the town or of the county, and such school district lies in two or more towns or counties, the town or county intended by the act shall be taken to be the one in which the schoolhouse, or the schoolhouse longest owned or held by the district is at the time of such violation, act or omission.

§ 3804. Report and payment of fines. Every district attorney shall report, annually, to the board of supervisors or other governing elective body, all such fines and penalties imposed in any prosecution conducted by him during the previous year; and all moneys collected or received by him or by the sheriff, or any other officer, for or on account of such fines or penalties, shall be immediately paid into the county treasury, and the receipt of the county treasurer shall be a sufficient and the only voucher for such money.

§ 3805. Penalty for falsely claiming to represent commissioner of education, regents or other school officer. It shall be a misdemeanor for any employee, agent or representative of a firm, company or corporation engaged in selling, publishing or manufacturing papers, periodicals, books, maps, charts, school supplies, apparatus or furniture, or any other person engaged or employed in such business to

falsely represent to a board of trustees or board of education of a school district or to a teacher employed in a public school in this state or to a superintendent of schools or other school officer that he is an agent, employee, or representative of the commissioner of education, the state education department, the regents, or of any other school officer.

§ 3806. Penalty for failure to render an account or pay over any balance. Every school officer in the city of New York who shall refuse or neglect to render an account or to pay over any balance in his hands at the expiration of his term of office shall for each offense forfeit the sum of fifty dollars, which sum, together with such unpaid balance, shall be sued for and collected by the board of education of such city, which board shall prosecute without delay for the recovery of such forfeiture, together with the unpaid balance; and in case of the death of such school officer suit may be brought against his representatives, and all moneys recovered, after deducting expenses, shall be placed at the disposal of the board of education of such city.

§ 3807. Penalty for false reports and misapplication of public funds. Every person in the employ of the board of education of the city of New York, and every school officer and every officer or teacher of a school or society, who shall wilfully sign a false report to such board of education, shall for each offense forfeit the sum of twenty-five dollars; and every such person or officer who shall wilfully misapply any of the public funds committed to his care shall be deemed guilty of embezzlement.

§ 3808. Forfeiture of amount of penalty where suit is neglected. Where any penalty for the benefit of a school district, or of the schools of any school district, town, supervisory district or county, shall be incurred, and the officer, whose duty it is by law to sue for the same, shall wilfully and unreasonably refuse or neglect to sue for the same, such officer shall forfeit the amount of such penalty to the

same use, and it shall be the duty of his successor in office to sue for the same.

§ 3809. Forfeiture of amount of moneys lost by neglect. Whenever the share of school moneys or any portion thereof, apportioned to any school district, or any money to which a town or school district would have been entitled, shall be lost, in consequence of any wilful neglect of official duty by any district superintendent, town clerk, trustees or clerks of school districts, the officer guilty of such neglect shall forfeit to the town, or school district so losing the same, the full amount of such loss with interest thereon.

§ 3810. No costs to plaintiffs in certain cases. 1. In any action against school officers, including supervisors of towns, in respect to their duties and powers under this chapter, for any act performed by virtue of or under the color of their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the commissioner of education, no costs shall be allowed to the plaintiff, in cases where the court shall certify that it appeared on the trial that the defendants acted in good faith.

2. The provision of subdivision one of this section shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the commissioner of education.

§ 3811. Costs, expenses and damages a district charge in certain cases. 1. Whenever the trustees or board of education of any school district, or any school district officers, have been or shall be instructed by a resolution adopted at a district meeting to defend any action brought against them, or to bring or defend an action or proceeding touching any district property or claim of the district, or involving its rights or interests, or to continue any such action or defense, all their costs and reasonable expenses, as well as all costs

and damages adjudged against them, shall be a district charge and shall be levied by tax upon the district. Whenever any superintendent, principal, member of the teaching or supervisory staff, member of a committee on special education or subcommittee thereof, surrogate parent as defined in the regulations of the commissioner of education, or any trustee or member of the board of education of a school district or non-instructional employee of any school district other than the city school district of the city of New York or any board of cooperative educational services shall defend any action or proceeding, other than a criminal prosecution or an action or proceeding brought against him by a school district or board of cooperative educational services hereafter brought against him, including proceedings before the commissioner of education, arising out of the exercise of his powers or the performance of his duties under this chapter, all his reasonable costs and expenses, as well as all costs and damages adjudged against him, shall be a district charge and shall be levied by tax upon the district or shall constitute an administrative charge upon the board of cooperative educational services provided that (a) such superintendent, principal, member of the teaching or supervisory staff, member of a committee on special education or subcommittee thereof, surrogate parent as defined in the regulations of the commissioner of education, non-instructional employee of any school district or board of cooperative educational services or such trustee or member of a board of education of such school district or board of cooperative educational services shall notify the trustees or board of education or board of cooperative educational services in writing of the commencement of such action or proceedings against him within five days after service of process upon him; and (b) the trustees or board of education or board of cooperative educational services shall, at any time during the ten days next following the notice to them of the commencement of such action or proceedings, have the right to designate and appoint the legal counsel to represent such superintendent, principal, member of the teaching or supervisory staff, member of a committee on special education or subcommittee thereof, surrogate parent as defined in the regulations of the commissioner of education, non-instructional employee of any school district or board of cooperative educational services or such trustee or member of the board of education or board of cooperative educational

services in such action or proceedings against him, in the absence of which designation and appointment within the time specified such superintendent, principal, member of the teaching or supervisory staff, member of a committee on special education or subcommittee thereof, surrogate parent as defined in the regulations of the commissioner of education, non-instructional employee of any school district or board of cooperative educational services or such trustee or member of the board of education or board of cooperative educational services may select his own legal counsel; (c) it shall be certified by the court or by the commissioner of education, as the case may be, that he appeared to have acted in good faith with respect to the exercise of his powers or the performance of his duties under this chapter.

2. If the amount claimed hereunder be disputed by a district meeting, the board of education or the board of trustees, it shall be adjusted by the county judge of any county in which the district or any part of it is situated.

§ 3812. Payment of costs, charges and expenses by vote of district meeting. 1. Whenever the trustees or board of education or any school district officer shall have brought or defended any such action or proceeding, without any such resolution of the district meeting, and after the final determination of such suit or proceeding, shall present to any regular meeting of the inhabitants of the district, an account, in writing, of all costs, charges and expenses paid by him or them, with the items thereof, and verified by his or their oath or affirmation, and a majority of the voters at such meeting shall so direct, it shall be the duty of the trustees to cause the same to be assessed upon and collected of the taxable property of said district, in the same manner as other taxes are by law assessed and collected; and, when so collected, the same shall be paid over, by an order upon the collector or treasurer to the officers entitled to receive the same.

2. The provision of subdivision one of this section shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the commissioner of education.

§ 3813. Presentation of claims against the governing body of any school district or certain state supported schools. 1. No action or special proceeding, for any cause whatever, except as hereinafter provided, relating to district property or property of schools provided for in article eighty-five of this chapter or chapter ten hundred sixty of the laws of nineteen hundred seventy-four or claim against the district or any such school, or involving the rights or interests of any district or any such school shall be prosecuted or maintained against any school district, board of education, board of cooperative educational services, school provided for in article eighty-five of this chapter or chapter ten hundred sixty of the laws of nineteen hundred seventy-four or any officer of a school district, board of education, board of cooperative educational services, or school provided for in article eighty-five of this chapter or chapter ten hundred sixty of the laws of nineteen hundred seventy-four unless it shall appear by and as an allegation in the complaint or necessary moving papers that a written verified claim upon which such action or special proceeding is founded was presented to the governing body of said district or school within three months after the accrual of such claim, and that the officer or body having the power to adjust or pay said claim has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment. In the case of an action or special proceeding for monies due arising out of contract, accrual of such claim shall be deemed to have occurred as of the date payment for the amount claimed was denied.

2. Notwithstanding anything to the contrary hereinbefore contained in this section, no action or special proceeding founded upon tort shall be prosecuted or maintained against any of the parties named in this section or against any teacher or member of the supervisory or administrative staff or employee where the alleged tort was committed by such teacher or member or employee acting in the discharge of his duties within the scope of his employment and/or under the direction of the board of education, trustee or trustees, or governing body of the school unless a notice of claim shall have been made and served in compliance

with section fifty-e of the general municipal law. Every such action shall be commenced pursuant to the provisions of section fifty-i of the general municipal law; provided, however, that this section shall not apply to: (i) any claim to recover damages for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age; or

(ii) any civil claim or cause of action revived pursuant to section two hundred fourteen-j of the civil practice law and rules.

2-a. Upon application, the court, in its discretion, may extend the time to serve a notice of claim. The extension shall not exceed the time limited for the commencement of an action by the claimant against any district or any such school. In determining whether to grant the extension, the court shall consider, in particular, whether the district or school or its attorney or its insurance carrier or other agent acquired actual knowledge of the essential facts constituting the claim within the time specified in subdivision one of this section or within a reasonable time thereafter. The court shall also consider all other relevant facts and circumstances, including: whether the claimant was an infant, or mentally or physically incapacitated, or died before the time limited for service of the notice of claim; whether the claimant failed to serve a timely notice of claim by reason of his justifiable reliance upon settlement representations made by an authorized representative of the district or school or its insurance carrier; whether the claimant in serving a notice of claim made an excusable error concerning the identity of the district or school against which the claim should be asserted; and whether the delay in serving the notice of claim substantially prejudiced the district or school in maintaining its defense on the merits.

An application for leave to serve a late notice shall not be denied on the ground that it was made after commencement of an action against the

district or school.

Nothing contained in this subdivision shall affect claims arising out of contracts entered into by the parties before the effective date of this subdivision; nor shall anything contained in this subdivision affect non-contractual claims which have accrued before the effective date of this subdivision.

2-b. Except as provided in subdivision two of this section and, notwithstanding any other provision of law providing a longer period of time in which to commence an action or special proceeding, no action or special proceeding shall be commenced against any entity specified in subdivision one of this section more than one year after the cause of action arose; provided, however, that nothing contained in this subdivision shall be deemed to modify or supersede any provision of law specifying a shorter period of time in which to commence an action or special proceeding against any such entity. For purposes of this subdivision, a cause of action against the school district of residence for reimbursement of tuition costs incurred pursuant to subdivision four of section thirty-two hundred two of this chapter by the school district in which a family home at board is located shall arise as of the date payment for the amount claimed was denied.

3. The provisions of this section shall not supersede, alter or affect the provisions of section twenty-five hundred twelve of this chapter.

4. In any action for personal injuries by a passenger on a school bus against a school district, school bus operator under contract with a school district, or any agent or employee of a district or operator (including, but not limited to, bus drivers, matrons, teachers serving as chaperones and volunteers) no such person shall be held liable solely because the injured party was not wearing a seat safety belt; provided, however, that nothing contained herein shall be construed to grant immunity from liability for failure to:

(a) maintain in operating order any equipment required by statute, rule or regulation;

(b) comply with applicable statutes, rules or regulations.

§ 3814. Appeal to county judge. 1. Whenever any officer mentioned in section thirty-eight hundred twelve shall have complied with the provisions of such section and the meeting shall have refused to direct the trustees or board of education to levy a tax for the payment of the costs, charges and expenses claimed by him, such officer shall immediately give notice to such meeting that he will appeal to the county judge of the county in which such district is located from the refusal of said meeting to vote a tax for the payment of such claim.

2. Within ten days after the refusal of the meeting to allow such claim such officer shall serve upon the clerk of the district or, if there be no district clerk, upon the town clerk of the town, an itemized statement of his claim, duly verified, together with a written notice that on a certain day named therein such officer will present such claim to the county judge for settlement.

3. The clerk upon whom such notice and claim are served shall file the same in his office and such notice and claim shall be subject to the inspection of any of the inhabitants of the school district.

4. The meeting at which notice of the intention of such officer to appeal to the county judge is given or any subsequent district meeting, duly called, may appoint one or more of the legal voters of such district or authorize the trustee or board of education to employ counsel to appear before the county judge at the time fixed for a hearing on such claim and protect the rights of the district upon such settlement. The expenses incurred in the performance of this duty shall be a charge upon the district and the trustees or board of education upon a presentation of the account of such expenses with proper vouchers therefor shall pay the same from any available funds in the district or include the necessary amount in a tax list to be levied upon the district.

5. A refusal of the trustees or board of education to levy such tax for the payment of such expenses shall be subject to an appeal to the

commissioner of education.

§ 3815. Hearing before county judge. 1. Upon the appearance of the parties, or upon due proof of service of the notice and copy of the account, the county judge shall examine into the matter and hear the proofs and allegations presented by the parties, and decide by order whether or not the account, or any and what portion thereof, ought justly to be charged upon the district, with costs and disbursements to such officer.

2. Such costs and disbursements shall not exceed the sum of thirty dollars, and the decision of the county judge shall be final; but no portion of such account shall be so ordered to be paid which shall appear to such judge to have arisen from the wilful neglect or misconduct of the claimant. The account with the oath of the party claiming the same shall be prima facie evidence of the correctness thereof. The county judge may adjourn the hearing from time to time, as justice shall seem to require.

§ 3816. Duty of trustees or board of education to carry out order. It shall be the duty of the trustees or board of education of any school district, within thirty days after service upon them or upon the district clerk of a copy of an order of the county judge and notice thereof to them or any two of them, to cause the same to be entered at length in the book of record of said district, and to raise the amount thereby directed to be paid, by a tax upon the district, to be by them assessed and levied in the same manner as a tax voted by the district.

TITLE VI

SPECIAL SCHOOLS AND INSTRUCTION

Article 81 Education of children residing in child care institutions (§§ 4001-4006).

83 Indian schools (§§ 4101-4119).

85 Instruction of the deaf and of the blind (§§ 4201-4213).

87 New York State School for the Blind (§§ 4301-4318).
88 New York State School for the Deaf (§§ 4351-4358).
89 Children with handicapping conditions (§§ 4401--4410-c).
90 Gifted education (§§ 4451-4453).
91 School camps (§§ 4501-4502).
93 Career, practical arts, continuing adult education and vocational and educational guidance (§§ 4601-4607).
95 Farm schools in counties (§§ 4701-4712).
97 Home schools in certain cities (§§ 4801-4815).
99 New York nautical school (§§ 4901-4904).
101 Private trade and correspondence schools (§§ 5001-5010).
103 Workplace literacy programs (§§ 5100-5102).
105 Research Institute on Addictions (§§ 5200-5201).

ARTICLE 81

EDUCATION OF CHILDREN RESIDING IN CHILD CARE INSTITUTIONS

Section 4001. Definitions.
4002. Educational services.
4003. Annual tuition and maintenance reimbursement procedures.
4004. Financial responsibility.
4005. Placement and evaluation of children.
4006. Notification procedures for determination of residence.

§ 4001. Definitions. As used in this article, the following terms shall be defined as follows:

1. "Authorized agency" shall have the meaning defined in section three hundred seventy-one of the social services law.

2. "Child care institution" shall mean any facility serving thirteen or more children licensed by the department of social services pursuant to title one of article seven of the social services law operated by an authorized agency, or a residential treatment facility for children and youth, whether or not such residential treatment facility is operated by an authorized agency, except that Blythedale Children's Hospital shall

be a child care institution. This definition shall not include any facility operated by a state agency or department other than the office of mental health. It shall not include group homes or urban homes operated by or contracted for by the division for youth.

3. "County" shall mean the county executive, or if there is none, the chairman of the county legislative body of the county which is responsible for a child in a child care institution or a private school, except within the city of New York, in which case county shall mean the mayor of said city.

4. "Child with a handicapping condition" shall mean a person between the ages of five and twenty-one who has been identified through appropriate evaluation and assessment as having a disability arising from cognitive, emotional or physical factors, or any combination thereof, which interferes with the child's ability to benefit from regular education.

5. "Maintenance" shall mean the amount charged for room and board, residential care and medical expenses, including those expenses reimbursable pursuant to title nineteen of the federal social security act, defined in accordance with the regulations of the commissioner of social services for a child care institution pursuant to section three hundred ninety-eight-a of the social services law. Maintenance shall not include expenses which are otherwise reimbursable to a residential facility by a federal, state or local agency, shall be approved by the state commissioner of social services and the director of the budget and shall not be otherwise payable or reimbursable.

6. "Public agency" shall mean the family court, the division for youth or the local social services district.

7. "Residential treatment facility for children and youth" shall have the meaning defined in section 1.03 of the mental hygiene law. Such facilities may be operated by an authorized agency, subject to the regulation of the office of mental health.

8. "Special act school district" shall mean those school districts enumerated in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven as amended.

9. "Tuition" shall mean the per pupil cost of all instructional services, supplies and equipment, and the operation of instructional facilities as determined by the commissioner. Approved tuition shall be computed from expenditures for which no revenue has been received from the following sources:

a. Receipts from the federal government;

b. Any cash receipts which reduce the cost of an item applied against the item therefor, except gifts, donations and earned interest; and

c. Any refunds made or any apportionment or payment received from the state for experimental or special programs as approved by the commissioner.

10. "School district of origin" shall mean the public school district of which a child was or is a resident at the time of such child's placement in the care and custody of a public agency.

11. "School district of residence" shall mean the public school district in which the child was or is living at the time a public agency is considering placement of the child in a child care institution, or at the time a child is placed with the division for youth.

12. "Written recommendation" shall mean the information required to be provided by a school district to a public agency pursuant to section forty hundred five of this article, which shall be developed as specified by the regulations of the commissioner.

§ 4002. Educational services. 1. Each child between the ages of five and twenty-one who resides in a child care institution and who has not yet graduated from high school shall be entitled to receive a free and

appropriate education in the least restrictive environment for that child.

2. Each child shall be provided suitable educational services in the least restrictive environment which can be provided by one of the day programs listed below. The need of the individual child shall determine the program that shall be offered. Such programs are as follows:

a. The program of the public schools, as defined by section forty-four hundred one of this chapter, where such child care institution is located or a neighboring public school program.

b. The program of the board of cooperative educational services serving the area in which the institution is located. Boards of cooperative educational services are hereby authorized to provide such services on the same basis as such services are provided to children residing in component districts of such boards.

c. A special act school district.

d. An approved private school operated by such institution, or a private non-residential school approved by the state education department. Children who receive care in a residential treatment facility for children and youth which is operated by an authorized agency may be placed in a private school operated by such residential treatment facility or in a private school operated by the authorized agency.

e. Appointment by the commissioner to a state or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of this chapter.

f. Contracts with the state university at Binghamton for non-residential special services or programs at the children's unit for treatment and evaluation which have been approved by the commissioner.

* g. Related services which shall in appropriate cases be provided or assured to students with disabilities and which shall include audiology,

counseling including rehabilitation counseling services, occupational therapy, parent counseling and training, school health services, school nurse services, school social work, physical therapy, speech pathology, medical services as defined in regulations, psychological services, orientation and mobility services, assistive technology service as defined under federal law, interpreting services, other appropriate developmental, corrective or other support services, and appropriate access to recreation, as such terms are defined by regulations of the commissioner and approved by the director of the budget. Such term does not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of such device.

* NB Effective until June 30, 2027

* g. Related services which shall in appropriate cases be provided or assured to students with disabilities and which shall include audiology, counseling including rehabilitation counseling services, occupational therapy, parent counseling and training, school health services, school social work, physical therapy, speech pathology, medical services as defined in regulations, psychological services, orientation and mobility services, assistive technology service as defined under federal law, other appropriate developmental, corrective or other support services, and appropriate access to recreation, as such terms are defined by regulations of the commissioner and approved by the director of the budget.

* NB Effective June 30, 2027

h. Hospital instruction, which shall be provided as specified in the regulations of the commissioner.

i. Other programs approved by the commissioner.

3. Each child care institution maintaining a school shall appoint a committee on special education of the same composition as required of public schools by section forty-four hundred two of this chapter. Such committee shall have responsibility for evaluating each pupil suspected of having a handicapping condition who has been placed in the care of a child care institution by a public agency and each child placed in a

residential treatment facility for children and youth, and placing such children in an appropriate special education program as provided in section forty hundred five of this article. Such committee shall follow the procedures contained in section forty-four hundred two of this chapter. A residential treatment facility for children and youth which is operated by an authorized agency may share the services of a committee on special education established pursuant to this subdivision or other provisions of law.

§ 4003. Annual tuition and maintenance reimbursement procedures. 1. The commissioner of education, the commissioner of social services, and, when appropriate, the commissioner of mental health shall develop reimbursement methodologies for the tuition and maintenance components of child care institutions and special act school districts. The commissioner of education, in consultation with the appropriate state agencies and departments, shall have responsibility for developing a reimbursement methodology for tuition which shall be based upon appropriate educational standards promulgated pursuant to regulations of the commissioner of education. The commissioner of social services, except for institutions for which the state health department or the office of mental health establishes maintenance rates, in consultation with appropriate state agencies and departments, shall have responsibility for developing a reimbursement methodology for maintenance, pursuant to section three hundred ninety-eight-a of the social services law and the regulations promulgated thereunder.

2. The director of the budget, in consultation with the commissioner of education, the commissioner of social services, the commissioner of health, the commissioner of mental health, and any other state agency or other source he may deem appropriate, shall approve reimbursement methodologies for tuition and maintenance. Any modification in any such methodology which has previously been approved shall be subject to the approval of the director of the budget.

3. Effective upon final approval by the director of the budget of reimbursement methodologies for both tuition and maintenance, the

commissioner of education shall annually determine a tuition rate in conformance with this section for each special act school district or private school operated by a child care institution.

4. Effective upon final approval by the director of the budget of the reimbursement methodologies for both tuition and maintenance, the commissioner of social services shall annually determine a maintenance rate and a medical services rate for each child care institution in accordance with this section and regulations of the commissioner of social services.

5. All reimbursement rates determined pursuant to this section shall be effective for the period July first through June thirtieth. Rates for the following year shall be submitted no later than April fifteenth to the director of the budget. The director of the budget shall act upon such rates within forty-five days of submission. Such rates shall not become effective until approved by the director of the budget. In the event that the rates are approved after July first, then such rates shall be deemed to apply retroactively to such date.

6. All reimbursements shall be subject to adjustment and final determination upon field audit conducted by the comptroller, the state education department, the department of social services or any agent thereof.

7. The commissioner of education, the commissioner of social services and the director of the budget, in consultation with other appropriate state agencies and departments, shall enter into an interagency agreement to assure effective implementation of the provisions of this section. The agreement shall provide for, but not be limited to, the development of common accounting practices and audit procedures, common information and budget forms, coordinated financial and other reporting requirements for child care institutions, mechanisms for resolving appeals of rates established pursuant to this section and mechanisms to evaluate and recommend modification to reimbursement methodologies.

§ 4004. Financial responsibility. 1. Tuition expenses for a child placed by a school district in a special act school district or in a private school operated by a child care institution pursuant to this article shall be the responsibility of such school district pursuant to section forty-four hundred five of this chapter.

2. a. Any tuition expenses for an educational program approved by the education department for the purposes of this article, incurred pursuant to section four thousand two of this article, for a child who is a resident of this state placed in a child care institution by a social services district, the division for youth, or family court for a full year program of instruction pursuant to section four thousand three of this article, or for a child who is a resident of this state receiving care in a residential treatment facility for children and youth and who was placed in such a facility by a social services district, the division for youth or the family court, shall be borne by the local social services district financially responsible for such child and tuition expenses for a child who is a resident of this state receiving care in a residential treatment facility for children and youth and who was not placed in such a facility by a school district, social services district, the division for youth or the family court shall be borne by the office of mental health, except that no public funding shall be made available for any child receiving care in a residential treatment facility for children and youth whose admission did not conform with the provisions of section 9.51 of the mental hygiene law. Tuition expenses for children admitted to Blythedale Children's Hospital on an inpatient basis shall be the responsibility of the social services district in which the child resided at the time of admission to such hospital. The school district in which the child resided at the time a social services district or the division for youth assumed responsibility for the support and maintenance of the child, or was admitted to Blythedale Children's Hospital, or the child was admitted to a residential treatment facility for children and youth shall reimburse the state towards the state's expenditure on behalf of such child for each child determined to be handicapped by the committee on special education of the school district of residence pursuant to section four thousand five of this article. The amount of such reimbursement shall be equal to the

school district basic contribution as defined in subdivision eight of section forty-four hundred one of this chapter.

b. The comptroller shall deduct from any state funds which become due to a public school district other than a special act school district an amount equal to the reimbursements required to be made to the state in accordance with this section upon certification by the commissioner of education of the monies due.

c. The state commissioner of social services shall notify the commissioner of education at least every six months commencing September first, nineteen hundred eighty-one of the name of each child for whom a local social services commissioner has paid tuition during the preceding six month period, the name of the school to which such tuition has been paid, and the school district in which such child resided at the time of entrance to care and whether such child has been determined to be handicapped.

3. In the event of the failure of the social services district to make payment for tuition pursuant to the provisions of this section, the state comptroller shall withhold state reimbursement to any such social services district in an amount equal to the unpaid obligation for tuition and pay over such sum to the child care institution or special act school district upon certification of the state commissioner of social services. The state commissioner of social services shall promulgate regulations to implement the provisions of this subdivision.

4. Nothing in this article shall be construed to deny or limit access to a free and appropriate education for a handicapped child pursuant to the federal education of the handicapped act, as amended and the regulations promulgated thereunder.

5. The board of education of a special act school district shall be authorized to establish a fiscal stabilization reserve fund. There may be paid into such fund an amount as may be provided pursuant to the requirements of paragraph k of subdivision four of section forty-four hundred five of this title.

§ 4005. Placement and evaluation of children. 1. a. Children placed by the family court. When the placement of a child is being considered by the family court pursuant to section 353.3, seven hundred fifty-six or one thousand fifty-five of the family court act and such child is thought to have a handicapping condition and may be placed in a child care institution, the family court judge or the probation department shall request the school district of residence to provide that the committee on special education of such district evaluate such child and make written recommendations for appropriate educational services and to forward a written evaluation and recommendation within forty-two days of such request. Such information shall be used to determine the most appropriate placement for the child, and if the family court places the child in the custody of a social services district, it shall transmit such information to such district. If the committee on special education determines that the child does not have a handicapping condition, it shall notify the family court of such determination within forty-two days. If the committee on special education fails to make a recommendation pursuant to the provisions of this paragraph, the family court shall obtain such information from the school district pursuant to section two hundred fifty-five of the family court act.

b. Children placed by a local social services district. When a local social services district is considering the placement of a child thought to have a handicapping condition in a child care institution, the social services district shall request the school district of residence to provide that the committee on special education of such district evaluate such child and make written recommendations for appropriate educational services within forty-two days, except where such information has been obtained by the family court. Such information shall be used to determine the most appropriate placement for the child. If the committee on special education determines that the child does not have a handicapping condition, it shall notify the social services district of such determination within forty-two days.

c. Children placed by the division for youth. (i) Any educational

information obtained by the family court pursuant to this section shall be transmitted to the division for youth pursuant to section five hundred seven-b of the executive law. The division shall use such information to determine the most appropriate placement for the child.

(ii) When the division for youth is considering the placement of a child thought to have a handicapping condition in a child care institution, pursuant to article nineteen-G of the executive law, the division shall request the school district of residence to provide that the committee on special education of such district evaluate such child and make written recommendations for appropriate educational services within forty-two days. Such information shall be used to determine the most appropriate placement for the child. If the committee on special education determines that the child does not have a handicapping condition, it shall notify the division of such determination within forty-two days.

d. Children placed in residential treatment facilities for children and youth. When a pre-admission certification committee established pursuant to section 9.51 of the mental hygiene law is considering the placement of a child who has not previously been placed in a child care institution by a public agency in a residential treatment facility for children and youth and such child is thought to have a handicapping condition, the committee shall request the school district of residence to provide that the committee on special education of such district evaluate such child and make written recommendations for appropriate educational services and to forward a written evaluation and recommendation within forty-two days of such request. Notwithstanding the definition set forth in subdivision eleven of section forty hundred one of this article, if a child being considered for initial placement in a residential treatment facility is a patient in a hospital operated or licensed by the office of mental health, the school district of residence shall be the school district of residence at the time he or she entered the hospital. Such information shall be used to determine the most appropriate placement for the child. If the committee on special education determines that the child does not have a handicapping condition, it shall notify the pre-admission certification committee and the operator of a residential treatment facility for children and youth

which has admitted the child for care and treatment of such determination within forty-two days.

e. Any information obtained from a committee on special education pursuant to this section shall be considered confidential in accordance with regulations of the commissioner and shall be forwarded by the local social services district, the division for youth or the appropriate pre-admission certification committee established pursuant to section 9.51 of the mental hygiene law to the child care institution or other facility in which the child is placed.

f. For the purposes of this section, an emergency placement shall mean a child who must be placed in a child care institution to protect the health and welfare of the child or his family within thirty days of the presentation of the child to the family court or a local social services district. Children in an emergency placement shall not be exempted from the requirements of paragraphs a and b of this subdivision, except that the required educational evaluation shall be performed and recommendations made subsequent to the emergency placement but in no case later than forty-two days after such placement.

2. a. Upon the placement of a child who is at least five years of age in a child care institution that operates a private school or in a special act school district, by a public agency, or in a residential treatment facility for children and youth which, independently or as part of an authorized agency, operates a private school or a special act school district, the committee on special education of the private school or the special act district shall follow the procedures contained in section forty-four hundred two of this chapter including the involvement of the parents or guardians of the child and shall:

(i) consider and review the evaluation performed by the committee on special education of the school district of residence.

(ii) prepare an individualized education program for each child who has been determined to be handicapped which takes into account recommendations made by the committee on special education of the school district of residence.

(iii) place the child in the most appropriate program specified in

subdivision two of section forty hundred two of this article. The committee shall review at least annually and prepare a written report concerning the status of each child with a handicapping condition under its jurisdiction which shall include a determination whether a child's educational program should be continued, modified or terminated.

(iv) forward to the social services district or the division for youth the individualized education program and in each year forward an annual report for each child, as specified in this paragraph. The social services district, the division for youth or the operator of a residential treatment facility for children and youth which is not operated by an authorized agency, as the case may be, shall transmit a copy of such documents to the parents or guardians of the child and to the committee on special education of the school district of origin and shall forward a copy of the evaluation performed by the committee on special education of the school district of residence to the parents or guardians of the child.

* b. If the individual educational evaluation, individualized education program, educational placement decision, or the annual report for the child or any other matter relating to the provision of a free appropriate public education to the student is not acceptable to the parents or persons in parental relation to the student, an impartial hearing may be initiated by such parties pursuant to section forty-four hundred four of this title and mediation shall be made available pursuant to section forty-four hundred four-a of this title.

* NB Effective until June 30, 2027

* b. If the educational evaluation, educational placement decision or the annual report for the child is not acceptable to the parents or guardians of the child, the child, or the social services district or the division for youth, appeals may be made by such parties pursuant to section forty-four hundred four of this chapter.

* NB Effective June 30, 2027

* c. A child care institution or the social services district or the division for youth may request a review by the board of education of the school district of residence of the fact that a child has been determined not to be handicapped by the committee on special education of such district. An appeal to the commissioner will lie from any determination of the board of education.

* NB Effective June 30, 2027

3. In the event that it has been determined by a private school operated by a child care institution or a special act school district, subject to any review or modification provided for in this article, that a child should receive educational services in a public school, other than a special act school district, or board of cooperative educational services program or if a child resides in a child care institution that does not maintain an approved private school program or special act school district, then any such child residing in a child care institution shall be admitted to the school district in which the child care institution is located pursuant to regulations of the commissioner. For the purposes of this subdivision a special act school district shall not be considered to be the school district in which such institution is located.

4. During the pendency of any proceeding concerning any individual child described above, the child care institution or special act school district shall continue to be reimbursed by the social services district for the approved cost of the current educational placement of the child, including the transportation of such child to and from any interview required by the committee on special education of the child's school district of residence where an evaluation must be performed subsequent to the placement of a child pursuant to this section or any costs of an independent evaluation deemed necessary by such committee.

5. Nothing in this section shall be deemed to affect the placement or removal of a child from a child care institution by a public agency or the admission or discharge of children to and from Blythedale Children's Hospital.

§ 4006. Notification procedures for determination of residence. 1. Within thirty days of the placement of a child, determined to be handicapped pursuant to subdivision one of section forty hundred five of this article, in a child care institution, the local social services commissioner, the division for youth or the operator of a residential

treatment facility for children and youth which is not operated by an authorized agency shall notify the board of education of the school district of origin and the state commissioner of social services. Such notification shall include the name of the child and the residence of the child at the time of entrance to care. The commissioner shall promulgate regulations, in consultation with the commissioner of social services, the commissioner of mental health and the director of the division for youth, to implement this subdivision.

2. A board of education of a school district which receives notification that a child has been placed in a child care institution for the purposes of this section may deny financial responsibility for such child by written notice, within twenty days of notification pursuant to subdivision one of this section, to the commissioner and the public agency placing the child.

3. The division for youth or the social services district placing such child may appeal such denial of responsibility to the commissioner. If the commissioner finds that the child was not a resident of the school district that was notified that the child was a resident, the commissioner shall request the division for youth or social services commissioner to ascertain the correct school district and notify such school district pursuant to subdivision one of this section. If the commissioner finds that a child has no residence in this state, he shall determine that there is no school district contribution for such child.

4. Any final determination or order of the commissioner concerning residence or placement of any child under this section may only be reviewed in a proceeding brought in the supreme court pursuant to article seventy-eight of the civil practice law and rules. In any such proceeding under such article seventy-eight, the court may grant any relief authorized by the provisions of section seventy-eight hundred six of such law and rules and may also, in its discretion, remand the proceedings to the commissioner. A local social services commissioner or the division for youth is a proper party in any such appeal or proceeding.

ARTICLE 83

INDIAN SCHOOLS

Section 4101. Duties of commissioner regarding Indian children.
4102. Rights of Indians and of state shall be guarded.
4103. Indian children not entitled to free tuition in public schools.
4104. Employment of teachers, salaries, et cetera.
4105. Required attendance upon instruction.
4106. Duties of persons in parental relation to Indian children.
4107. Penalty for failure to send children to school.
4108. Persons employing Indian children unlawfully to be fined.
4109. Teachers' record of attendance.
4110. Attendance officers.
4111. Arrest of truants.
4112. Commissioner of education to contract for keeping of truants.
4113. Census.
4114. Payment of services herein required.
4115. Apportionment.
4116. Co-operation of Indians shall be sought.
4117. Payment of cost of education of physically handicapped Indian children.
4118. Attendance at post-secondary institutions by Native American students.
4119. School district may contract to educate Indian children.

§ 4101. Duties of commissioner regarding Indian children. 1. The commissioner of education shall establish schools in such places and maintain such courses of instruction therein for the education of the Indian children of the state as he or she shall deem necessary. He or she shall have general supervision of such education and shall cause to be erected where necessary convenient and suitable school buildings for the accommodation of all the Indian children of the state.

2. Notwithstanding any other provision of law, rule or regulation to

the contrary, the commissioner in his or her discretion may, instead of establishing schools and maintaining courses of instruction therein for the education of the Indian children of the state, contract, for a period of up to ten years, with any school district for the education of such Indian children. The consideration for any such contract shall not exceed the total cost to the school district of the education of Indian children pursuant to such contract, less any public moneys received by the school district by reason of the attendance of such Indian children in regular day school, except any public moneys received by the district as a building quota pursuant to the provisions of subdivision six-a of section thirty-six hundred two of this chapter. The commissioner of taxation and finance shall pay on the warrant of the comptroller bills, for the costs and expenses attending such contract, approved by the commissioner of education from the appropriation for the support and education of Indian children. In carrying out the provisions of this article the commissioner, notwithstanding any other provision of law, may lease any school ground, site or building established for a reservation and owned by the state of New York to any school district upon such terms and conditions as he or she shall deem necessary, convenient and proper. Nothing herein contained shall alter the title of the Indians to their lands.

3. The commissioner of education shall also enforce this article and pay from the funds set apart for Indian education any necessary expense incurred thereby.

4. Notwithstanding any other provision of law to the contrary, an Indian child who is resident of any portion of reservation located wholly or partly within the borders of the state shall be deemed an Indian child for the purposes of this article.

§ 4102. Rights of Indians and of state shall be guarded. Any contract which may be entered into with Indians for the use or occupancy of any land for school grounds, sites or buildings, shall provide proper protection for the title of the Indians to their lands, and shall reserve to the state the right to remove or otherwise dispose of all

improvements made at the expense of the state.

§ 4103. Indian children not entitled to free tuition in public schools. Indian children residing on a reservation are not entitled to free tuition in districts outside the reservation but may be received into the schools of such districts on the approval of the trustees thereof and the commissioner of education.

§ 4104. Employment of teachers, salaries, et cetera. 1. The commissioner of education shall employ all necessary teachers, attendance officers and other assistants and employees, and fix their salaries within the amount of the appropriations made therefor, as shall be necessary for the proper enforcement of the statutes relating to Indian education.

2. The personnel of the faculty of each state Indian school shall be classified as follows:

a. Principal

b. Vice principal

c. Teacher

3. Each member of the faculty shall receive an annual salary to be paid over a ten month period, except that the principal shall receive an annual salary to be paid over a twelve month period.

4. Any contribution of food, lodging or maintenance by the state, or any commutation in lieu of maintenance, except traveling expenses and field allowances, shall be considered as part of the salary to be paid. The fair value of such food, lodging, maintenance or commutation shall be determined by the director of the budget and may in his discretion be deducted from the salary to which a member of the faculty would otherwise be entitled.

§ 4105. Required attendance upon instruction. 1. Every Indian child between six and sixteen years of age, in proper physical and mental condition to attend school, shall regularly attend upon instruction at a school in which at least the common school branches of reading, spelling, writing, arithmetic, English grammar and geography are taught in English, or upon equivalent instruction by a competent teacher elsewhere than at such school as follows: Every Indian child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and every such child between six and fourteen years of age, shall so attend upon instruction as many days annually during the period between the first days of September and the following July as a public school of the community or district of the reservation, in which such child resides, shall be in session during the same period.

2. If any such child shall so attend upon instruction elsewhere than at the public school, such instruction shall be at least equivalent to the instruction given to Indian children of like age at a school of the community or district in which such child shall reside; and such attendance shall be for at least as many hours of each day thereof, as are required of children of like age at public schools and no greater total amount of holidays and vacations shall be deducted from such attendance during the period such attendance is required than is allowed in public schools for children of like age. Occasional absences from such attendance not amounting to irregular attendance in a fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practices of public schools.

3. Transportation shall be provided for Indian children who live more than a mile from the elementary and high schools they attend, and the commissioner of education is hereby empowered to make provision for the cost of the same as a part of the care and education of Indian children.

§ 4106. Duties of persons in parental relation to Indian children.

Any person in parental relation to an Indian child between six and sixteen years of age in proper physical and mental condition to attend school, shall cause such child to attend upon instruction as provided in this article.

§ 4107. Penalty for failure to send children to school. A violation of section forty-one hundred six shall be a misdemeanor, punishable for the first offense by a fine not exceeding five dollars or by imprisonment not exceeding ten days, and for each subsequent offense, by a fine not exceeding twenty-five dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special sessions shall, subject to removal, as provided in sections fifty-seven and fifty-eight of the code of criminal procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violation of section forty-one hundred six within their respective jurisdictions.

§ 4108. Persons employing Indian children unlawfully to be fined. A person, firm, association or corporation shall not employ any Indian child residing on any Indian reservation between six and fourteen years of age, in any business or service whatever during any part of the term during which the school in the community or district in which such child resides or the school where such child should attend is in session, nor shall employ any Indian child residing on any reservation between fourteen and sixteen years of age, who does not, at the time of such employment present a consent in writing signed by the principal teacher of the reservation or the principal of the district which educates the children in the community in which such child resides to the effect that such child may be employed, and specifying the nature of the service and the duration of such service or employment. Any person, firm, association or corporation who shall employ any Indian child contrary to the provisions of this section shall for each offense forfeit and pay to the principal teacher of the reservation or to the commissioner of education the sum of twenty-five dollars to be sued for in the name of the people of the state of New York by the attorney general. Such

penalty, when paid, shall be used for the support and maintenance of the schools on said reservation or for said reservation.

§ 4109. Teachers' record of attendance. An accurate record of attendance of all Indian children between six and sixteen years of age shall be kept by the teacher of every Indian school, showing each day, by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction such Indian child shall attend elsewhere than at the school in the community or district of the reservation where he resides, shall keep a like record of such attendance. Such records shall at all times be open to the principal teacher of the reservation and its attendance officers or to such person or persons as shall be designated by the commissioner of education who may inspect and copy the same and any teacher shall answer all lawful inquiries made by them. A wilful neglect or refusal to keep such a record or answer such inquiries shall be a misdemeanor.

§ 4110. Attendance officers. 1. The principal teacher of the Indian schools on each reservation shall supervise the enforcement of this article within said reservation and shall appoint, subject to the approval of the commissioner of education, and remove at pleasure such number of attendance officers as the commissioner of education shall deem necessary, whose jurisdictions shall extend over all school districts on the reservation for which they shall be appointed. Such principal teachers are also vested with the same power and authority as the attendance officers appointed by them.

2. If the education of Indian children of the reservation shall be provided pursuant to the provisions of subdivision two of section forty-one hundred one of this chapter, the attendance officer or officers of the school district providing such education shall have jurisdiction over all Indian children on the reservation. Such attendance officers shall not, however, be entitled to receive from the commissioner of education the payment for services provided in section

forty-one hundred fourteen of this chapter.

3. The commissioner of education may appoint and remove at pleasure such attendance officers as he shall deem necessary, who shall have jurisdiction over all children other than Indian children on the reservation for which they shall be appointed. Such attendance officers shall receive such sum per day or part thereof as shall be fixed by the commissioner of education for each day or part thereof necessarily employed as such attendance officers. Compensation of attendance officers herein provided for shall be audited by the commissioner of education and paid in the same manner as other expenses incurred pursuant to this article.

§ 4111. Arrest of truants. Any attendance officer may arrest without warrant anywhere within the state any Indian child between six and sixteen years of age, found away from his home and who is then a truant from instruction upon which he is lawfully required to attend within the districts of which such attendance officer has jurisdiction. He shall forthwith deliver a child so arrested either to the person in parental relation to the child, or to the teacher of the school from which said child is then a truant, or in case of habitual truants, shall bring them before a magistrate for commitment to a school for delinquents, as provided in section forty-one hundred twelve of this article.

§ 4112. Commissioner of education to contract for keeping of truants. The commissioner of education may contract with any city or district having a school for delinquents, for the confinement, maintenance and instruction therein of any child who shall be committed to such school as a truant by any magistrate before whom such child shall have been examined upon the charge of truancy. The costs and expenses attending the support and maintenance of any truant, as herein provided, shall be audited by the commissioner of education and paid in the same manner as the expenses of supporting and maintaining the schools on a reservation are paid.

§ 4113. Census. The commissioner of education shall cause to be taken a complete annual census of the Indian children between birth and eighteen years of age on any reservation; such census shall be taken between the first day of May and the last day of August and shall include all such facts and information as are required by section thirty-two hundred forty-one of this chapter. A report of such census shall be prepared in duplicate and a copy filed with the commissioner on or before the fifteenth day of October.

§ 4114. Payment of services herein required. Each of the attendance officers herein provided for shall receive such sum per day as shall be fixed by the commissioner of education for each day necessarily employed in enforcing this article; and each person employed in taking and tabulating the census of the residents of said reservations, shall be entitled to receive such compensation as the commissioner of education shall allow. The compensation of attendance officers and the expense in taking the enumeration herein provided for shall be audited by the commissioner of education and paid in the same manner as other accounts for the support and maintenance of the schools on said reservations are paid.

§ 4115. Apportionment. 1. If the education of Indian children of a reservation is being provided pursuant to the provisions of subdivision two of section forty-one hundred one of this article, such Indian children in attendance on the date construction is commenced shall be included in the computation of a building quota pursuant to subdivision six-a of section thirty-six hundred two of this chapter for the school district providing such education. In the event that a district which has furnished instruction to Indian children shall cease to furnish such instruction, any building quota paid such district pursuant to the provisions of such subdivision six-a shall be recomputed to remove the Indian children from the computation of such building quota for such district.

2. a. Except as otherwise provided in this subdivision, if the education of Indian children of a reservation shall be provided pursuant to the provisions of subdivision two of section forty-one hundred one of this article, such Indian children shall be included in the pupils deemed in weighted averaged daily attendance, average daily membership, total aidable pupil units, total aidable foundation pupil units and total wealth pupil units for the school district providing such education and such Indian children shall be deemed to be resident pupils of the district for the purpose of the computation of the apportionment of public moneys to the school district providing such education.

b. During the first school year, beginning on or after July first, nineteen hundred fifty-six, in which Indian children are educated in the schools of a school district pursuant to the provisions of subdivision two of section forty-one hundred one of this article, there shall be apportioned and paid to each such school district the sum of:

(1) Three hundred thirty dollars for each Indian pupil in grades one through six in average daily attendance during the month of October, including kindergarten Indian children who attend for a full day. Where kindergarten Indian children attend but one-half day the district shall be entitled to one hundred sixty-five dollars for each such pupil.

(2) Four hundred twelve dollars and fifty cents for each Indian pupil in grades seven to twelve inclusive in average daily attendance during the month of October.

c. The provisions of paragraph b of this subdivision shall not apply in respect to an Indian child who was not educated in an Indian school maintained by the state of New York during a part of the school year immediately preceding the school year in which such payment is made, but shall apply to an Indian child who would have been educated in an Indian school maintained by the state of New York during a part of the school year in which such payment is made if the education of such Indian child had not been provided for pursuant to the provisions of subdivision two of section forty-one hundred one of this article.

d. In the event that a school district ceases to educate Indian children pursuant to the provisions of subdivision two of section

forty-one hundred one of this article, any state aid received by such school district during the ensuing school year by reason of the attendance of Indian children during the last school year instruction was furnished such Indian children shall be reduced by the amount of any payment made such district during the first year Indian children were educated in the schools of such district pursuant to the provisions of subdivision two of section forty-one hundred one of this article by reason of the attendance of such Indian children.

3. All children at the Thomas Indian school, and all Indian children residing on any of the reservations of the state who are qualified to enter a secondary school and whose parents are unable to provide such education are eligible to appointment by the commissioner of education as state pupils and as such to receive transportation to and from a high school or vocational school on each day of attendance. Whenever such high school or vocational school shall be in a city or district other than one in which such pupils may have the legal right to attend without charge, and where a charge is imposed on non-resident pupils, the state shall also pay the required non-resident fee for tuition. The required non-resident fee for tuition shall not exceed the total cost to the school district of the education of such Indian children, less any public moneys received by the school district by reason of the attendance of such Indian children in regular day school, except any public moneys received by the district as a building quota pursuant to the provisions of subdivision six-a of section thirty-six hundred two of this chapter. The commissioner of taxation and finance shall pay on the warrant of the comptroller bills approved by the commissioner of education from the appropriation for general support for the public schools, out of such sum as may be appropriated for such support and education of Indian youth for the amounts necessary for the purposes set forth in this section.

§ 4116. Co-operation of Indians shall be sought. In the discharge of the duties imposed by this article, the said commissioner shall endeavor to secure the co-operation of all the several bands of Indians, and for this purpose, shall visit, by himself or his authorized representative,

all the reservations where they reside, lay the matter before them in public assembly, inviting them to assist either by appropriating their public moneys to this object, or by setting apart lands and erecting suitable buildings, or by furnishing labor or materials for such buildings, or in any other way which he or they may suggest as most effectual for the promotion of this object.

§ 4117. Payment of cost of education of physically handicapped Indian children. Any claims for providing home-teaching, transportation, scholarships in non-residence schools, tuition and maintenance for physically handicapped children which are, ultimately or in the first instance, made a charge against a county or a city having a special children's court act, pursuant to the provisions of article eighty-nine of this chapter, shall, if such home-teaching, transportation, scholarships, tuition and maintenance shall be provided for physically handicapped Indian children, be paid by the education department out of moneys appropriated therefor.

§ 4118. Attendance at post-secondary institutions by Native American students. 1. The education department shall select students for attendance at post-secondary institutions from the several Indian tribes located within this state. In making such selection, due regard shall be had to a just participation in the privileges of this section by each of such several tribes. If practicable, reference shall also be had to the population of each of such tribes in determining such selection. Eligibility for selection shall not be limited to Native Americans residing on reservations.

2. No such student may attend a post-secondary institution outside this state, nor one that has not been approved by the New York state board of regents, nor may he be supported or educated at such institutions for a period exceeding four years unless he is enrolled in a program normally requiring five years of training.

3. Such sum as may be appropriated for the support and education of

Native American students in such institutions shall be paid from the treasury, upon the audit and warrant of the comptroller, on vouchers approved by the education department.

§ 4119. School district may contract to educate Indian children. Notwithstanding any other provision of law, the trustee, trustees or board of education of any school district shall have power to contract with the commissioner of education for the instruction of Indian children for a period of ten years. Notwithstanding any other provision of law, the trustee, trustees or board of education of any school district shall have authority to lease a site or school building owned by the state of New York whether located on or off an Indian reservation and such trustee, trustees or board of education shall have authority to maintain school in such building notwithstanding the fact that such building may not be located within the district boundary lines of such school district.

ARTICLE 85

INSTRUCTION OF THE DEAF AND OF THE BLIND

Section 4201. Duties of commissioner of education.
4202. Regulations for admission.
4203. Persons eligible for appointment as pupils to institutions for instruction of the deaf.
4204. Support and term of instruction of deaf state pupils.
4204-a. Deaf-infant program.
4204-b. School district contribution and state reimbursement.
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4206. Persons eligible for appointment as pupils to institutions for instruction of the blind.
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4208. Clothing for blind state pupils.
4209. Blind and deaf children and blind and cerebral palsied children.
4210. Aid for blind or deaf students.
4211. Tuition.

4212. Protection of pupils.
4213. Other persons eligible for appointment.

§ 4201. Duties of commissioner of education. 1. The following institutions for the instruction of the deaf and of the blind shall be subject to the visitation of the commissioner of education: a. The New York school for the deaf;

b. The Lexington school for the deaf;

c. St. Mary's school for the deaf in the city of Buffalo;

e. St. Joseph's school for the deaf in the city of New York;

f. Rochester school for the deaf in the city of Rochester;

h. The New York Institute for Special Education in the city of New York;

i. Lavelle School for the Blind in the city of New York;

j. Mill Neck Manor school for the deaf in Nassau county;

k. St. Francis DeSales school for the deaf and hard of hearing in the county of Kings.

l. Cleary Deaf Child Center, Inc., in the counties of Suffolk and Nassau.

2. It shall be the duty of the commissioner:

a. To inquire into the organization of the several schools and the methods of instruction employed therein.

b. To prescribe courses of study and methods of instruction that will meet the requirements of the state for the education of state pupils.

c. To make appointments of pupils to the several schools, to transfer such pupils from one school to another as circumstances may require; to cancel appointments for sufficient reason.

d. To ascertain by a comparison with other similar institutions whether any improvements in instruction and discipline can be made; and for that purpose to appoint from time to time, suitable persons to visit the schools.

e. To suggest to the directors of such institutions and to the legislature such improvements as he shall judge expedient.

f. To make an annual report to the legislature on all of the matters enumerated in this subdivision and particularly as to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.

*** § 4202. Regulations for admission.** The commissioner may make such regulations and give such directions to parents and persons in parental relation, in relation to the admission of students into any institution specified in this article, as will prevent students entering the same at irregular periods. Such regulations shall include, but not be limited to, procedures to assure that the due process rights of students and their parents or persons in parental relation are protected in accordance with sections forty-four hundred two, forty-four hundred four and forty-four hundred four-a of this title and applicable federal law and regulations.

* NB Effective until June 30, 2027

* § 4202. Regulations for admission. The commissioner of education may make such regulations and give such directions to parents and guardians, in relation to the admission of pupils into any institution specified in this article, as will prevent pupils entering the same at irregular periods.

* NB Effective June 30, 2027

§ 4203. Persons eligible for appointment as pupils to institutions for instruction of the deaf. All deaf children resident in this state, of the age of three years and upwards and of suitable capacity, and who shall have been resident in this state for one year immediately preceding the application, or, if an orphan, whose nearest friend shall have been resident in this state for one year immediately preceding the application, shall be eligible to appointment as state pupils in one of the institutions for the instruction of the deaf of this state, authorized by law to receive such pupils; provided, however, the foregoing requirement as to length of residence in this state may be waived in the discretion of the commissioner of education.

§ 4204. Support and term of instruction of deaf state pupils. 1. Each deaf pupil so received into any of the institutions aforesaid shall be provided with board, lodging and tuition; and the directors of the institution shall receive an appropriation for each pupil so provided for, in quarterly payments, to be paid by the commissioner of taxation and finance, on the warrant of the comptroller, to the treasurer of said institution; provided, however, that an estimated one-half of each such quarterly payment shall be due on the first day of each quarter, the estimate to be based on the affidavit of the chief executive officer of the institution stating the number of pupils for whom board, lodging and tuition was so provided by the institution during the preceding quarter and during the comparable quarter of the preceding year, and the remaining part of each such quarterly payment shall be due thereafter on the first day of the quarter next ensuing, upon the presentation by the treasurer of the institution of a bill showing the actual time and number of pupils attending the institution, which bill shall be signed by the chief executive officer of the institution, and verified by his oath. The provisions of this subdivision shall apply to board, lodging and tuition for the two thousand ten--two thousand eleven and prior school years.

2. For expenses incurred in the two thousand eleven--two thousand twelve school year and thereafter, each deaf pupil so received into any

of the institutions subject to this article shall be provided with board, lodging and tuition, and such institutions shall be reimbursed for such expenses in accordance with this subdivision.

a. For the two thousand eleven--twelve and two thousand twelve--thirteen school years, costs of tuition as defined in section forty-two hundred eleven of this article, shall be a charge upon the school district of which any such child is resident at the time of admission or readmission to any of the institutions subject to this article and the directors of the institution shall bill such school district for such tuition costs on a quarterly basis. The first such quarterly payment may be based on projected enrollment, provided that subsequent payments shall be adjusted to reflect actual enrollment. The amount of tuition paid by such school district shall be eligible for reimbursement by the state to the extent provided in section forty-two hundred four-b of this article.

b. For the two thousand thirteen--two thousand fourteen school year and thereafter, the costs of tuition as defined in section forty-two hundred eleven of this article, shall be a charge upon the current school district of residence of any such child subject to this article and the directors of the institution shall bill such school district for such tuition costs on a quarterly basis. The first such quarterly payment may be based on projected enrollment, provided that subsequent payments shall be adjusted to reflect actual enrollment. The amount of tuition paid by such school district shall be eligible for reimbursement by the state to the extent provided in section forty-two hundred four-b of this article.

c. The costs of board and lodging shall be a charge upon the state and the directors of the institution shall receive an appropriation for each pupil so provided for, in quarterly payments, to be paid by the commissioner of taxation and finance, on the warrant of the comptroller, to the treasurer of said institution; provided, however, that an estimated one-half of each such quarterly payment shall be due on the first day of each quarter, the estimate to be based on the affidavit of the chief executive officer of the institution stating the number of

pupils for whom board and lodging was so provided by the institution during the preceding quarter and during the comparable quarter of the preceding year, and the remaining part of each such quarterly payment shall be due thereafter during the first day of each quarter next ensuing, upon the presentation by the treasurer of the institution of a bill showing the actual time and number of pupils attending the institution who received board and lodging, which bill shall be signed by the chief executive officer of the institution, and verified by his oath.

3. The regular term of instruction of any such deaf pupil shall be twelve years, or until the pupil shall have attained the age of eighteen years before the expiration of twelve years from the beginning of such term. The commissioner may, in his discretion, extend the term of any pupil until his twenty-first birthday for the purpose of pursuing or completing academic or vocational courses of study. Such pupils must be recommended by the trustees of the institution in which they are in attendance before such extension of time is granted.

4. Children placed in any such institution for the instruction of the deaf, pursuant to section forty-two hundred three of this article, shall be maintained therein for the period of time the school is in session.

§ 4204-a. Deaf-infant program. (1) All deaf children resident in this state, below the age of three, of suitable age and capacity, who shall have been resident in this state for one year immediately preceding the application, or is an orphan whose nearest friend shall have been resident in this state for one year immediately preceding the application, shall be eligible to receive approved educational services in one of the institutions for instruction for the deaf of the state as enumerated in section forty-two hundred one of this article, as well as in such educational programs or other like facilities which shall, in the discretion of the commissioner, be certified as eligible to receive such pupils on a day basis only; provided, however, the foregoing requirement as to length of residence in this state may be waived in the discretion of the commissioner. Such children who are first eligible for

services pursuant to section forty-four hundred ten of this title whose parents or persons in parental relationship elect to have them continue to receive services pursuant to this section may do so through August thirty-first of the calendar year in which such child turns three.

(2) Each deaf pupil so received into any of the approved institutions or facilities aforesaid shall be provided with tuition; and the directors of the institution or facility shall receive an appropriation for each pupil so provided for, in quarterly payments, to be paid by the commissioner of taxation and finance on the warrant of the comptroller, to the treasurer of said institution or facility, on his presenting a bill showing the actual time and number of pupils in attendance, which bill shall be signed by the chief executive officer of the institution, and verified under his oath.

(3) Children placed in any such approved institution or facility, pursuant to this section, shall be maintained therein on a day basis only at the expense of the state for the period of time the school is in session. Further, the commissioner shall approve such expense only if the child attends the facility nearest his legal residence; provided, however, that the foregoing requirement as to the facility the child shall attend may be waived in the discretion of the commissioner.

(4) The commissioner shall promulgate such rules and regulations pertaining to the educational programs for deaf children placed in facilities under the provisions of this section as he shall deem to be in the best interests of such children.

(5) The department shall maintain a register of such approved institutions or facilities which, after inspection, it deems qualified to meet the needs of such child for instruction of such child in such institution or facility. Such inspection shall also determine the eligibility of such educational facility to receive the funds hereinbefore specified.

§ 4204-b. School district contribution and state reimbursement. 1. For the two thousand twelve--two thousand thirteen and prior school years, the school district of which any such child is resident at the time of admission or readmission to any of the institutions or facilities subject to this article shall be required to reimburse the state on

account of any expenditure made by the state for any such child initially appointed by the commissioner to such institution or facility after June thirtieth, nineteen hundred seventy-seven in an amount equal to the school district basic contribution defined in subdivision eight of section forty-four hundred one of this title, except that for the two thousand eleven--two thousand twelve and two thousand twelve--two thousand thirteen school years, such school district shall be responsible for reimbursing the state in an amount equal to the positive difference of the school district basic contribution minus the tuition paid by such school district pursuant to section forty-two hundred four or forty-two hundred seven of this article.

2. For the two thousand thirteen--two thousand fourteen school year and thereafter, the child's current school district of residence shall be required to reimburse the state on account of any expenditure made by the state for any such child in an amount equal to the positive difference of the school district basic contribution minus the tuition paid by such school district pursuant to section forty-two hundred four or forty-two hundred seven of this article.

3. The state comptroller may deduct from any state funds which become due to a school district for each year in which such child was in attendance at such institution or facility an amount equal to the reimbursement required to be made by such school district in accordance with this section, and the amount so deducted shall not be included in the operating expense of such district for the purposes of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

4. The state shall reimburse the school district of which any such child is resident at the time of admission or readmission to any of the institutions subject to this article for tuition paid to the institution in an amount equal to the positive difference between the amount of such tuition and the school district basic contribution. Such state reimbursement to the school district shall not be paid prior to April first of the school year in which such tuition costs are paid by the school district. The tuition incurred through December thirty-first of

such school year shall be payable prior to June thirtieth of such school year, provided that a claim is submitted on or before June first.

§ 4205. Clothing for deaf state pupils. Whenever the parents or guardians are unable to furnish clothing to state pupils, the commissioner of education is hereby required to apportion annually to each institution caring for deaf children legally appointed thereto the sum of one hundred twenty dollars per pupil or so much thereof as may be necessary to be applied to the cost of clothing for each of said pupils.

§ 4206. Persons eligible for appointment as pupils to institutions for instruction of the blind. 1. All blind persons of suitable age and capacity and who shall have been residents in this state for one year immediately preceding the application or, if a minor, whose parent or parents, or, if an orphan, whose nearest friend, shall have been a resident in this state for one year immediately preceding the application, shall be eligible for appointment as state pupils to the New York Institute for Special Education in the city of New York or the Lavelle School for the Blind in the city of New York.

2. Blind babies and children of the age of fifteen years and under and possessing the other qualifications prescribed in this article and requiring kindergarten training or other special care and instruction, shall be eligible for appointment as state pupils by the commissioner of education at his discretion in any incorporated institution furnishing approved care, training and instruction for blind babies and children, and any such child may be transferred to the New York Institute for Special Education in the city of New York or the Lavelle School for the Blind in the city of New York, to which he or she would otherwise be eligible for appointment, upon arriving at suitable age, in the discretion of the commissioner of education.

3. All such appointments shall be made by the commissioner of education. The requirement of this section as to length of residence in this state may be waived in the discretion of the commissioner of

education.

§ 4207. Support and term of instruction of blind state pupils. 1. Each blind pupil so received into any of the institutions specified in this article shall be provided with board, lodging and tuition; and the directors of the institution shall receive an appropriation for each pupil so provided for, in quarterly payments, to be paid by the commissioner of taxation and finance, on the warrant of the comptroller, to the treasurer of said institution; provided, however, that an estimated one-half of each such quarterly payment shall be due on the first day of each quarter, the estimate to be based on the affidavit of the chief executive officer of the institution stating the number of pupils for whom board, lodging and tuition was so provided by the institution during the preceding quarter and during the comparable quarter of the preceding year, and the remaining part of each such quarterly payment shall be due thereafter on the first day of the quarter next ensuing, upon the presentation by the treasurer of the institution of a bill showing the actual time and number of pupils attending the institution, which bill shall be signed by the chief executive officer of the institution, and verified by his oath. The provisions of this subdivision shall apply to board, lodging and tuition for the two thousand ten--two thousand eleven and prior school years.

2. For expenses incurred in the two thousand eleven--two thousand twelve school year and thereafter, each blind pupil so received into any of the institutions subject to this article shall be provided with board, lodging and tuition, and such institutions shall be reimbursed for such expenses in accordance with this subdivision.

a. For the two thousand eleven--two thousand twelve and two thousand twelve--two thousand thirteen school years, costs of tuition, as defined in section forty-two hundred eleven of this article, shall be a charge upon the school district of which any such child is resident at the time of admission or readmission to any of the institutions subject to this article and the directors of the institution shall bill such school district for such tuition costs on a quarterly basis. The first such

quarterly payment may be based on projected enrollment, provided that subsequent payments shall be adjusted to reflect actual enrollment. The amount of tuition paid by such school district shall be eligible for reimbursement by the state to the extent provided in section forty-two hundred four-b of this article.

b. For the two thousand thirteen--two thousand fourteen school year and thereafter, the costs of tuition as defined in section forty-two hundred eleven of this article, shall be a charge upon the current school district of residence of any such child subject to this article and the directors of the institution shall bill such school district for such tuition costs on a quarterly basis. The first such quarterly payment may be based on projected enrollment, provided that subsequent payments shall be adjusted to reflect actual enrollment. The amount of tuition paid by such school district shall be eligible for reimbursement by the state to the extent provided in section forty-two hundred four-b of this article.

c. The costs of board and lodging shall be a charge upon the state and the directors of the institution shall receive an appropriation for each pupil so provided for, in quarterly payments, to be paid by the commissioner of taxation and finance, on the warrant of the comptroller, to the treasurer of said institution; provided, however, that an estimated one-half of each such quarterly payment shall be due on the first day of each quarter, the estimate to be based on the affidavit of the chief executive officer of the institution stating the number of pupils for whom board and lodging was so provided by the institution during the preceding quarter and during the comparable quarter of the preceding year, and the remaining part of each such quarterly payment shall be due thereafter on the first day of the quarter next ensuing, upon the presentation by the treasurer of the institution of a bill showing the actual time and number of pupils attending the institution who received board and lodging, which bill shall be signed by the chief executive officer of the institution, and verified by his oath.

3. The regular term of instruction of any such blind pupil in the New York Institute for Special Education shall be eight years. The

commissioner may in his discretion extend the term of any pupil for a period not exceeding three years. It shall also be lawful for the commissioner to continue such pupils as state pupils for an additional period of three years for the purpose of pursuing or completing a course of high school study; such pupils must be recommended by the trustees of the New York Institute for Special Education before such extension is granted.

4. The term of appointment for blind babies and children of the age of fifteen years and under received into any institution in accordance with this article shall be at the discretion of the commissioner.

5. Children placed in any such institutions for the blind pursuant to section forty-two hundred six shall be maintained therein for the period of time the school is in session.

§ 4208. Clothing for blind state pupils. Whenever the parents or guardians are unable to furnish clothing to state pupils, the commissioner of education is hereby required to apportion annually to each institution caring for blind children legally appointed thereto the sum of one hundred twenty dollars per pupil or so much thereof as may be necessary to be applied to the cost of clothing for each of said pupils.

§ 4209. Blind and deaf children and blind and cerebral palsied children. 1. All children who are both blind and deaf or both blind and cerebral palsied shall be admitted as state pupils into one of the institutions described in this article for the instruction of the deaf or blind and under the same conditions of eligibility as are provided for the admission of deaf or blind state pupils.

2. In the discretion of the commissioner of education a sum not to exceed a sum equal to double the average annual per capita cost for pupils attending all of the schools which are subject to the provisions of section forty-two hundred one of this article shall be available in the manner provided in section forty-two hundred ten of this article to

aid a blind and deaf pupil in receiving instruction in an institution for the instruction of the deaf or blind located outside the state in order to continue the education of such blind and deaf pupil for the term of instruction provided in section forty-two hundred seven of this article.

§ 4210. Aid for blind or deaf students. 1. a. Whenever a blind or deaf person, who is a citizen of this state and a student in actual attendance at a college, university, technical or professional school, including agriculture and technical institutes and state institutes of applied arts and sciences, located in this state and authorized by law to grant degrees, or licensed private career schools as defined in article one hundred one of this title and located in this state, other than an institution established for the regular instruction of the blind or deaf, shall be designated by the trustees thereof as a fit person to receive the aid hereinafter provided for, there shall be paid by the state for the use of such student a sum not to exceed four thousand dollars per annum, subject to terms and conditions prescribed by the commissioner in regulations and within the limits of the appropriation therefor, with which to provide such students with support to read, including the employment of persons to read to such student and/or the purchase of technology to assist the student in reading from text-books and pamphlets in his or her studies at such college, university or school, or to aid such student, in receiving instruction in such studies.

b. The trustees of any institution meeting the requirements of this section shall submit reports in such form and at such times as prescribed by the commissioner identifying the number of students eligible to receive aid pursuant to this subdivision and shall estimate the funds needed to support such students as provided herein. The commissioner shall advance twice during the school year to each such institution such estimated amounts within the limits of the annual appropriation provided therefore.

c. At the conclusion of the academic year for which such funds are

provided, each institution receiving funds pursuant to this subdivision shall submit to the commissioner a final accounting for the use of such funds and any additional reporting requirements prescribed by the commissioner in regulations and shall return any unspent funds.

2. Such moneys shall be paid annually, after the beginning of the school year of such institution, by the commissioner of taxation and finance on the warrant of the comptroller, to the treasurer of such institution, on his presenting an account showing the actual number of blind or deaf students matriculated and attending the institution, which account shall be verified by the president of the institution and accompanied by his certificate that the trustees have recommended the students named in said account as hereinbefore provided.

3. The trustees of any of the said institutions shall recommend no blind or deaf person, who is not regularly matriculated, and who is not in good and regular standing, and who is not working for a degree from the institution in which he or she is matriculated; and no blind or deaf person shall be recommended, who is not doing the work regularly prescribed by the institution for the degree for which he or she is a candidate. The moneys so paid to any such institution shall be disbursed for the purposes aforesaid by and under the direction of its board of trustees.

4. Funds appropriated in the two thousand seventeen--two thousand eighteen academic year and thereafter for the purposes of this initiative shall be allocated on a first-come, first serve basis based on the order of applications received by the commissioner, in a timeframe and manner prescribed by the commissioner in regulations.

5. Funds allocated pursuant to this section shall supplement not supplant any aid provided and/or devices currently used by the college, university, technical or professional school, including agriculture and technical institutes and state institutes of applied arts and sciences or licensed private career schools as defined in article one hundred one of this title, for the purposes of this section.

§ 4211. Tuition. The term "tuition" as used in this article and in the provisions of chapter ten hundred sixty of the laws of nineteen hundred seventy-four shall mean the per pupil cost of all instructional services, supplies, equipment and the operation of instructional facilities as determined by the commissioner. Approved tuition shall be computed from expenditures for which no revenue has been received from the following sources:

a. receipts from the federal government;

b. any cash receipts, except gifts, bequests, donations and earned interest dedicated by the directors of the institution in accordance with the regulations of the commissioner; and

c. any refund made or any apportionment or payment received from the state for experimental or special programs as approved by the commissioner.

§ 4212. Protection of pupils. The department shall:

(a) Promulgate regulations concerning standards for the protection of children in residential care from reportable incidents in accordance with this section and article eleven of the social services law, including procedures for:

(i) consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any person applying to be an employee, a volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references, and relevant experiential and educational information, and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction;

(ii) establishing, for employees, relevant minimal experiential and educational qualifications, consistent with appropriate collective

bargaining agreements and applicable provisions of the civil service law;

(iii) assuring adequate and appropriate supervision of employees, volunteers and consultants;

(iv) demonstrating by a residential facility or program that appropriate action is taken to assure the safety of the child who is alleged to have been subjected to a reportable incident in a report to the vulnerable persons' central register in accordance with section four hundred ninety-two of the social services law as well as other children in care, immediately upon notification that such a report of an allegation of a reportable incident has been made with respect to a child in such residential facility or program;

(v) removing a child when it is determined that there is risk to such child if he or she continues to remain within a residential facility or program; and

(vi) appropriate preventive and remedial action to be taken including legal actions, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law.

(vii) consistent with applicable collective bargaining agreements, assuring that an individual who has committed a category one offense, as defined in paragraph (a) of subdivision four of section four hundred ninety-three of the social services law, that is included on the vulnerable persons' central register is not hired or otherwise used in any position in which such individual would have regular and substantial contact with a service recipient in any program described in paragraph (e) of subdivision four of section four hundred eighty-eight of the social services law.

Such standards shall also establish as a priority requirements that:

(A) subject to the amounts appropriated therefor, administrators, employees, volunteers and consultants receive training in at least the following: child abuse prevention and identification, safety and security procedures, the principles of child development, the characteristics of children in care and techniques of group and child management including crisis intervention, the laws, regulations and procedures governing the protection of children from reportable incidents, and other appropriate topics, provided, however, that the

department may exempt administrators and consultants from such requirements upon demonstration of substantially equivalent knowledge or experience; and

(B) subject to the amounts appropriated therefor, children receive instruction, consistent with their age, needs and circumstances as well as the needs and circumstances within the program, in techniques and procedures which will enable such children to protect themselves from reportable incidents.

The department shall take all reasonable and necessary actions to assure that employees, volunteers and consultants in residential facilities and programs are kept apprised on a current basis of all department policies and procedures relating to the protection of children from reportable incidents, and shall monitor and supervise the provision of training to such employees, volunteers and consultants. Regulations and standards developed pursuant to this subdivision shall, to the extent possible, be consistent with those promulgated by other state agencies for such purposes.

(b) Provide for the development and implementation of a plan of prevention and remediation with respect to a substantiated report of abuse or neglect. Such action shall include: (i) within ten days of receipt of such a substantiated report, development and implementation of a plan of prevention and remediation to be taken with respect to a custodian or the residential facility in order to assure the continued health and safety of children and to provide for the prevention of future acts constituting reportable incidents; and (ii) development and implementation of a plan of prevention and remediation, in the event an investigation of a report of an allegation of abuse or neglect determines that a preponderance of the evidence of such allegation exists and such substantiated allegation may be attributed in whole or in part to noncompliance by the residential facility or program with provisions of this chapter or regulations of the department applicable to the operation of a residential facility or program. Any plan of prevention and remediation required to be developed by a facility supervised by the department shall be submitted to and approved by the department in accordance with time limits established by regulations of the department. Implementation of the plan shall be monitored by the

department. In reviewing the continued qualifications of a residential facility or program for an operating certificate, the department shall evaluate such facility's compliance with plans of prevention and remediation developed and implemented pursuant to this subdivision.

§ 4213. Other persons eligible for appointment. In accordance with the provisions of the charter of the New York Institute for Special Education, and amendments thereto, as issued by the board of regents, children with handicapping conditions, other than handicapping conditions which would establish eligibility for appointment to the schools enumerated in this article, shall be eligible for appointment to the New York Institute for Special Education as state pupils. The provisions of this article shall apply but not necessarily be limited to the appointment, education, maintenance and support of such pupils. Such pupils eligible for appointment, pursuant to this section, shall be persons over five and under twenty-one years of age who have not received a high school diploma.

ARTICLE 87
NEW YORK STATE SCHOOL FOR THE BLIND

Section 4301. New York State School for the Blind.
4302. Object of institution.
4303. Appointment and terms of board of visitors.
4304. Vacancies on board of visitors.
4305. Members of board; compensation; disabilities.
4306. Powers of board of visitors.
4307. Superintendent, personnel of the faculty, and salaries.
4308. Admission.
4309. Applicants from without the state.
4310. Applications for admission.
4313. School district and social services district financial responsibility.
4314. Protection of pupils.
4315. Drafts upon state treasury.
4316. Construction, alteration, improvement and repair of

buildings of school.
4317. Purchase of equipment.
4318. Publications, bequests and donations.

§ 4301. New York State School for the Blind. The New York State Institution for the Blind established by chapter five hundred eighty-seven of the laws of eighteen hundred sixty-five and the acts supplemental thereto and renamed the "New York State School for the Blind" by chapter five hundred sixty-three of the laws of eighteen hundred ninety-five, is continued under the jurisdiction and control of the education department.

§ 4302. Object of institution. The primary object of the school shall be, to furnish to the blind children of the state the best known facilities for acquiring a thorough education, and to train them in some useful profession or manual art, by means of which they may be enabled to contribute to their own support after leaving the school; but it may likewise, through its industrial department, provide such of them with appropriate employment and boarding accommodations as find themselves unable, after completing their course of instruction and training, to procure these elsewhere for themselves. It shall, however, be in no sense an asylum for those who are helpless from age, infirmity or otherwise, or a hospital for the treatment of blindness.

§ 4303. Appointment and terms of board of visitors. The governor shall appoint each year, by and with the consent of the senate, one member of the board of visitors who shall serve for a term of seven years. Two of the board must be residents of the county of Genesee and a majority must be residents within fifty miles of said school.

§ 4304. Vacancies on board of visitors. In case of the declination of any member of such board of visitors to act under his appointment, or of the occurrence of any other vacancy in the board not caused by

expiration of term, the governor shall forthwith appoint some suitable person to fill such vacancy, and the member so appointed shall serve out the term of his predecessor.

§ 4305. Members of board; compensation; disabilities. The members of the board of visitors shall serve without pay, but they shall be paid their actual expenses necessarily incurred in the discharge of their official duties. No member of such board shall be pecuniarily interested in any contract for buildings pertaining to the school or in furnishing supplies therefor.

§ 4306. Powers of board of visitors. The board of visitors shall visit and inspect such school, recommend the appointment and approve the removal of a superintendent of such school and have such other powers and duties as may be required or authorized by the board of regents.

§ 4307. Superintendent, personnel of the faculty, and salaries. 1. There shall continue to be a superintendent of such school, who shall be the chief executive officer of the school, under the jurisdiction and control of the education department. He shall be appointed by the board of regents, upon the recommendation of the board of visitors submitted to and approved by the commissioner of education. A superintendent may be removed by the board of regents, subject to the approval of the board of visitors and the commissioner of education. Subject to the rules of the board of regents, such superintendent shall have the supervision and management of the school, appoint and remove all subordinate officers, teachers and employees thereof, prescribe their duties, fix their compensation, except as provided for hereinafter, within the amount of the appropriations made therefor and have and perform all the powers and duties prescribed by law for the superintendent of such school.

2. The commissioner of education shall have power, in conformity with regulations approved by the regents, to appoint all other needed officers and employees and determine their duties. The commissioner

shall by regulations approved as aforesaid, establish for positions in the unclassified service in such department as certified by him pursuant to section thirty-five of the civil service law, suitable personnel procedures and conditions of employment including:

a. A classification plan which shall include titles, duties and minimum qualifications.

b. A salary plan which shall include minimum and maximum salaries and increments and procedures for adjustment of salaries on appointment, promotion and reassignment.

c. Regulations for appointments, promotions, probation, permanent tenure, disciplinary action and attendance.

d. Such other rules and regulations as may be necessary for carrying out the provisions of this section.

The regulations establishing such salary plan shall be subject to the approval of the director of the budget.

3. With the approval of the commissioner of education and the superintendent an instructor may be granted a leave of absence for travel or for study, on part pay as determined by the regents, provided such instructor agrees to remain in the service of the state not less than two years immediately following the expiration of such leave. The balance of the salaries appropriated for such instructors, or so much thereof as may be necessary, may be applied by the commissioner of education during the period of such absence for the payment of the salaries of substitute instructors employed in such school to take the places of the instructors to whom leaves of absence have been granted as provided herein.

4. The commissioner of education shall, subject to the approval of the director of the budget, determine the amount to be deducted from the salaries provided above for the maintenance of personnel at the school.

§ 4308. Admission. 1. All blind or blind and deaf or blind and cerebral palsied children of suitable age and capacity for instruction, who are legal residents of the state, shall be eligible for appointment to the New York State School for the Blind, without charge, and for such a period of time in each individual case as may be set by the commissioner, either: (i) upon the recommendation of the committee on special education of the child's school district of residence; or (ii) where the child is placed by a state agency in an intermediate care facility in such school pursuant to paragraph d of subdivision five of section thirty-two hundred two of this chapter, upon recommendation of the committee on special education of the school district in which the intermediate care facility is located; or (iii) where the parents make application directly to the commissioner or the school, upon recommendation of the school's multidisciplinary team in accordance with the joint placement procedures established in subdivision two of this section.

2. a. Upon receipt of an application for admission of a child who has not been recommended for placement by the committee on special education of the child's school district of residence, the school shall immediately notify such school district of such application. Notwithstanding any inconsistent provision of law, the school shall make available to such school district of residence, upon request, all records in its possession relating the evaluation, placement and educational performance of each child who has applied for admission or is attending the school, including the results of any current evaluations of such child.

b. Prior to any meeting of its multidisciplinary team to develop an individualized education program for a child, either upon initial admission to the school or in an annual review, the school shall notify the school district of residence of such meeting and shall offer the district the opportunity to identify and present to the multidisciplinary team, an alternative placement recommendation for services in the least restrictive environment. In addition, such notice shall advise the school district of its right to appoint additional

members to the multidisciplinary team pursuant to paragraph c of this subdivision. The multidisciplinary team shall consider such alternative and, if it rejects the alternative, shall include in its recommendation a statement of its reasons for doing so.

c. In addition to the members required for a committee on special education pursuant to subdivision one of section forty-four hundred two of this chapter, the school's multidisciplinary team may include additional members appointed by the board of education of the school district of residence pursuant to this paragraph, and shall include such members if appointed by such board of education. For each member appointed by the school, the school district may appoint a corresponding member, including a representative of the committee on special education who is qualified to teach or supervise special education, a school psychologist, the child's teacher, a parent member, a physician where the parent requests attendance of the physician member, and, for a child who has been evaluated for the first time, a person who is knowledgeable about the evaluation procedures used with the child and familiar with the results of the evaluation. The commissioner shall determine the location at which the multidisciplinary team meeting will be held. In the event of a tie vote on the multidisciplinary team, the parents shall cast the deciding vote.

d. The majority of the multidisciplinary team shall state the reasons for its recommendation, and submit such recommendation to the commissioner for consideration in determining whether to appoint the child. If the representatives appointed by the school district of residence disagree with the recommendation of the multidisciplinary team, they shall be entitled to prepare a dissenting opinion on the placement recommendation and to submit such opinion to the commissioner for consideration in determining whether to appoint the child to the school.

e. The commissioner, or his or her designee, in determining whether to appoint the child to the school, shall consider whether the placement at the state school is an appropriate placement in the least restrictive environment, taking into account the school district's recommended

alternative placement. If the commissioner or his or her designee determines that placement in the state school is not in the least restrictive environment or otherwise disagrees with such recommendation, the commissioner shall state his or her reasons in writing and shall send the recommendation back to the multidisciplinary team for reconsideration, with notice to the parents. If the commissioner refers the recommendation back to the multidisciplinary team for reconsideration, the commissioner shall also notify the parents and the multidisciplinary team in writing of the need to schedule a meeting to ensure timely placement.

* f. Notwithstanding any provision of law, rule or regulation to the contrary, a member of the multidisciplinary team, other than the parents or persons in parental relation to the student is not required to attend a meeting of the team, in whole or in part, if the parent or person in parental relation to the student and the department agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

* NB Repealed June 30, 2027

* g. Notwithstanding any provision of law, rule or regulation to the contrary, a member of the multidisciplinary team, other than the parents or persons in parental relation to the student, may be excused from attending a meeting of the team, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent or person in parental relation to the student and the department consent, in writing, to the excusal and the excused member submits to the parent or person in parental relation to the student and the multidisciplinary team, written input into the development of the individualized education program, and in particular written input with respect to their area of the curriculum or related services, prior to the meeting.

* NB Repealed June 30, 2027

* h. Requests for excusal of a member of the multidisciplinary team as provided for in paragraphs f and g of this subdivision, and the written input as provided for in paragraph g of this subdivision, shall be provided not less than five calendar days prior to the meeting date, in order to afford the parent or person in parental relation a reasonable

time to review and consider the request. Provided however, that a parent or person in parental relation shall retain the right to request and/or agree with the department to excuse a multidisciplinary team member at any time including where the member is unable to attend the meeting because of an emergency or unavoidable scheduling conflict and the department submits the written input for review and consideration by the parent or person in parental relation within a reasonable time prior to the meeting and prior to obtaining written consent of the parent or person in parental relation to such excusal.

* NB Repealed June 30, 2027

* i. Notwithstanding any other provision of law, rule or regulation to the contrary, in making changes to a student's individualized education program after the annual review has been conducted, the parent or person in parental relation to the student and the department may agree not to convene a multidisciplinary team meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the student's current individualized education program under the following circumstances:

(i) The parent or person in parental relation makes a request to the department for an amendment to the individualized education program and the department and such parent or person in parental relation agree in writing; or

(ii) The department provides the parent or person in parental relation with a written proposal to amend a provision or provisions of the individualized education program that is conveyed in language understandable to the parent or person in parental relation in such parent's or such person's native language or other dominant mode of communication, informs and allows the parent or person in parental relation the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes and the parent or person in parental relation agrees in writing to such amendments.

(iii) If the parent or person in parental relation agrees to amend the individualized education program without a meeting, the parent or person in parental relation shall be provided prior written notice of the changes to the individualized education program resulting from such written document and the multidisciplinary team shall be notified of such changes. If the department makes such changes by rewriting the

entire individualized education program, it shall provide the parent or person in parental relation with a copy of the rewritten individualized education program. If the department amends the individualized education program without rewriting the entire document, the department shall provide the parent with a copy of the document that amends or modifies the individualized education program or, upon request of the parent or person in parental relation, a revised copy of the individualized education program with the amendments incorporated.

Amendments to an individualized education program pursuant to this paragraph shall not affect the requirement that the multidisciplinary team review the individualized education program at the annual meeting, or more often if necessary.

* NB Repealed June 30, 2027

3. The commissioner shall adopt regulations to prescribe the procedures for evaluation, placement and admission of children in accordance with this section, which shall include but not be limited to procedures to ensure that the due process rights of parents are protected and that placement recommendations are made in a timely manner.

§ 4309. Applicants from without the state. Blind persons from without the state may be received into the school upon the payment of an adequate sum, fixed by the education department, for their boarding and instruction; provided that such applicants shall in no case exclude those from the state of New York.

§ 4310. Applications for admission. Applications for admission into the school shall be made to the education department in such manner as it may direct, but the department shall require each such application to be accompanied by a certificate from the county judge or county clerk of the county, or the supervisor or town clerk of the town, or the mayor of the city, where the applicant resides, setting forth that the applicant is a legal resident of the town, county and state claimed as his

residence.

§ 4313. School district and social services district financial responsibility. 1. Financial responsibilities. School districts and social services districts shall be responsible for the cost of tuition and maintenance, respectively, for children in attendance at the New York state school for the blind during the September first through June thirtieth session. Such costs shall be established pursuant to section forty-four hundred five of this chapter. a. The school district of which any such child is resident at the time of admission or readmission to the New York State school for the blind pursuant to this article shall be required to reimburse the state in an amount equal to the tuition payments made to the state school by the state on behalf of the school district. The comptroller shall deduct the appropriate tuition amounts from any state funds which become due to a school district for each year in which such child is in attendance at such school, and shall deposit such funds to the special revenue accounts established for such purpose. Any tuition amounts deducted pursuant to this subdivision shall be included in the approved operating expense of the school district pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

b. The social services district in which any such child is resident at the time of admission or readmission to the New York state school for the blind pursuant to this article shall be required to reimburse the state in an amount equal to the maintenance payments made to the state school by the state on behalf of the social services district. The comptroller may deduct the appropriate maintenance amounts from any state funds which become due to a social services district for each year in which such child is in attendance at such school only upon notification by the commissioner of social services after receiving notice by the commissioner of education that such social services district has failed to remit the required maintenance payments to the state within ninety days of the date on which such social services district was billed by the state for services rendered, and shall deposit such funds to the special revenue accounts established for such

purpose.

§ 4314. Protection of pupils. The department shall:

(a) Promulgate regulations concerning standards for the protection of children in residential care from reportable incidents in accordance with this section and article eleven of the social services law, including procedures for:

(i) consistent with appropriate collective agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any person applying to be an employee, a volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references, and relevant experiential and educational information, and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction;

(ii) establishing for employees, relevant minimal experiential and educational qualifications consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law;

(iii) assuring adequate and appropriate supervision of employees, volunteers and consultants;

(iv) demonstrating by a residential facility or program that appropriate action is taken to assure the safety of the child who is alleged to have been subjected to a reportable incident in a report to the vulnerable persons' central register in accordance with section four hundred ninety-two of the social services law as well as other children in care, immediately upon notification that such a report of an allegation of a reportable incident has been made;

(v) removing a child when it is determined that there is risk to such child if he or she continues to remain within a residential facility or program; and

(vi) appropriate preventive and remedial action to be taken including legal actions, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law.

Such standards shall also establish as a priority requirements that: (1) subject to the amounts appropriated therefor, administrators, employees, volunteers and consultants receive training in at least the following: child abuse prevention and identification, safety and security procedures, the principles of child development, the characteristics of children in care and techniques of group and child management including crisis intervention, the laws, regulations and procedures governing the protection of children from reportable incidents, and other appropriate topics, provided however, that the department may exempt administrators and consultants from such requirements upon demonstration of substantially equivalent knowledge or experience; and

(2) subject to the amounts appropriated therefor, children receive instruction, consistent with their age, needs and circumstances as well as the needs and circumstances within the facility or program, in techniques and procedures which will enable such children to protect themselves from reportable incidents.

The department, in consultation with the executive director of the justice center for the protection of people with special needs, shall take all reasonable and necessary actions to assure that employees, volunteers and consultants in residential facilities are kept apprised on a current basis of all department policies and procedures relating to the protection of children from reportable incidents and shall monitor and supervise the provision of training to such employees, volunteers and consultants. Regulations and standards developed pursuant to this section shall, to the extent possible, be consistent with those promulgated by other state agencies for such purposes;

(vii) consistent with applicable collective bargaining agreements, assuring that an individual who has committed a category one offense, as defined in paragraph (a) of subdivision four of section four hundred ninety-three of the social services law, that is included on the vulnerable persons' central register is not hired or otherwise used in any position in which such individual would have regular and substantial contact with a service recipient in any program described in paragraph (e) of subdivision four of section four hundred eighty-eight of the

social services law.

(b) Provide for the development and implementation of a plan of prevention and remediation with respect to a substantiated report of abuse or neglect. Such action shall include: (i) within ten days of receipt of such a substantiated report, development and implementation of a plan of prevention and remediation to be taken with respect to a custodian or the residential facility in order to assure the continued health and safety of children and to provide for the prevention of future acts constituting reportable incidents; and (ii) development and implementation of a plan of prevention and remediation, in the event an investigation of a report of an allegation of abuse or neglect determines that a preponderance of the evidence of such allegation exists and such substantiated allegation may be attributed in whole or in part to noncompliance by the residential facility or program with provisions of this chapter or regulations of the department applicable to the operation of such residential facility or program. Any plan of prevention and remediation required to be developed pursuant to this subdivision by a facility supervised by the department shall be submitted to and approved by the department in accordance with time limits established by regulations of the department. Implementation of the plan shall be monitored by the department. In reviewing the continued qualifications of a residential facility or program for an operating certificate, the department shall evaluate such facility's compliance with plans of prevention and remediation developed and implemented pursuant to this subdivision.

§ 4315. Drafts upon state treasury. All moneys appropriated for such school or derived from other sources in the course of the administration thereof shall be expended upon vouchers approved by the commissioner of education, when and in the manner authorized by the board of regents.

§ 4316. Construction, alteration, improvement and repair of buildings of school. All of the provisions of section one hundred twenty-seven of the state finance law shall apply, so far as applicable, to the construction, alteration, improvements and repair of buildings for the

school. For such purpose, the education department shall be the department having jurisdiction as such expression is used in such section.

§ 4317. Purchase of equipment. The education department shall purchase all furniture, apparatus and other supplies necessary to the equipment and maintenance of the school in the most efficient manner.

§ 4318. Publications, bequests and donations. The school shall be entitled to receive copies of all books and other publications which are distributed gratuitously by the state to township or county libraries, common schools, academies, colleges and societies. It may also receive in the name of the state, bequests or donations of money or any kind of property, but such money or property shall, in all cases, belong to the state, and be subject to its control; provided that the same shall not be diverted from the particular object for which it shall be bequeathed or donated.

ARTICLE 88

NEW YORK STATE SCHOOL FOR THE DEAF

Section 4351. New York state school for the deaf.
4352. Object of institution.
4353. Advisory board of visitors.
4354. Superintendent and other personnel.
4355. Admission.
4356. Applications for admission.
4357. School district and social services district financial responsibility.
4358. Protection of pupils.

§ 4351. New York state school for the deaf. The New York state school for the deaf is hereby established under the jurisdiction and control of the education department.

§ 4352. Object of institution. The primary object of the school shall be to furnish to children of the state suffering from deafness or a combination of deafness and other handicaps, and who may be expected to profit from instruction, such educational opportunities as will enable them, so far as practical, to become useful and well-adjusted citizens of the state.

§ 4353. Advisory board of visitors. 1. The regents shall appoint an advisory board of visitors of the New York state school for the deaf consisting of nine members. At least two of the board must be residents of the county of Oneida and the majority must be residents within fifty miles of said school. The term of office of members of such board shall be five years, from July first following the date of appointment, except that the first members of such board shall be appointed for such terms so that the terms of two members thereof shall expire on July first in the year of nineteen hundred sixty-four, the terms of two members shall expire on July first in the year of nineteen hundred sixty-five, the terms of two members shall expire on July first in the year of nineteen hundred sixty-six, the terms of two members shall expire on July first in the year of nineteen hundred sixty-seven and that the term of one member shall expire on July first in the year of nineteen hundred sixty-eight.

2. In the event that a vacancy occurs on such board for reason other than the expiration of a term, such vacancy shall be filled by appointment by the board of regents for the balance of the unexpired term.

3. The members of the board of visitors shall serve without pay but they shall be paid their actual expenses necessarily incurred in the official discharge of their duties. No member of such board shall be pecuniarily interested in any contract pertaining to the administration of such school.

4. The board of visitors shall visit and inspect such school and shall have such other powers and duties as may be required or authorized by the board of regents.

§ 4354. Superintendent and other personnel. 1. The chief executive officer of such school shall be a superintendent who shall be in the unclassified service and who shall be appointed by the board of regents upon the recommendation of commissioner of education. Such superintendent shall serve at the pleasure of the board of regents. Except as hereinafter provided, such superintendent shall have the supervision and management of the school, shall recommend the appointment and removal of subordinate officers, teachers and employees thereof, prescribe their duties and perform all of the duties and exercise the powers and duties prescribed for such superintendent of schools by law or by the rules of the board of regents.

2. The commissioner shall, subject to the approval of the director of the budget, determine the amount to be deducted from the salaries of employees for the maintenance provided for such personnel in the school.

3. The commissioner of education shall have power, in conformity with regulations approved by the regents, to appoint all other needed officers and employees and determine their duties. The commissioner shall by regulations approved as aforesaid, establish for positions in the unclassified service in such department as certified by him pursuant to section thirty-five of the civil service law, suitable personnel procedures and conditions of employment including:

a. A classification plan which shall include titles, duties and minimum qualifications.

b. A salary plan which shall include minimum and maximum salaries and increments and procedures for adjustment of salaries on appointment, promotion and reassignment.

c. Regulations for appointments, promotions, probation, permanent

tenure, disciplinary action and attendance.

d. Such other rules and regulations as may be necessary for carrying out the provisions of this section.

The regulations establishing such salary plan shall be subject to the approval of the director of the budget.

§ 4355. Admission. All deaf or blind and deaf children between the age of three years and twenty-one years and of suitable capacity for instruction who are legal residents of the state shall be eligible for appointment to the New York state school for the deaf without charge for such period of time in each individual case as may be set by the commissioner, either: (i) upon the recommendation of the committee on special education or committee on preschool special education of the child's school district of residence, as applicable; or (ii) where the parents of a school age child make application directly to the commissioner or the school, upon recommendation of the school's multidisciplinary team in accordance with the joint placement procedures established in this section.

2. a. Upon receipt of an application for admission of a child who has not been recommended for placement by the committee on special education or committee on preschool special education of the child's school district of residence, the school shall immediately notify such school district of such application. Notwithstanding any inconsistent provision of law, the school shall make available to such school district of residence, upon request, all records in its possession relating the evaluation, placement and educational performance of each child who has applied for admission or is attending the school, including the results of any current evaluations of such child.

b. Prior to any meeting of its multidisciplinary team to develop an individualized education program for a school age child, either upon initial admission to the school or in an annual review, the school shall notify the school district of residence of such meeting and shall offer

the district the opportunity to identify and present to the multidisciplinary team, an alternative placement recommendation for services in the least restrictive environment. In addition, such notice shall advise the school district of its right to appoint additional members to the multidisciplinary team pursuant to paragraph c of this subdivision. The multidisciplinary team shall consider such alternative and, if it rejects the alternative, shall include in its recommendation a statement of its reasons for doing so.

c. In addition to the members required for a committee on special education pursuant to subdivision one of section forty-four hundred two of this chapter, the school's multidisciplinary team may include additional members appointed by the board of education of the school district of residence pursuant to this paragraph, and shall include such members if appointed by such board of education. For each member appointed by the school, the school district may appoint a corresponding member, including a representative of the committee on special education who is qualified to teach or supervise special education, a school psychologist, the child's teacher, a parent member, a physician where the parent requests attendance of the physician member, and, for a child who has been evaluated for the first time, a person who is knowledgeable about the evaluation procedures used with the child and familiar with the results of the evaluation. The commissioner shall determine the location at which the multidisciplinary team meeting will be held. In the event of a tie vote on the multidisciplinary team, the parents shall cast the deciding vote.

d. The majority of the multidisciplinary team shall state the reasons for its recommendation, and submit such recommendation to the commissioner for consideration in determining whether to appoint the child. If the representatives appointed by the school district of residence disagree with the recommendation of the multidisciplinary team, they shall be entitled to prepare a dissenting opinion on the placement recommendation and to submit such opinion to the commissioner for consideration in determining whether to appoint the child to the school.

e. The commissioner, or his or her designee, in determining whether to appoint a school age child to the school, shall consider whether the placement at the state school is an appropriate placement in the least restrictive environment, taking into account the school district's recommended alternative placement. If the commissioner or his or her designee determines that placement in the state school is not in the least restrictive environment or otherwise disagrees with such recommendation, the commissioner shall state his or her reasons in writing and shall send the recommendation back to the multidisciplinary team for reconsideration, with notice to the parents. If the commissioner refers the recommendation back to the multidisciplinary team for reconsideration, the commissioner shall also notify the parents and the multidisciplinary team in writing of the need to schedule a meeting to ensure timely placement.

* f. Notwithstanding any provision of law, rule or regulation to the contrary, a member of the multidisciplinary team, other than the parents or persons in parental relation to the student is not required to attend a meeting of the team, in whole or in part, if the parent or person in parental relation to the student and the department agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

* NB Repealed June 30, 2027

* g. Notwithstanding any provision of law, rule or regulation to the contrary, a member of the multidisciplinary team, other than the parents or persons in parental relation to the student, may be excused from attending a meeting of the team, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent or person in parental relation to the student and the department consent, in writing, to the excusal and the excused member submits to the parent or person in parental relation to the student and the multidisciplinary team, written input into the development of the individualized education program, and in particular written input with respect to their area of curriculum or related services prior to the meeting.

* NB Repealed June 30, 2027

* h. Requests for excusal of a member of the multidisciplinary team as

provided for in paragraphs f and g of this subdivision, and the written input as provided for in paragraph g of this subdivision, shall be provided not less than five calendar days prior to the meeting date, in order to afford the parent or person in parental relation a reasonable time to review and consider the request. Provided however, that a parent or person in parental relation shall retain the right to request and/or agree with the department to excuse a multidisciplinary team member at any time including where the member is unable to attend the meeting because of an emergency or unavoidable scheduling conflict and the department submits the written input for review and consideration by the parent or person in parental relation within a reasonable time prior to the meeting and prior to obtaining written consent of the parent or person in parental relation to such excusal.

* NB Repealed June 30, 2027

* i. Notwithstanding any other provision of law, rule or regulation to the contrary, in making changes to a student's individualized education program after the annual review has been conducted, the parent or person in parental relation to the student and the department may agree not to convene a multidisciplinary team meeting for the purpose of making those changes, and instead may develop a written document to amend or modify the student's current individualized education program under the following circumstances:

(i) The parent or person in parental relation makes a request to the department for an amendment to the individualized education program and the department and such parent or person in parental relation agree in writing; or

(ii) The department provides the parent or person in parental relation with a written proposal to amend a provision or provisions of the individualized education program that is conveyed in language understandable to the parent or person in parental relation in such parent's or such person's native language or other dominant mode of communication, informs and allows the parent or person in parental relation the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes and the parent or person in parental relation agrees in writing to such amendments.

(iii) If the parent or person in parental relation agrees to amend the individualized education program without a meeting, the parent or person

in parental relation shall be provided prior written notice of the changes to the individualized education program resulting from such written document and the multidisciplinary team shall be notified of such changes. If the department makes such changes by rewriting the entire individualized education program, it shall provide the parent or person in parental relation with a copy of the rewritten individualized education program. If the department amends the individualized education program without rewriting the entire document, the department shall provide the parent or person in parental relation with a copy of the document that amends or modifies the individualized education program or, upon request of the parent or person in parental relation, a revised copy of the individualized education program with the amendments incorporated.

Amendments to an individualized education program pursuant to this paragraph shall not affect the requirement that the multidisciplinary team review the individualized education program at the annual meeting, or more often if necessary.

* NB Repealed June 30, 2027

3. The commissioner shall adopt regulations to prescribe the procedures for evaluation, placement and admission of children in accordance with this section, which shall include but not be limited to procedures to ensure that the due process rights of parents are protected and that placement recommendations are made in a timely manner.

§ 4356. Applications for admission. Applications for admission shall be made to the department in such manner as shall be prescribed by the department and shall be accompanied by such evidence of legal residence and other information as the department may require.

§ 4357. School district and social services district financial responsibility. 1. Financial responsibilities. School districts and social services districts shall be responsible for the costs of tuition

and maintenance, respectively, for children attending the New York state school for the deaf during the September first through June thirtieth session. Such costs shall be established pursuant to section forty-four hundred five of this chapter. a. The school district of which any such child is resident at the time of admission or readmission to the New York State school for the deaf pursuant to this article shall be required to reimburse the state in an amount equal to the tuition payments made to the state school by the state on behalf of the school district. The comptroller shall deduct the appropriate tuition amounts from any state funds which become due to a school district for each year in which such child is in attendance at such school, and shall deposit such funds to the special revenue accounts established for such purpose. Any tuition amounts deducted pursuant to this subdivision shall be included in the approved operating expense of the school district pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

b. The social services district in which any such child is resident at the time of admission or readmission to the New York state school for the deaf pursuant to this article shall be required to reimburse the state in an amount equal to the maintenance payments made to the state school by the state on behalf of the social services district. The comptroller may deduct the appropriate maintenance amounts from any state funds which become due to a social services district for each year in which such child is in attendance at such school only upon notification by the commissioner of social services after receiving notice by the commissioner of education that such social services district has failed to remit the required maintenance payments within ninety days of the date on which such social services district is billed by the state for services rendered, and shall deposit such amount to the special revenue accounts established for such purpose.

2. Payment for preschool children with handicapping conditions. The state share of the costs of tuition, maintenance and transportation for preschool children attending the New York state school for the deaf during the July and August summer session and the September through June session shall be paid from the state moneys appropriated in support of

the provisions of section forty-four hundred ten of this chapter. The remaining share shall be a charge on the county, or the city of New York, of which any such child is resident at the time of admission or readmission to such school. The state share shall be as set forth in paragraph b of subdivision eleven of section forty-four hundred ten of this chapter. For the purposes of this subdivision "preschool child" shall mean a child not eligible, by reason of age, for the deaf-infant program pursuant to section forty-two hundred four-a of this chapter and not eligible, by reason of age, to attend the public schools pursuant to section thirty-two hundred two of this chapter, provided that a child shall be deemed a preschool child through the month of August of the school year in which the child first becomes eligible to attend the public schools. Preschool education charges on a county, or the city of New York, pursuant to this subdivision shall be deducted by the comptroller within thirty days of the issuance of a warrant by the commissioner from any state funds which become due to a county, or the city of New York, and be credited to the special revenue account established for such purpose. Such tuition, maintenance and transportation costs shall be determined pursuant to section forty-four hundred five of this chapter.

3. Deaf infants. The full costs of a deaf-infant program, as determined by the commissioner of education and approved by the director of the budget, for children below the age of three served by the New York state school for the deaf pursuant to section forty-two hundred four-a of this chapter shall be paid from the state moneys appropriated in support of such section forty-two hundred four-a.

§ 4358. Protection of pupils. The department shall:

(a) Promulgate regulations concerning standards for the protection of children in residential care from reportable incidents in accordance with this section and article eleven of the social services law, including procedures for:

(i) consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any

person applying to be an employee, a volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references and relevant experiential and educational information, and sign a sworn statement indicating whether the applicant, to the best of his or her knowledge, has ever been convicted of a crime in this state or any other jurisdiction;

(ii) establishing, for employees, relevant minimal experiential and educational qualifications, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law;

(iii) assuring adequate and appropriate supervision of employees, volunteers and consultants;

(iv) demonstrating by a residential facility or program that appropriate action is taken to assure the safety of the child who is alleged to have been subjected to a reportable incident in a report to the vulnerable persons' central register in accordance with section four hundred ninety-two of the social services law as well as other children in care, immediately upon notification that such a report of an allegation of a reportable incident has been made;

(v) removing a child when it is determined that there is risk to such child if he or she continues to remain within a facility or program; and

(vi) appropriate preventive and remedial action to be taken including legal actions, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law.

Such standards shall also establish as a priority requirements that: (A) subject to the amounts appropriated therefor, administrators, employees, volunteers and consultants receive training in at least the following: child abuse prevention and identification, safety and security procedures, the principles of child development, the characteristics of children in care and techniques of group and child management including crisis intervention, the laws, regulations and procedures governing the protection of children from reportable incidents, and other appropriate topics, provided however, that the department may exempt administrators and consultants from such requirements upon demonstration of substantially equivalent knowledge or

experience; and

(B) subject to the amounts appropriated therefor, children receive instruction, consistent with their age, needs and circumstances as well as the needs and circumstances of the facility, in techniques and procedures which will enable such children to protect themselves from reportable incidents.

The department shall take all reasonable and necessary actions to assure that employees, volunteers and consultants in residential facilities and programs are kept apprised on a current basis of all department policies and procedures relating to the protection of children from reportable incidents and shall monitor and supervise the provision of training to such administrators, employees, volunteers, children and consultants. Regulations and standards developed pursuant to this section shall, to the extent possible, be consistent with those promulgated by other state agencies for such purposes;

(vii) consistent with applicable collective bargaining agreements, assuring that an individual who has committed a category one offense, as defined in paragraph (a) of subdivision four of section four hundred ninety-three of the social services law, that is included on the vulnerable persons' central register is not hired or otherwise used in any position in which such individual would have regular and substantial contact with a service recipient in any program described in paragraph (e) of subdivision four of section four hundred eighty-eight of the social services law.

(b) Provide for the development and implementation of a plan of prevention and remediation with respect to a substantiated report of abuse or neglect. Such action shall include: (i) within ten days of receipt of such a substantiated report, development and implementation of a plan of prevention and remediation to be taken with respect to a custodian or the residential facility in order to assure the continued health and safety of children and to provide for the prevention of future acts constituting reportable incidents; and (ii) development and implementation of a plan of prevention and remediation, in the event an investigation of a report of an allegation of abuse or neglect determines that a preponderance of the evidence of such allegation exists and such substantiated allegation may be attributed in whole or

in part to noncompliance by the residential facility or program with provisions of this chapter or regulations of the department applicable to the operation of such residential facility or program. Any plan of prevention and remediation required to be developed pursuant to this subdivision by a facility supervised by the department shall be submitted to and approved by the department in accordance with time limits established by regulations of the department. Implementation of the plan shall be monitored by the department. In reviewing the continued qualifications of a residential facility or program for an operating certificate, the department shall evaluate such facility's compliance with plans of prevention and remediation developed and implemented pursuant to this subdivision.

ARTICLE 89

CHILDREN WITH DISABILITIES

Section 4401. Definitions.

4401-a. Referral and evaluation for special education services or programs.

4402. Duties of school districts.

4403. Duties of education department.

4404. Appeal procedures for children with disabilities.

4404-a. Mediation program for students with disabilities.

4405. Computing financial responsibility for special educational services for certain children with disabilities.

4406. Procedures through the family court; cost of certain educational services.

4407. Special provisions relating to instruction of certain children with disabilities.

4408. Payment for July and August programs for students with disabilities.

4410. Special education services and programs for preschool children with disabilities.

4410-a. Responsibility for certain temporary-resident preschool children with disabilities.

4410-b. Use of certain federal funds.

4410-c. Audits of special education services program providers for preschool children with disabilities.

§ 4401. Definitions. As referred to in this article. * 1. A "child with a disability" or "student with a disability" means a person under the age of twenty-one who is entitled to attend public schools pursuant to section thirty-two hundred two of this chapter and who, because of mental, physical or emotional reasons can only receive appropriate educational opportunities from a program of special education. Such term does not include a child whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. Lack of appropriate instruction in reading, including in the essential components of reading instruction as defined in subsection three of section twelve hundred eight of the elementary and secondary education act of nineteen hundred sixty-five, or lack of appropriate instruction in mathematics or limited English proficiency shall not be the determinant factor in identifying a student as a student with a disability. "Special education" means specially designed instruction which includes special services or programs as delineated in subdivision two of this section, and transportation, provided at no cost to the parents to meet the unique needs of a child with a disability. A "child with a handicapping condition" means a child with a disability.

* NB Effective until June 30, 2027

* 1. A "child with a disability" or "student with a disability" means a person under the age of twenty-one who is entitled to attend public schools pursuant to section thirty-two hundred two of this chapter and who, because of mental, physical or emotional reasons can only receive appropriate educational opportunities from a program of special education. Such term does not include a child whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. Lack of instruction in reading or mathematics or limited English proficiency shall not be the determinant factor in identifying a student as a student with a disability. "Special education" means specially designed instruction which includes special services or programs as delineated in subdivision two of this section, and transportation, provided at no cost to the

parents to meet the unique needs of a child with a disability. A "child with a handicapping condition" means a child with a disability.

* NB Effective June 30, 2027

2. "Special services or programs". For purposes of this article, special services or programs shall mean the following:

a. Special classes, transitional support services, resource rooms, direct and indirect consultant teacher services, transition services as defined in subdivision nine of this section, assistive technology devices as defined under federal law, travel training, home instruction, and special teachers to include itinerant teachers as provided by the schools of the district of residence with such terms and services to be defined by regulations of the commissioner.

b. Contracts with other districts for special services or programs.

c. Contracts with or special services or programs provided by boards of cooperative educational services.

d. Appointment by the commissioner to a state school in accordance with article eighty-seven or eighty-eight of this chapter or a state-supported school in accordance with article eighty-five of this chapter.

e. Contracts with private non-residential schools which have been approved by the commissioner and which are within the state for special services or programs.

f. Contracts with private non-residential schools which have been approved by the commissioner and which are outside of the state for special services or programs.

g. Contracts with private residential schools which have been approved by the commissioner and which are within the state for special services or programs.

h. Contracts with private residential schools which have been approved by the commissioner and which are outside the state for special services or programs.

i. Contracts with the state university at Binghamton for non-residential special services or programs at the children's unit for treatment and evaluation which have been approved by the commissioner.

j. Provision of educational services in a residential facility for the care and treatment of students with disabilities under the jurisdiction of a state agency other than the department.

* k. Related services which shall in appropriate cases be furnished to students with disabilities shall include audiology, counseling including rehabilitation counseling services, occupational therapy, physical therapy, speech pathology, medical services as defined by regulations of the commissioner, psychological services, school health services, school nurse services, school social work, assistive technology services as defined under federal law, interpreting services, orientation and mobility services, parent counseling and training and other appropriate developmental, corrective or other support services and appropriate access to recreation. Such term does not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of such device.

* NB Effective until June 30, 2027

* k. Related services which shall in appropriate cases be furnished to students with disabilities shall include audiology, counseling including rehabilitation counseling services, occupational therapy, physical therapy, speech pathology, medical services as defined by regulations of the commissioner, psychological services, school health services, school social work, assistive technology services as defined under federal law, orientation and mobility services, parent counseling and training and other appropriate developmental, corrective or other support services and appropriate access to recreation.

* NB Effective June 30, 2027

l. Contracts for residential or nonresidential placements with a

special act school district listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven.

m. Provision of nonresidential education services in Fairmount children's center, which facility has been approved by the commissioner for the education of students with disabilities. Students placed under the provisions of this paragraph shall not be eligible for state aid under the provisions of sections thirty-six hundred two and thirty-six hundred two-c of this chapter.

n. Formalized agreements for the provision of transition services as defined in subdivision nine of this section in programs such as vocational training programs approved by the department or by another state agency. Nothing in this article shall be construed to relieve another agency of responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

3. "Maintenance". For purposes of this article "maintenance" shall mean the amount charged for room and board and allocable debt service as determined by the commissioner for the living unit of the residential facility by a residential school and such reasonable medical expenses actually and necessarily incurred by a child with disabilities while actually in attendance at a residential school, provided that such medical expenses shall be for diagnostic, evaluative, educationally related, and emergency care services as defined by regulations of the commissioner. Such amount, which shall not include expenses which are otherwise reimbursable to a residential facility by a federal, state or local agency, shall be approved by the commissioner of social services and the director of the division of the budget and shall not be otherwise payable or reimbursable.

4. "Transportation expense." For the purposes of determining transportation aid pursuant to this article, "transportation expense" shall mean any cost incurred by the school district for the transportation of a child with disabilities pursuant to the provisions of subdivision four of section forty-four hundred two of this article,

notwithstanding any minimum or maximum aidable limits established by other provisions of the education law or pursuant to regulations of the commissioner or school district, allowed pursuant to the applicable provisions of parts two and three of article seventy-three of this chapter, provided, however, that such transportation shall not be in excess of fifty miles from the home of such pupil to the appropriate special service or program unless the commissioner shall certify that no appropriate non-residential special service or program is available within such fifty miles, and that the commissioner may establish by regulation a maximum number of trips between a pupil's home and the private residential school which provides special services or programs to such pupil. Such cost shall include the cost of joint or regional transportation provided by school districts or boards of cooperative educational services for such purposes and subject to the same limits.

5. "Tuition" shall mean the per pupil cost of all instructional services, supplies and equipment, the operation of instructional facilities and allocable debt service for the instructional facilities, as determined by the commissioner. Approved tuition shall be computed from expenditures from which no revenue has been received from the following sources:

(a) receipts from the federal government;

(b) any cash receipts which reduce the cost of an item applied against the item therefor, except gifts, donations and earned interest, and

(c) any refunds made or any apportionment or payment received from the state for experimental or special programs as approved by the commissioner.

6. "Excess cost" shall mean the difference between the tuition and the sum of the following:

a. the school district basic contribution as defined in subdivision eight of this section; and

b. the amount of federal funds received by the school district and expended for such pupil which in the judgment of the commissioner shall be deemed duplicative.

7. "Excess cost aid ratio" for a school district shall be computed by subtracting from one the product obtained by multiplying fifteen per centum by the combined wealth ratio as defined in section thirty-six hundred two of this chapter. This aid ratio shall be expressed as a decimal carried to three places without rounding, but shall not be less than fifty hundredths, nor more than one.

8. "School district basic contribution" shall mean an amount equal to the total school district local property and non-property tax levy for the base year divided by the base year public school district enrollment of resident pupils of the school district as defined in paragraph n of subdivision one of section thirty-six hundred two of this chapter, except that for the two thousand thirteen--two thousand fourteen and two thousand fourteen--two thousand fifteen school year and thereafter, for school districts other than central high school districts and their components, such tax levy for the base year shall be divided by the year prior to the base year pupil count as determined by the commissioner pursuant to paragraph f of subdivision two of section thirty-six hundred two of this chapter for any school district in which such year prior to the base year pupil count exceeds one hundred fifty percent of such base year public school district enrollment of resident pupils.

* 9. "Transition services" shall mean a coordinated set of activities for a student with a disability, designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the student's strengths, preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

* NB Effective until June 30, 2027

* 9. "Transition services" shall mean a coordinated set of activities

for a student with a disability, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

* NB Effective June 30, 2027

10. Notwithstanding any inconsistent provisions of this article, where a private not-for-profit school enters into a lease, sublease or other agreement with the dormitory authority pursuant to section sixteen hundred eighty of the public authorities law, the tuition rates established by the commissioner pursuant to this section shall be established in two parts, one part of which shall be the cost per child of the annual rental payment pursuant to such lease, sublease or other agreement to be paid by the school district or the social services district, as the case may be, to the fund established by this chapter; the remaining part shall be the tuition amount to be paid to the private not-for-profit school.

11. Notwithstanding any inconsistent provisions of this article, where the special act school district enters into a lease, sublease or other agreement with the dormitory authority pursuant to section four hundred seven-a of this chapter, the tuition rates established by the commissioner pursuant to this section shall be established in two parts, one part of which shall be the cost per child of the annual rental payment pursuant to such section four hundred seven-a of this chapter to be paid by the school district or the social services district, as the case may be, to the fund established in such section; the remaining part shall be the tuition amount to be paid to the special act school district.

*** § 4401-a. Referral and evaluation for special education services or programs.** 1. Any student suspected of having a disability may be referred for initial evaluation to determine if the student is a student with a disability by the parent or person in parental relation, the commissioner or a designee of a public agency responsible for providing education to students with disabilities, including but not limited to the school district in which the student resides. In addition, a professional staff member of the school which the student attends or professional staff member of the school district in which the student resides, physician, judicial officer, professional staff member of a public agency, or the pupil himself or herself if such pupil is eighteen years of age or older or is an emancipated minor may request that the school district in which the student resides refer the student for initial evaluation.

2. A request for referral submitted by an individual other than the student student or a judicial officer shall:

a. state the reasons in writing for the referral and include any test results, records or reports upon which the referral is based unless such test results, records or reports are unavailable;

b. describe in writing, intervention services programs or instructional methodologies to remediate the student's performance prior to referral including any supplementary aids or support services provided for this purpose or state the reason why no such attempts were made; and

c. describe the extent of contact or involvement prior to the referral with the parent or person in parental relationship.

3. A referral submitted by a parent or person in parental relation shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the student attends or is eligible to attend. If such referral is submitted to the building administrator, the building administrator shall forward

a copy to the chairperson of the committee on special education. If such referral is submitted to the chairperson of the committee such chairperson shall forward a copy of such referral to the building administrator of the school which the student attends or is eligible to attend. A referral submitted by any other individual shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the student attends or is eligible to attend. The building administrator may request a meeting with the parent or person in parental relation to the student for the purpose of discussing educational alternatives to special education. Such alternatives may include the provision of services designed to address the learning needs of the student and maintain a child's placement in general education with the provision of appropriate educational and support services. Nothing contained in this section shall in any way impede a committee on special education from continuing its duties and functions under this article with regard to a student referred for special education or a parent's access to the committee, except that, if the parent concurs in writing with the building administrator to the provision of educational alternatives to special education, the referral shall be deemed withdrawn.

4. The individual evaluation of the educational needs of a student referred to the committee on special education shall be conducted by qualified individuals, in accordance with regulations of the commissioner, with the results of such evaluation forwarded to the committee on special education and the student's parent or person in parental relation.

5. Special education services and programs shall be provided after the appropriateness of the resources of the regular education program, including, but not limited to, support services, speech and language services, additional educational services and remedial instruction, have been considered. Each school district shall develop a plan and policies for implementing school wide approaches and pre-referral interventions in order to implement the provisions of this subdivision.

6. If the committee on special education has determined that placement

in special education services or programs is not appropriate for the child under consideration, a copy of the committee's recommendation and pertinent information supporting such recommendation shall be forwarded to the building administrator of the school which the child attends and to the parent or person in parental relation to the child. The building administrator shall determine which support services, speech and language services and additional educational services should be provided to the child in order to assist the child to benefit from a program of regular education and, to the extent available, shall assure that those services are provided. Nothing contained in this subdivision shall be construed to limit the right of the parent or a person in parental relation to the student to make a referral or to appeal the recommendation of the committee on special education in accordance with the provisions contained in section forty-four hundred four of this chapter.

* NB Effective until June 30, 2027

* § 4401-a. Referral and evaluation for special education services or programs. 1. Any pupil suspected of having a handicapping condition may be referred for special education services or programs by the parent or person in parental relationship, professional staff member of the school which the pupil attends or professional staff member of the school district in which the pupil resides, physician, judicial officer, the commissioner or designee of a public agency, the pupil himself or herself if such pupil is eighteen years of age or older or is an emancipated minor.

2. A referral submitted by an individual other than the pupil, the pupil's parent or person in parental relationship or a judicial officer shall:

a. state the reasons in writing for the referral and include any test results, records or reports upon which the referral is based unless such test results, records or reports are unavailable;

b. describe in writing, intervention services programs or instructional methodologies to remediate the pupil's performance prior to referral including any supplementary aids or support services

provided for this purpose or state the reason why no such attempts were made; and

c. describe the extent of contact or involvement prior to the referral with the parent or person in parental relationship.

3. A referral submitted by a parent, a person in parental relationship or the pupil, shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the pupil attends or is eligible to attend. If such referral is submitted to the building administrator, the building administrator shall forward a copy to the chairperson of the committee on special education. If such referral is submitted to the chairperson of the committee such chairperson shall forward a copy of such referral to the building administrator of the school which the pupil attends or is eligible to attend. A referral submitted by any other individual shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the pupil attends or is eligible to attend. The building administrator may request a meeting with the parent, person in parental relationship to the pupil and/or the pupil for the purpose of discussing educational alternatives to special education. Such alternatives may include the provision of educationally related support services or any other services designed to address the learning needs of the student and maintain a child's placement in general education with the provision of appropriate educational and support services. Nothing contained in this section shall in any way impede a committee on special education from continuing its duties and functions under this article with regard to a pupil referred for special education or a parent's access to the committee, except that, if the parent concurs in writing with the building administrator to the provision of educational alternatives to special education, the referral shall be deemed withdrawn.

4. The individual evaluation of the educational needs of a pupil referred to the committee on special education shall be conducted by qualified individuals, in accordance with regulations of the commissioner, with the results of such evaluation forwarded to the

committee on special education and the pupil's parent or person in parental relationship.

5. Special education services and programs shall be provided after the appropriateness of the resources of the regular education program, including educationally related support service, speech and language improvement services and remedial instruction, have been considered. Each school district shall develop a plan and policies for implementing school wide approaches and prereferral interventions in order to implement the provisions of this subdivision.

6. If the committee on special education has determined that placement in special education services or programs is not appropriate for the child under consideration, a copy of the committee's recommendation and pertinent information supporting such recommendation shall be forwarded to the building administrator of the school which the child attends and to the parent or person in parental relationship to the child. The building administrator shall determine which educationally related support services, speech and language improvement services and additional educational services should be provided to the child in order to assist the child to benefit from a program of regular education and, to the extent available, shall assure that those services are provided. Nothing contained in this subdivision shall be construed to limit the right of the parent, a person in parental relationship to the pupil or the pupil to make a referral or to appeal the recommendation of the committee on special education in accordance with the provisions contained in section forty-four hundred four of this chapter.

* NB Effective June 30, 2027

§ 4402. Duties of school districts. 1. * a. The board of education or trustees of each school district and the city school district of the city of New York shall, under regulations prescribed by the commissioner and approved by the regents of the university, identify, locate and evaluate in accordance with this section all students with disabilities in such district who are in need of special education, including children with disabilities who are homeless children or are wards of the

state as defined in the regulations of the commissioner and, consistent with section thirty-six hundred two-c of this chapter, students who attend nonpublic schools within such school district, and shall maintain a register containing the name of each child with a disability who resides in the district, the nature of such child's disability, the educational placement and setting, if any, of such child, and any other student-specific data required to comply with federal law or regulations.

* NB Effective until June 30, 2027

* a. The board of education or trustees of each school district and the city school district of the city of New York shall ascertain under regulations prescribed by the commissioner and approved by the regents of the university, the number of children with handicapping conditions in such district under the age of twenty-one years and the nature of the handicapping condition of each such child in accordance with the provisions of this section, and shall maintain a register containing the name of each child with a handicapping condition who resides in the district, the nature of such child's handicapping condition, the educational placement and setting, if any, of such child.

* NB Effective June 30, 2027

b. (1) The board of education or trustees of each school district shall establish committees and/or subcommittees on special education as necessary to ensure timely evaluation and placement of pupils. The board of education of the city school district of the city of New York, shall establish at least one committee on special education in each of its community school districts, provided that appointments to the community school district committees shall be made upon the approval of the community school board except that the board of education of the city school district of the city of New York, may establish one committee to serve more than one community school district, in which case, appointments thereto shall be made upon the joint approval of the affected community school boards; provided, however, that prior to such consolidation, the board shall consider the relative caseload of the committee on special education in each affected community school district, including but not limited to the following factors: the number of students evaluated by such committee; the number of referrals to

special education in such community school district; the ability to comply with mandated paperwork and timelines; and other issues which the board deems pertinent.

(a) Such committees shall be composed of at least the following members: (i) the parents or persons in parental relationship to the student; (ii) one regular education teacher of the student whenever the student is or may be participating in the regular education environment; (iii) one special education teacher of the student, or, if appropriate, a special education provider of the student; (iv) a school psychologist; (v) a representative of such school district who is qualified to provide or administer or supervise special education and is knowledgeable about the general curriculum and the availability of resources of the school district; (vi) an individual who can interpret the instructional implications of evaluation results; (vii) a school physician; (viii) an additional parent, residing in the school district or a neighboring school district, of a student with a disability, of a student who has been declassified and is no longer eligible for an individualized education program (IEP), or a parent of a disabled child who has graduated, for a period of five years beyond the student's declassification or graduation, provided such parent shall not be employed by or under contract with the school district, and provided further that such additional parent shall not be a required member if the parents request that such additional parent member not participate; (ix) such other persons having knowledge or special expertise regarding the student as the school district or the parents or persons in parental relationship to the student shall designate, to the extent required under federal law; and (x) if appropriate, the student.

* (b) In determining the composition of such committee pursuant to clause (a) of this subparagraph, a school district may determine that a member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or (ix) of clause (a) of this subparagraph also fulfills the requirement of subclause (vi) of clause (a) of this subparagraph of a member who is an individual who can interpret the instructional implications of evaluation results where such individuals are determined by the school district to have the knowledge and expertise to do so and/or that a member appointed pursuant to subclause (iii) or (iv) of clause (a) of this subparagraph also fulfills the requirement of subclause (v) of

clause (a) of this subparagraph of a member who is a representative of the school district. The regular education teacher of the student shall participate in the development, review and revision of the individualized education program for the student, to the extent required under federal law. The school physician need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relation to the student in question, the student, or a member of the committee on special education. The parents or persons in parental relation of the student in question shall receive proper written notice of their right to have the school physician attend the meetings of the committee on special education upon referral of said student to the committee on special education or whenever such committee plans to modify or change the identification, evaluation or educational placement of the student. The additional parent need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relation to the student in question, the student, or a member of the committee on special education. The parents or persons in parental relation of the student in question shall receive proper written notice of their right to have an additional parent attend any meeting of the committee regarding the student along with a statement, prepared by the department, explaining the role of having the additional parent attend the meeting. The committee shall invite the appropriate professionals most familiar with a student's disability or disabilities to attend any meeting concerning the educational program for such student. Except as otherwise provided in this clause or clause (b-1) or (b-2) of this subparagraph, all members of such committee shall attend meetings of the committee on special education.

Members of such committee shall serve at the pleasure of such board and members who are neither employees of nor under contract with such district shall serve without compensation except that such members shall be entitled to a per diem to defray expenses incurred in such service, provided, however, that any expense incurred shall be deemed an aidable operating expense for purposes of state aid.

* NB Effective until June 30, 2027

* (b) In determining the composition of such committee pursuant to clause (a) of this subparagraph, a school district may determine that a member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or (ix) of clause (a) of this subparagraph also fulfills the requirement of subclause (vi) of clause (a) of this subparagraph of a member who is an individual who can interpret the instructional implications of evaluation results where such individuals are determined by the school district to have the knowledge and expertise to do so and/or that a member appointed pursuant to subclause (iii) or (iv) of clause (a) of this subparagraph also fulfills the requirement of subclause (v) of clause (a) of this subparagraph of a member who is a representative of the school district. The regular education teacher of the student shall participate in the development, review and revision of the individualized education program for the student, to the extent required under federal law. The school physician need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relationship to the student in question, the student, or a member of the committee on special education. The parents or persons in parental relationship of the student in question shall receive proper written notice of their right to have the school physician attend the meetings of the committee on special education upon referral of said student to the committee on special education or whenever such committee plans to modify or change the identification, evaluation or educational placement of the student. The additional parent need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relation to the student in question, the student, or a member of the committee on special education. The parents or persons in parental relation of the student in question shall receive proper written notice of their right to have an additional parent attend any meeting of the committee regarding the student along with a statement, prepared by the department, explaining the role of having the additional parent attend the meeting. The committee shall invite the appropriate professionals most familiar with a student's disability or disabilities

to attend any meeting concerning the educational program for such student.

Members of such committee shall serve at the pleasure of such board and members who are neither employees of nor under contract with such district shall serve without compensation except that such members shall be entitled to a per diem to defray expenses incurred in such service, provided, however, that any expense incurred shall be deemed an aidable operating expense for purposes of state aid.

* NB Effective June 30, 2027

* (b-1) Notwithstanding any provision of law, rule or regulation to the contrary, a member of the committee on special education, other than the parents or persons in parental relation to the student is not required to attend a meeting of the team, in whole or in part, if the parent or person in parental relation to the student and the school district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

* NB Repealed June 30, 2027

* (b-2) Notwithstanding any provision of law, rule or regulation to the contrary, a member of the committee on special education, other than the parents or persons in parental relation to the student, may be excused from attending a meeting of the committee, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent or person in parental relation to the student and the school district consent, in writing, to the excusal and the excused member submits to the parent or person in parental relation to the student and such committee, written input into the development of the individualized education program, and in particular written input with respect to their area of curriculum or related services prior to the meeting.

* NB Repealed June 30, 2027

* (b-3) Requests for excusal of a member of the committee as provided for in clauses (b-1) and (b-2) of this subparagraph, and the written input as provided for in clause (b-2) of this subparagraph, shall be provided not less than five calendar days prior to the meeting date, in order to afford the parent or person in parental relation a reasonable

time to review and consider the request. Provided however, that a parent or person in parental relation shall retain the right to request and/or agree with the school district to excuse a member of the special education committee at any time including where the member is unable to attend the meeting because of an emergency or unavoidable scheduling conflict and the school district submits the written input for review and consideration by the parent or person in parental relation within a reasonable time prior to the meeting and prior to obtaining written consent of the parent or person in parental relation to such excusal.

* NB Repealed June 30, 2027

(c) Districts not having available personnel may share the services of a local committee on special education with another school district or contract with a board of cooperative educational services for such personnel pursuant to regulations of the commissioner. A district having a subcommittee on special education may share the services of a local committee on special education with another school district, provided that a representative of such school district who is qualified to provide or administer or supervise special education and is knowledgeable about the general curriculum and the availability of resources of the school district shall be a member of such committee when it convenes on behalf of a student who is a resident of such district.

* (d) Boards of education in city school districts in cities having in excess of one hundred twenty-five thousand inhabitants shall appoint subcommittees on special education, to the extent necessary to ensure timely evaluation and placement of students with disabilities. Boards of education or trustees of any school district outside of a city having a population in excess of one hundred twenty-five thousand inhabitants may appoint subcommittees on special education to assist the board of education in accordance with this clause and the regulations of the commissioner. The membership of each subcommittee shall include, but not be limited to, the committee members required by subclauses (i), (ii), (iii), (v), (vi), (ix) and (x) of clause (a) of this subparagraph, and a school psychologist whenever a new psychological evaluation is reviewed or a change to a more restrictive program option, as defined in regulations of the commissioner, is considered. Except when (i) a student is considered for initial placement in a special class, or (ii)

a student is considered for initial placement in a special class outside of the student's school of attendance, or (iii) whenever a student is considered for placement in a school primarily serving students with disabilities or a school outside of the student's district, each subcommittee may perform the functions for which the committee on special education is responsible pursuant to the provisions of this subdivision. Notwithstanding any other provisions of this clause to the contrary, attendance of members of a subcommittee may be excused from attendance in the same manner as members of a committee on special education pursuant to clauses (b-1), (b-2) or (b-3) of this subparagraph. Each subcommittee shall report annually the status of each student with a disability within its jurisdiction to the committee on special education, and the subcommittee shall refer to the committee, upon receipt of a written request from the parent or person in parental relation to a student, any matter in which the parent disagrees with the subcommittee's recommendation concerning a modification or change in the identification, evaluation, educational placement or provision of a free appropriate public education to such student. The committee on special education shall be responsible for oversight and monitoring of the activities of each subcommittee to assure compliance with the requirements of applicable and federal law and regulations.

* NB Effective until June 30, 2027

* (d) Boards of education in city school districts in cities having in excess of one hundred twenty-five thousand inhabitants shall appoint subcommittees on special education, to the extent necessary to ensure timely evaluation and placement of students with disabilities. Boards of education or trustees of any school district outside of a city having a population in excess of one hundred twenty-five thousand inhabitants may appoint subcommittees on special education to assist the board of education in accordance with this clause and the regulations of the commissioner. The membership of each subcommittee shall include, but not be limited to, the committee members required by subclauses (i), (ii), (iii), (v), (vi), (ix) and (x) of clause (a) of this subparagraph, and a school psychologist whenever a new psychological evaluation is reviewed or a change to a more restrictive program option, as defined in regulations of the commissioner, is considered. Except when (i) a student is considered for initial placement in a special class, or (ii)

a student is considered for initial placement in a special class outside of the student's school of attendance, or (iii) whenever a student is considered for placement in a school primarily serving students with disabilities or a school outside of the student's district, each subcommittee may perform the functions for which the committee on special education is responsible pursuant to the provisions of this subdivision. Each subcommittee shall report annually the status of each student with a disability within its jurisdiction to the committee on special education, and the subcommittee shall refer to the committee, upon receipt of a written request from the parent or person in parental relationship to a student, any matter in which the parent disagrees with the subcommittee's recommendation concerning a modification or change in the identification, evaluation, educational placement or provision of a free appropriate public education to such student. The committee on special education shall be responsible for oversight and monitoring of the activities of each subcommittee to assure compliance with the requirements of applicable and federal law and regulations.

* NB Effective June 30, 2027

* (2) Such committees or subcommittees shall review at least annually, the status of each student with a disability and each student thought to be disabled who is identified pursuant to paragraph a of this subdivision. Such review shall consider the educational progress and achievement of the student with a disability and the student's ability to participate in instructional programs in regular education.

* NB Effective until June 30, 2027

* (2) Such committees or subcommittees shall identify, review and evaluate at least annually, the status of each child with a handicapping condition and each child thought to be handicapped who resides within the school district. Such review shall consider the educational progress and achievement of the child with a handicapping condition and the child's ability to participate in instructional programs in regular education.

* NB Effective June 30, 2027

(3) The committee or when applicable the subcommittee shall:

(a) Obtain, review and evaluate all relevant information, including but not limited to that presented by the parent, person in parental relationship and teacher, pertinent to each child suspected of or

identified as having a disability, including the results of a physical examination performed in accordance with sections nine hundred three, nine hundred four and nine hundred five of this chapter and, where determined to be necessary by a school psychologist, an appropriate psychological evaluation performed by a qualified private or school psychologist, and other appropriate assessments as necessary to ascertain the physical, mental, emotional and cultural-educational factors which may contribute to the suspected or identified disability, and all other school data which bear on the child's progress, including, where appropriate, observation of classroom performance.

* (b) (i) Make recommendations based upon a written evaluation setting forth the reasons for the recommendations, to the child's parent or person in parental relation and board of education or trustees as to appropriate educational programs and placement in accordance with the provisions of subdivision six of section forty-four hundred one-a of this article, and as to the advisability of continuation, modification, or termination of special class or program placements which evaluation shall be furnished to the child's parent or person in parental relation together with the recommendations provided, however that the committee may recommend a placement in a school which uses psychotropic drugs only if such school has a written policy pertaining to such use that is consistent with subdivision four-a of section thirty-two hundred eight of this chapter and that the parent or person in parental relation is given such written policy at the time such recommendation is made. If such recommendation is not acceptable to the parent or person in parental relation, such parent or person in parental relation may appeal such recommendation as provided for in section forty-four hundred four of this chapter.

(ii) Notwithstanding any provisions of this clause or clause (a) of this subparagraph to the contrary, in making changes to a student's individualized education program after the annual review has been conducted, the parent or person in parental relation to the student and the school district may agree not to convene a meeting of the committee on special education for the purpose of making those changes, and instead may develop a written document to amend or modify the student's current individualized education program under the following circumstances:

(A) The parent or person in parental relation makes a request to the school district for an amendment to the individualized education program and the school district and such parent or person in parental relation agree in writing; or

(B) The school district provides the parent or person in parental relation with a written proposal to amend a provision or provisions of the individualized education program that is conveyed in language understandable to the parent or person in parental relation in such parent's or such person's native language or other dominate mode of communication, informs and allows the parent or person in parental relation the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes and the parent or person in parental relation agrees in writing to such amendments.

(C) If the parent or person in parental relation agrees to amend the individualized education program without a meeting, the parent or person in parental relation shall be provided prior written notice of the changes to the individualized education program resulting from such written document and the special education committee shall be notified of such changes. If the school district makes such changes by rewriting the entire individualized education program, it shall provide the parent or person in parental relation with a copy of the rewritten individualized education program. If the school district amends the individualized education program without rewriting the entire document, the school district shall provide the parent or person in parental relation with a copy of the document that amends or modifies the individualized education program or, upon request of the parent or person in parental relation, a revised copy of the individualized education program with the amendments incorporated.

Amendments to an individualized education program pursuant to this subitem shall not affect the requirement that the special education committee review the individualized education program at the annual meeting, or more often if necessary.

* NB Effective until June 30, 2027

* (b) Make recommendations based upon a written evaluation setting forth the reasons for the recommendations, to the child's parent or person in parental relationship and board of education or trustees as to

appropriate educational programs and placement in accordance with the provisions of subdivision six of section forty-four hundred one-a of this article, and as to the advisability of continuation, modification, or termination of special class or program placements which evaluation shall be furnished to the child's parent or person in parental relationship together with the recommendations provided, however that the committee may recommend a placement in a school which uses psychotropic drugs only if such school has a written policy pertaining to such use and that the parent or person in parental relationship is given such written policy at the time such recommendation is made. If such recommendation is not acceptable to the parent or person in parental relationship, such parent or person in parental relationship may appeal such recommendation as provided for in section forty-four hundred four of this chapter.

* NB Effective June 30, 2027

(c) Provide written prior notice to the parents or person in parental relationship of the child upon receipt of referral for evaluation or whenever such committee plans to continue, modify or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child and advise the parent of or person in parental relationship to the child of his or her opportunity to address the committee, either in person or in writing, on the appropriateness of the committee's recommendations on program placements to be made to the board of education or trustees. Such notice shall, where a child has been placed in a residential program by a committee on special education, or has been determined to be at risk of such a placement pursuant to subparagraph four of paragraph b of subdivision one of section forty-four hundred two of this article, also notify the parent or other person in parental relationship that the child is not entitled to receive free educational services or to remain in a residential educational program after the age of twenty-one, the receipt of a high school diploma or the time described in subdivision five of this section.

* (d) Advise the board of education or trustees concerning the frequency and nature of periodic reevaluations of students with disabilities by appropriate specialists, provided, however, that each student in a special program or a special class shall be reevaluated by

qualified appropriate school personnel at least once every three years, except where the school district and the parent or person in parental relation to the student agree in writing that such a reevaluation is unnecessary. A reevaluation of a student with a disability shall be conducted by qualified individuals, in accordance with regulations of the commissioner consistent with the requirements of a reevaluation as defined by the applicable federal regulation. A reevaluation may not be conducted more than once a year unless the parent or person in parental relation to the student and the school district otherwise agree.

* NB Effective until June 30, 2027

* (d) Advise the board of education or trustees concerning the frequency and nature of periodic reevaluations of students with disabilities by appropriate specialists, provided, however, that each student in a special program or a special class shall be reevaluated by qualified appropriate school personnel at least once every three years. A reevaluation of a student with a disability shall be conducted by qualified individuals, in accordance with regulations of the commissioner consistent with the requirements of a reevaluation as defined by the applicable federal regulation.

* NB Effective June 30, 2027

(d-1) Each school district shall develop policies, pursuant to regulations of the commissioner, to provide special services or programs, to the extent appropriate to the needs of the child, to enable the child to be involved in and progress in the general education curriculum.

(e) Make, or have made, periodic evaluations of the adequacy of programs, services and facilities for children with disabilities.

(f) Report periodically, but at least annually, to the board of education or trustees on the status of programs, services, and facilities made available by the school district in accordance with the provisions of subdivision eight of section thirty-six hundred two of this chapter. Such reports shall be kept on file for inspection by the commissioner.

(g) Provide for the transmittal of information by the board of education, including such test results and evaluations as the committee may have collected, to the home district of the child with a disability in cases where the home school district has contracted for the child's

education with another school district or board of cooperative educational services.

(h) Provide the form developed pursuant to subdivision twenty-two of section four of the veterans' services law to the parent or person in parental relation of a child designated by the committee as either disabled or emotionally disturbed.

(i) Provide, to the extent appropriate to the individual needs of the student with a disability that such student is educated in a setting with students who are nondisabled.

* (i) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to develop a functional behavioral assessment plan, to review, or revise, as appropriate, a behavioral intervention plan, to develop appropriate behavioral interventions and to review and revise, as appropriate, the implementation of a behavioral intervention plan, to address the behavior of a student with a disability who is alleged to have engaged in misconduct, to the extent required by federal law and regulations.

* NB Effective June 30, 2027

* (j) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to conduct a functional behavioral assessment, to review, or revise, as appropriate or necessary, and implement a behavioral intervention plan, to develop appropriate behavioral interventions and to review and revise, as appropriate or necessary, the implementation of a behavioral intervention plan, to address the behavior of a student with a disability who is alleged to have engaged in misconduct, to the extent required by federal law and regulations.

* NB Effective until June 30, 2027

* (j) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to conduct a review to determine whether behavior of a student with a disability which violates the applicable school rules or code of conduct and results in a change in placement under federal law, including but not limited to placement in an interim alternative educational setting

pursuant to clause (iv) or (vii) of subparagraph three of paragraph g of subdivision three of section thirty-two hundred fourteen of this chapter, was a manifestation of the student's disability, provided that other qualified school district personnel may participate in such review.

* NB Effective June 30, 2027

* (k) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to determine the setting and services to be provided in the interim alternative educational setting for a student with a disability who carries or possesses a weapon to or at school, on school premises, or to or at a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function or who has inflicted serious bodily injury upon another person as defined in federal law and the setting and services to be provided to a student with a disability in an interim alternative educational setting or other setting who is removed because of behavior that has been determined not to be a manifestation of the student's disability.

* NB Effective until June 30, 2027

* (k) In accordance with the regulations of the commissioner and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, to determine the services to be provided in the interim alternative educational placement for a student with a disability who carries or possesses a weapon to or at school, on school premises, or to or at school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function and the services to be provided to a student with a disability who is removed because of behavior that has been determined not to be a manifestation of the student's disability.

* NB Effective June 30, 2027

(l) In accordance with the regulations of the commissioner and the provisions of subsection (k) of section fourteen hundred fifteen of title twenty of the United States code, and the implementing federal regulations, to conduct expedited evaluations under the circumstances

specified in such federal law and regulations and to conduct such reviews and make such determinations regarding students presumed to have a disability for discipline purposes as defined in subdivision three of section thirty-two hundred fourteen of this chapter as are required under the federal individuals with disabilities education act and implementing regulations.

(3-a) The members of the committee or subcommittee may compile a list of appropriate and/or helpful services that may be available outside of the school setting to provide the parents or person in parental relation of a child with a disability with such information. Such list shall clearly state that these services are in addition to services supplied by the school district and will not be paid for by the school district. Any member of a committee or subcommittee or his or her respective school district who, acting reasonably and in good faith, provides such information shall not be liable for such action.

(4) (a) When the committee on special education of a local school district determines that a child who is living in his or her own home is at risk of a future placement in a residential school, as determined in accordance with guidelines established by the department pursuant to subdivision nineteen of section forty-four hundred three of this article, the committee shall provide the parent or other person in parental relationship with information, where such information has been made available to the committee, about the community support services that may be available to the family, including an assessment of the family's community support services needs in accordance with such guidelines and, where such an assessment is available, the name and address of the agency which can perform the assessment.

* (b) When the committee on special education of a local school district determines that a child who is receiving foster care is at risk of a future placement in a residential school, the committee, with the consent of the parent or person in parental relation or the student, if he or she is over the age of eighteen, shall notify the social services district responsible for the child of its determination that the child is at risk of placement.

* NB Effective until June 30, 2027

* (b) When the committee on special education of a local school district determines that a child who is receiving foster care is at risk

of a future placement in a residential school, the committee shall notify the social services district responsible for the child of its determination that the child is at risk of placement.

* NB Effective June 30, 2027

* (c) The committee on special education, with the consent of the parent or person in parental relation or the student, if he or she is over the age of eighteen, shall request in writing a designee of the appropriate county or state agency to participate, in accordance with guidelines established by the department, in any proceeding of the committee where a child is at risk of residential placement. The committee shall forward a copy of any such request to the office for people with developmental disabilities and the office of mental health. A designee or designees of the agency may participate in any such proceeding for the purpose of making recommendations concerning the appropriateness of residential placement and other programs and placement alternatives, including, but not limited to, community support services that may be available to the family. Such designee or designees shall not be considered members of the committee. Such designee or designees shall include, but not be limited to, representatives of any agency receiving coordinated children's services initiative funding as referenced in the aid to localities budget, of a local interagency coordinating body, of the social services district, the local mental health agency, or health department, or of the developmental disabilities service office, as appropriate. The name of such designee or designees, if any, shall be made available to each committee on special education in the county. In addition, with the consent of the parent or other person in parental relation, the committee may confer with other appropriate providers of services to identify any services that may be of benefit to the family based on the family's identification of or the committee's observation of family services needs. As used in this chapter, the term "county" means county as defined in section four thousand one of this title, and the term "appropriate agency" means one of the following agencies:

(i) a local interagency body capable of performing a multidisciplinary assessment of the family's community support services needs; or

(ii) if no such agency exists in the locality, any county agency which is receiving state coordinated children's services initiative funding as

referenced in the aid to localities budget; or

(iii) where neither such agency exists in the locality, either the area developmental disabilities services office, where the primary reason the child is at risk of placement relates to a developmental disability, or the local mental health agency, where the primary reason the child is at risk of placement relates to any other mental disability.

* NB Effective until June 30, 2027

* (c) The committee on special education shall request in writing a designee of the appropriate county or state agency to participate, in accordance with guidelines established by the department, in any proceeding of the committee where a child is at risk of residential placement. The committee shall forward a copy of any such request to the office for people with developmental disabilities and the office of mental health. A designee or designees of the agency may participate in any such proceeding for the purpose of making recommendations concerning the appropriateness of residential placement and other programs and placement alternatives, including, but not limited to, community support services that may be available to the family. Such designee or designees shall not be considered members of the committee. Such designee or designees shall include, but not be limited to, representatives of any agency receiving coordinated children's services initiative funding as referenced in the aid to localities budget, of a local interagency coordinating body, of the social services district, the local mental health agency, or health department, or of the developmental disabilities service office, as appropriate. The name of such designee or designees, if any, shall be made available to each committee on special education in the county. In addition, with the consent of the parent or other person in parental relationship, the committee may confer with other appropriate providers of services to identify any services that may be of benefit to the family based on the family's identification of or the committee's observation of family services needs. As used in this chapter, the term "county" means county as defined in section four thousand one of this title, and the term "appropriate agency" means one of the following agencies:

(i) a local interagency body capable of performing a multidisciplinary assessment of the family's community support services needs; or

(ii) if no such agency exists in the locality, any county agency which is receiving state coordinated children's services initiative funding as referenced in the aid to localities budget; or

(iii) where neither such agency exists in the locality, either the area developmental disabilities services office, where the primary reason the child is at risk of placement relates to a developmental disability, or the local mental health agency, where the primary reason the child is at risk of placement relates to any other mental disability.

* NB Effective June 30, 2027

(d) Nothing in this subparagraph shall be construed to establish an entitlement to or constitute a determination of eligibility for any such assessment or services, or to require the school district to pay the costs of such assessment or services or to require that such services be reflected in the plan of educational services and programs recommended or approved for the child, or to limit educational services to be made available to the child or to justify the denial, reduction, or delay of such services to the child. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this section except upon a showing of gross negligence or willful misconduct.

(e) Notwithstanding any inconsistent provision of law, residential schools are authorized to provide temporary care for persons over age twenty-one who are receiving transitional care as described in section 7.37-a or 13.37-a of the mental hygiene law, or on whose behalf temporary payments are being made pursuant to sections 7.38 or 13.38 of the mental hygiene law, where such persons were in the care of the residential school at the time of their twenty-first birthday and such persons have remained continuously in the care of the residential school since their twenty-first birthday.

(f) Notwithstanding any inconsistent provision of law, in any case where an individual receiving transitional care is about to be transferred from a residential school to an adult placement, a transfer plan shall be prepared by the sending facility and forwarded to the receiving facility, the individual and, unless the individual objects, the parents, guardian or other family members prior to the transfer. The transfer plan shall include any information necessary to facilitate a

safe transfer, such as specific problems, a schedule for administering medications and behavior unique to the individual.

(5) The committee on special education or, in the case of a state operated school, the multidisciplinary team shall not later than the annual review prior to the eighteenth birthday of a student with a disability who is placed in a residential program by the committee or multidisciplinary team, or a student with a disability who is placed in a day program but the committee or multidisciplinary team has determined that the student is likely to require adult residential services, with the consent of the parents, notify and invite a representative of the office of mental health, office for people with developmental disabilities, or the state education department, as appropriate, to participate in the committee on special education meeting for the development of a recommendation for adult services pursuant to section 7.37 or 13.37 of the mental hygiene law, section three hundred ninety-eight-c of the social services law or section forty-four hundred three of this article. The committee or multidisciplinary team shall give the parent or guardian of the child, the opportunity to consent in writing to the release of relevant information to such other public agency or agencies, upon request of such agency or agencies, for purposes of determining appropriateness of an adult program for such student.

(a) For the purposes of this subparagraph "relevant information" shall be defined as that information in the possession of and used by the committee or the multidisciplinary team to ascertain the physical, mental, emotional and cultural-educational factors which contribute to the student's disability, including but not limited to: (i) results of physical and psychological examinations performed by private and school district physicians and psychologists; (ii) relevant information presented by the parent, guardian and teacher; (iii) school data which bear on the student's progress including the student's most recent individualized education program; (iv) results of the most recent examinations and evaluations performed pursuant to clause (d) of subparagraph three of this paragraph; and (v) results of other suitable evaluations and examinations possessed by the committee or multidisciplinary team. Nothing in this subparagraph shall be construed to require any committee or multidisciplinary team to perform any

examination or evaluation not otherwise required by law.

(b) Upon consent obtained pursuant to this subparagraph, the committee or multidisciplinary team shall forward the student's name and other relevant information in a report to the appropriate public agency as determined by the committee or multidisciplinary team, based upon the student's disability and physical, mental, emotional and social needs. The committee shall forward additional and updated relevant information to the appropriate public agency upon the request for such information by such agency, with the consent of the parents, or the student, if such student is eighteen years or older.

(c) When the committee or multidisciplinary team is notified by the public agency which received the report that such state agency is not responsible for determining and recommending adult services for the child, the committee or multidisciplinary team shall forward the report to another public agency; or, if the committee or multidisciplinary team determines that there exists a dispute as to which state agency has the responsibility for determining and recommending adult services, the committee or multidisciplinary team may forward the report to the council on children and families for a resolution of such dispute.

(6) The committee on special education shall provide a copy of the handbook for parents of children with disabilities established under subdivision eight of section four thousand four hundred three of this article or a locally approved booklet for parents of children with disabilities to the parents or person in parental relationship to a child as soon as practicable after such child has been referred for evaluation to the committee on special education.

2. a. The board of education or trustees of each school district shall be required to furnish suitable educational opportunities for students with disabilities by one of the special services or programs listed in subdivision two of section forty-four hundred one of this article. The need of the individual child shall determine which of such services shall be rendered. Each district shall provide to the maximum extent appropriate such services in a manner which enables students with disabilities to participate in regular education services when appropriate. Such services or programs shall be furnished between the months of September and June of each year, except that for the nineteen

hundred eighty-seven--eighty-eight school year and thereafter, with respect to the students whose disabilities are severe enough to exhibit the need for a structured learning environment of twelve months duration to maintain developmental levels, the board of education or trustees of each school district upon the recommendation of the committee on special education shall also provide, either directly or by contract, for the provision of special services and programs as defined in section forty-four hundred one of this article during the months of July and August as contained in the individualized education program for each eligible student, and with prior approval by the commissioner if required; provided that a student with a disability who is eligible for services, including services during the months of July and August, pursuant to section forty-four hundred ten of this article shall not be eligible to receive services pursuant to this paragraph during the months of July and August.

b. (1) Provided, however, that in each school district the board of education or trustees of such district are hereby authorized and empowered to contract for such special services or programs as such board shall deem reasonable and appropriate for such children with disabilities after consideration of the recommendations of the local committee on special education and the hearing officer if a hearing is held pursuant to section forty-four hundred four of this chapter and, where specified in subparagraph two of this paragraph, with the approval of the commissioner after a finding by him that no appropriate special services or programs specified in paragraphs a through d and k of subdivision two of section forty-four hundred one are available.

(2) The board shall select the most reasonable and appropriate special service or program for such children from those programs specified in paragraphs a, b, c, e, f, g, h, i, k, l and m of subdivision two of section forty-four hundred one of this article upon receipt of the recommendation of the committee on special education. All contracts with schools pursuant to the provisions of paragraphs d, e, f, g, h, l and m of subdivision two of section forty-four hundred one of this article shall be subject to the approval of the commissioner. All contracts under paragraph c of subdivision two of section forty-four hundred one shall be made in accordance with the provisions of subdivision four of

section nineteen hundred fifty of this chapter. No child shall be placed in a residential school nor shall a board recommend placement in a residential facility specified in paragraph j of subdivision two of section forty-four hundred one unless there is no appropriate nonresidential school available consistent with the needs of the child. The board shall provide written notice of its determination to the parent or legal guardian of such child. If the determination of the board of education is not consistent with the recommendations of the committee on special education, such notice shall include the statement of the reasons for such determination which shall identify the factors considered by the committee on special education in its evaluation.

(3) If the board cannot secure an appropriate special service within the state or non-residential program to meet the needs of the child, it shall notify the commissioner.

c. Nothing in this section shall be deemed or construed to prohibit a committee on special education from recommending a special service or program specified in paragraph d of subdivision two of section forty-four hundred one of this chapter or to diminish the power of the commissioner to make appointments pursuant to such paragraph.

* d. 1. Notwithstanding any provision of law, rule or regulation to the contrary, the board of education or trustees of a school district, except a city school district in a city with a population of one million or more inhabitants may, upon written notice to the commissioner in compliance with subparagraph two of this paragraph and parental notification, for the remainder of the school year exceed the standards established in regulation for special education class sizes for middle and secondary school students as defined by the commissioner for purposes of this section by no more than a twenty percent increase above such standards, provided that the district is in compliance with such standards at the start of classes in September of the school year, and further provided that a city school district in a city with a population of one hundred twenty-five thousand or more and less than one million inhabitants shall have the option of either increasing maximum class sizes in any school year pursuant to this section or establishing class sizes for special classes for certain students with disabilities in accordance with the provisions of subdivision six of this section.

2. The notice shall be on a form prescribed by the commissioner, and shall sufficiently demonstrate educational justification and consistency with continuing an appropriate education for all children affected. The commissioner may revoke or preempt any increase in class size upon a finding that increasing class size as proposed would fail to be consistent with appropriate special education.

* NB Repealed July 1, 2027

3. Each school district shall make available a register of public or private agencies and other professional resources within the county from which a parent or person in parental relationship may obtain an independent evaluation of the child.

4. a. The board of education or the board of trustees of each school district shall provide suitable transportation to and from special classes or programs, with the exception of residential facilities for the care and treatment of children with disabilities under the jurisdiction of an agency of the state other than the state department of education, as specified in subdivisions two and four of section forty-four hundred one of this article.

b. Such board may permit any adult, willing to serve without compensation, to act as an attendant for such children.

c. Such board shall be empowered to contract for transportation services provided pursuant to this subdivision with any municipality, Board of Cooperative Educational Services, public authority or private contractor meeting the school bus provisions outlined in section thirty-six hundred twenty-three of this chapter and the standards and specifications relating thereto.

d. Notwithstanding any other provision of law, such board shall provide suitable transportation up to a distance of fifty miles to and from a nonpublic school which a child with a disability attends if such child has been so identified by the local committee on special education and such child attends such school for the purpose of receiving services

or programs similar to special educational programs recommended for such child by the local committee on special education.

5. Notwithstanding any provisions of this article to the contrary or the provisions of section thirty-two hundred two of this chapter, a child with a disability who reaches the age of twenty-one during (a) the period commencing with the first day of July and ending on the thirty-first day of August shall if otherwise eligible, be entitled to continue in a July and August program until the thirty-first day of August or until the termination of the summer program, whichever shall first occur; or (b) the period commencing on the first day of September and ending on the thirtieth day of June shall be entitled to continue in such program until the thirtieth day of June or until the termination of the school year, whichever shall first occur.

6. Notwithstanding any other law, rule or regulation to the contrary, the board of education of a city school district with a population of one hundred twenty-five thousand or more inhabitants shall be permitted to establish maximum class sizes for special classes for certain students with disabilities in accordance with the provisions of this subdivision. For the purpose of obtaining relief from any adverse fiscal impact from under-utilization of special education resources due to low student attendance in special education classes at the middle and secondary level as determined by the commissioner, such boards of education shall, during the school years nineteen hundred ninety-five--ninety-six through June thirtieth, two thousand twenty-seven, be authorized to increase class sizes in special classes containing students with disabilities whose age ranges are equivalent to those of students in middle and secondary schools as defined by the commissioner for purposes of this section by up to but not to exceed one and two tenths times the applicable maximum class size specified in regulations of the commissioner rounded up to the nearest whole number, provided that in a city school district having a population of one million or more, classes that have a maximum class size of fifteen may be increased by no more than one student and provided that the projected average class size shall not exceed the maximum specified in the applicable regulation, provided that such authorization shall terminate

on June thirtieth, two thousand. Such authorization shall be granted upon filing of a notice by such a board of education with the commissioner stating the board's intention to increase such class sizes and a certification that the board will conduct a study of attendance problems at the secondary level and will implement a corrective action plan to increase the rate of attendance of students in such classes to at least the rate for students attending regular education classes in secondary schools of the district. Such corrective action plan shall be submitted for approval by the commissioner by a date during the school year in which such board increases class sizes as provided pursuant to this subdivision to be prescribed by the commissioner. Upon at least thirty days notice to the board of education, after conclusion of the school year in which such board increases class sizes as provided pursuant to this subdivision, the commissioner shall be authorized to terminate such authorization upon a finding that the board has failed to develop or implement an approved corrective action plan.

7. a. The board of education or trustees of each school district and the board of trustees of each charter school shall adopt a policy to ensure that each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for the implementation of a student's individualized education program shall be given a copy of such student's individualized education program prior to the implementation of such program or shall be able to access such student's individualized education program electronically; provided, however, if the policy provides that the student's individualized education program is to be accessed electronically, then such policy shall also ensure that the individuals responsible for the implementation of a student's individualized education program shall be notified and trained on how to access such individualized education programs electronically.

b. Such policy shall require that any copy of a student's individualized education program provided pursuant to this subdivision shall remain confidential and shall not be redisclosed to any other person, in compliance with federal and state laws and regulations, including the Individuals with Disabilities Education Act and the Family

Educational Rights and Privacy Act.

c. Such policy shall require the chair of the committee on special education to designate a professional employee of the school district with knowledge of the student's disability and education program to, prior to the implementation of the individualized education program, inform each teacher, assistant and support staff person of his or her responsibility relating to the implementation of the individualized education program and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the individualized education program.

8. Upon their child's enrollment or attendance in a public school, such school shall notify every parent or person in parental relation of their rights regarding referral and evaluation of their child for the purposes of special education services or programs pursuant to applicable federal and state laws. Such notification may be provided by directing parents or persons in parental relation to obtain information located on the department's website relating to a parent's guide to special education in New York state for children ages three through twenty-one provided the notification shall also contain the name and contact information for the chairperson of the school district's committee on special education or other individual who is charged with processing referrals to the committee in the district.

9. The board of education or trustees of each school district shall develop a procedure to notify the parent or person in parental relation of a student with a disability on the same day a physical or mechanical restraint is applied on such student or such student is placed in a time out room. When the student's parent or person in parental relation cannot be contacted after reasonable attempts are made, the principal shall record and report such attempts to the committee on special education.

§ 4403. Duties of education department. The state education department shall have power and it shall be its duty: 1. To maintain a statistical

summary of the number of children with disabilities who reside within the state and the nature of their disabilities and to use all means and measures necessary to adequately meet the physical and educational needs of such children, as provided by law.

2. To stimulate all private and public efforts designed to relieve, care for or educate children with disabilities and to coordinate such efforts with the work and function of governmental agencies.

3. To formulate such rules and regulations pertaining to the physical and educational needs of such children as the commissioner of education shall deem to be in their best interests. In the city school district of the city of New York in complying with any rules or regulations promulgated under this section relating to maximum group size, other than regulations prescribing the maximum class size in self-contained special education classes, the commissioner shall allow school districts a variance of up to fifty percent rounded up to the nearest whole number from the maximum number of students as specified in regulation in an instructional group in a resource room program, a related service group, and the total number of students assigned to a resource room teacher.

4. To periodically inspect, report on the adequacy of and make recommendations concerning instructional programs or special services for all children with disabilities who reside in or attend any state operated or state financed social service facilities, youth facilities, health facilities, mental health, and developmental disabilities facilities or state correctional facilities.

5. To require such financial information as may be necessary from and to audit any public or non-public school receiving any public moneys pursuant to any provision of the education law as the commissioner deems appropriate.

* 6. To provide for an advisory panel, appointed by the commissioner composed of individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities, teachers of children with disabilities, parents or persons in parental relation of children or individuals with disabilities from birth to age

twenty-six, state and local educational officials, including officials who carry out activities under subtitle B of title seven of the McKinney-Vento homeless assistance act (section eleven thousand four hundred thirty-one of title forty-two of the United States code, et seq.), representatives of state or regional associations concerned with the education of children with disabilities, representatives of institutions of higher education that prepare special education teachers or administrators and/or related services personnel, administrators of programs for students with disabilities, a representative of the office of children and family services with responsibility for foster care, representatives of other state agencies involved in the financing or delivery of related services to children with disabilities, representatives of nonpublic schools and, upon establishment of such schools, representatives of public charter schools, not less than one representative of a vocational, community or business organization concerned with the provision of transition services to students with disabilities, and representatives of state juvenile and adult corrections agencies, to advise the governor, legislature and commissioner of unmet needs within the state in the education of children with disabilities, in developing procedures for evaluation of the special education system and the reporting of data as required by federal law, in developing corrective action plans to address findings identified in federal monitoring reports, in developing and implementing policies relating to coordination of services, and on the education of students with disabilities who have been convicted as adults and incarcerated in adult prisons and to comment publicly on any rules or regulations proposed for issuance by the commissioner regarding the education of children with disabilities and the procedures for distribution of funds under this article. A majority of the members of the advisory panel shall be individuals with disabilities or parents of children with disabilities. Such panel members shall serve without compensation except that such members shall be entitled to reimbursement for actual and necessary expenses incurred in such service.

* NB Effective until June 30, 2027

* 6. To provide for an advisory panel, appointed by the commissioner composed of individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities,

teachers of children with disabilities, parents or persons in parental relationship of children with disabilities, state and local educational officials, representatives of state or regional associations concerned with the education of children with disabilities, representatives of institutions of higher education that prepare special education teachers or administrators and/or related services personnel, administrators of programs for students with disabilities, representatives of other state agencies involved in the financing or delivery of related services to children with disabilities, representatives of nonpublic schools and, upon establishment of such schools, representatives of public charter schools, at least one representative of a vocational, community or business organization concerned with the provision of transition services to students with disabilities, and representatives of state juvenile and adult corrections agencies, to advise the governor, legislature and commissioner of unmet needs within the state in the education of children with disabilities, in developing procedures for evaluation of the special education system and the reporting of data as required by federal law, in developing corrective action plans to address findings identified in federal monitoring reports, in developing and implementing policies relating to coordination of services, and on the education of students with disabilities who have been convicted as adults and incarcerated in adult prisons and to comment publicly on any rules or regulations proposed for issuance by the commissioner regarding the education of children with disabilities and the procedures for distribution of funds under this article. A majority of the members of the advisory panel shall be individuals with disabilities or parents of children with disabilities. Such panel members shall serve without compensation except that such members shall be entitled to reimbursement for actual and necessary expenses incurred in such service.

* NB Effective June 30, 2027

7. To define, no later than July first, nineteen hundred seventy-seven, in a report to the legislature and the governor, specific criteria for determining whether a particular disorder or condition may be considered a specific learning disability and to describe in such report diagnostic procedures which can be used in determining whether a particular child has such a disorder or condition, and to recommend in

such report, in consultation with the division of the budget, a cost effective program proposal and finance recommendations.

8. To develop and distribute a handbook for parents of children with disabilities and the members of committees and subcommittees on special education, which handbook shall explain, in layman terms, the financial and educational obligations of the state, the county or city, the home school district, the committee on special education, and the parent or legal guardian of a child with disabilities, the special services or programs available pursuant to this article, and the legal procedures available to an aggrieved parent or legal guardian of a child with disabilities.

9. To make provision by regulation of the commissioner to assure the confidentiality of any personally identifiable data, information, and records collected or maintained by the state department of education or any school district, including a committee or subcommittee on special education, and the officers, employees or members thereof, pursuant to or in furtherance of the purposes of this article, and shall establish procedures upon which any such personally identifiable data, information, or records may be disclosed.

10. a. The commissioner shall determine whether a child, whose report is submitted to the department pursuant to clause (b) or (d) of subparagraph five of paragraph b of subdivision one of section forty-four hundred two of this article or subdivision thirteen of section three hundred ninety-eight of the social services law, will likely need adult services and, if such need will likely exist, develop a recommendation of all appropriate adult programs operated or approved by the department which may be available. If necessary and appropriate, the commissioner may conduct an evaluation of the child to determine if adult services will be needed. Such recommendation of all programs shall be made available to the parent or guardian of such child as soon as practicable but no later than six months before such child attains the age of twenty-one.

b. If the commissioner determines, pursuant to paragraph a of this

subdivision, that such child will not require adult services, the commissioner shall notify the child's parent or guardian in writing of such determination. Such notice shall be given as soon as practicable but no later than six months before the child attains the age of twenty-one.

c. Notwithstanding paragraphs a and b of this subdivision, the commissioner may determine that the education department is not responsible for determining and recommending adult services for such child. When such a determination is made it shall be made as soon as practicable after receiving the report and the commissioner shall promptly notify in writing the committee on special education, multidisciplinary team or social services official who sent the report that such determination has been made. Such notice shall state the reasons for the determination and may recommend a state agency which may be responsible for determining and recommending adult services.

d. Nothing in this subdivision shall be construed to create an entitlement to adult services.

e. A designee of the commissioner may carry out the functions of the commissioner described in this subdivision.

11. To promulgate regulations concerning standards for the protection of children in residential care from reportable incidents in accordance with this section and article eleven of the social services law, including procedures for:

(a) consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law, the review and evaluation of the backgrounds of and the information supplied by any person applying to be an employee, a volunteer or consultant, which shall include but not be limited to the following requirements: that the applicant set forth his or her employment history, provide personal and employment references, and relevant experiential and educational qualifications and, sign a sworn statement indicating whether the applicant, to the best of his or her knowledge has ever been convicted of a crime in this state or any other jurisdiction;

(b) establishing, for employees, relevant minimal experiential and educational qualifications, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law;

(c) assuring adequate and appropriate supervision of employees, volunteers and consultants;

(d) demonstrating by a residential facility or program that appropriate action is taken to assure the safety of the child who is alleged to have been subjected to a reportable incident in a report to the vulnerable persons' central register in accordance with section four hundred ninety-two of the social services law as well as other children in care, immediately upon notification that such a report of an allegation of a reportable incident has been made with respect to a child in such residential facility or program;

(e) removing a child when it is determined that there is risk to such child if he or she continues to remain within a residential facility or program; and

(f) appropriate preventive and remedial action to be taken including legal actions, consistent with appropriate collective bargaining agreements and applicable provisions of the civil service law.

Such standards shall also establish as a priority requirements that:

(A) subject to amounts appropriated therefor, administrators, employees, volunteers and consultants receive training in at least the following: child abuse prevention and identification, safety and security procedures, the principles of child development, the characteristics of children in care, and techniques of group and child management including crisis intervention, the laws, regulations and procedures governing the protection of children from reportable incidents, and other appropriate topics, provided however, that the department may exempt administrators and consultants from such requirements upon demonstration of substantially equivalent knowledge or experience; and

(B) subject to the amounts appropriated therefor, children receive instruction, consistent with their age, needs and circumstances as well as the needs and circumstances within the program, in techniques and procedures which will enable such children to advocate for and protect

themselves from reportable incidents.

The department shall take all reasonable and necessary actions to assure that employees, volunteers and consultants in residential facilities and programs are kept apprised on a current basis of all department policies and procedures relating to the protection of children from reportable incidents and shall monitor and supervise the provision of training to such administrators, employees, volunteers, children and consultants. Regulations and standards developed pursuant to this subdivision shall, to the extent possible, be consistent with those promulgated by other state agencies for such purposes.

(g) consistent with applicable collective bargaining agreements, assuring that an individual who has committed a category one offense, as defined in paragraph (a) of subdivision four of section four hundred ninety-three of the social services law, that is included on the vulnerable persons' central register is not hired or otherwise used in any position in which such individual would have regular and substantial contact with a service recipient in any program described in paragraph (e) of subdivision four of section four hundred eighty-eight of the social services law.

12. To provide for the development and implementation of a plan of prevention and remediation with respect to a substantiated report of abuse or neglect. Such action shall include: (a) within ten days of receipt of such a substantiated report, development and implementation of a plan of prevention and remediation to be taken with respect to a custodian or the residential facility in order to assure the continued health and safety of children and to provide for the prevention of future acts constituting reportable incidents; and (b) development and implementation of a plan of prevention and remediation, in the event an investigation of an allegation of abuse or neglect determines that a preponderance of the evidence of such allegation exists and such substantiated allegation may be attributed in whole or in part to noncompliance by the residential facility or program with provisions of this chapter or regulations of the department applicable to the operation of such residential facility or program. Any plan of prevention and remediation required to be developed pursuant to this

subdivision by a facility supervised by the department shall be submitted to and approved by the department in accordance with time limits established by regulations of the department. Implementation of the plan shall be monitored by the department. In reviewing the continued qualifications of a residential facility or program for an operating certificate, the department shall evaluate such facility's compliance with plans of prevention and remediation developed and implemented pursuant to this subdivision.

13. To provide technical assistance to school districts for appropriate evaluation and assessment.

14. To provide technical assistance to school districts to assist in the adaptation of curriculum for the instruction of children with disabilities.

15. To provide technical assistance to school districts to assist in developing criteria for placement in special education and criteria for reviewing the ability of a pupil to participate in regular education.

16. Commencing with the nineteen hundred eighty-seven--eighty-eight school year, to provide for instruction during the months of July and August of students with disabilities who have received state appointments pursuant to article eighty-five, eighty-seven or eighty-eight of this chapter and whose disabilities, in the judgment of the commissioner, are severe enough to exhibit the need for a structured learning environment of twelve months duration to maintain developmental levels, by making such appointments for twelve months; provided that the initial term of appointment of a student with a disability who is the minimum age eligible for such a state appointment shall not commence during the months of July or August.

18. To establish guidelines for determining when a child is at risk of a future placement in a residential school, and for the provision by committees on special education of information to parents and other persons in parental relationship concerning the availability of community support services to meet the needs of the family. The

guidelines shall be developed by the department after consultation with the office of mental health, the office for people with developmental disabilities, the office of alcoholism and substance abuse services, the department of health, the department of social services and the division for youth.

* 19. To adopt regulations prescribing the state complaint procedures pursuant to sections 300.151 through 300.153 of title thirty-four of the code of federal regulations, where an individual or organization files a written complaint alleging that a public agency has violated part B of the individuals with disabilities education act. Such regulations shall include, but not be limited to, remedies for denial of appropriate services, including, as appropriate, the awarding of monetary reimbursement, compensatory services or other corrective action appropriate to the needs of the child.

* NB Effective until June 30, 2027

* 20. To adopt regulations prescribing the state complaint procedures pursuant to sections 300.660 through 300.662 of title thirty-four of the code of federal regulations, where an individual or organization files a written complaint alleging that a public agency has violated part B of the individuals with disabilities education act. Such regulations shall include, but not be limited to, remedies for denial of appropriate services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child.

* NB Effective June 30, 2027

21. (a) To require special act school districts listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended, to provide, on an annual basis or more frequently, as needed, enrollment reports, including current and projected enrollments, proposed budgets and any financial information the commissioner deems appropriate, which shall include, but not be limited to, outstanding revenue anticipation notes as defined in paragraph (a) of subdivision one of section fifty-five of the state finance law, balance owed to employee benefit systems, outstanding bonds, lease costs, and any other debts to monitor the fiscal stability of special act school districts.

(b) Upon receiving the information identified in paragraph (a) of this

subdivision, the department shall determine if any special act district is in need of financial guidance and assistance upon a comprehensive review of such information provided. Upon a determination that a special act district is in need of financial guidance and assistance, the department shall, as soon as practicable, provide the district with specific recommendations to improve the special act district's financial standing in the short and long-term.

§ 4404. Appeal procedures for children with disabilities. * 1. a. If the parent or person in parental relation of a student, the board of education or trustees of a school district or a state agency responsible for providing education to students with disabilities presents a complaint with respect to any matter relating to the identification, evaluation or educational placement of the student or the provision of a free appropriate public education to the student or a manifestation determination or other matter relating to placement upon discipline of a student with a disability that may be the subject of an impartial hearing pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, and the party presenting the complaint or their attorney provides a due process complaint notice in accordance with federal law and regulations and such complaint sets forth an alleged violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis for the complaint, the board or agency shall appoint an impartial hearing officer to review the due process complaint notice when challenged and, if the matter is not resolved in a resolution session that has been convened as required by federal law, to preside over an impartial due process hearing and make a determination within such period of time as the commissioner by regulation shall determine, provided that the board of education or trustees shall offer the parent or person in parental relation the option of mediation pursuant to section forty-four hundred four-a of this article as an alternative to an impartial hearing. Where the parent or person in parental relation or a school district or public agency presents a complaint, the school district or public agency responsible for appointing the impartial

hearing officer shall provide the parent or person in parental relation with a procedural safeguards notice as required pursuant to subsection (d) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations. Notwithstanding any provision of this subdivision to the contrary, the time limitation on presenting a complaint shall not apply to a parent or person in parental relation to the student if the parent or person in parental relation was prevented from requesting the impartial hearing due to specific misrepresentations by the school district or other public agency that it had resolved the problem forming the basis of the complaint or due to the school district's or other public agency's withholding of information from the parent or person in parental relation that was required under federal law to be provided. Nothing in this subdivision shall be construed to authorize the board of education or trustees to bring an impartial hearing to override the refusal of a parent or person in parental relation to consent where a local educational agency is prohibited by federal law from initiating such a hearing.

b. If a resolution session resolves the complaint, the parties shall execute a legally binding agreement that is signed by both the parent or person in parental relation and a representative of the school district or public agency who has the authority to bind such district or agency and shall be enforceable in any state court of competent jurisdiction or a United States district court. A party may void such agreement within three business days of the agreement's execution.

c. Individuals so appointed by a board of education or a state agency shall be selected from a list of available impartial hearing officers who have successfully completed an impartial hearing officer training program conducted by the department according to a rotation selection process prescribed in regulations of the commissioner; except that a city school district of a city having a population of more than one million inhabitants shall be exempt from such regulations to the extent it maintains its rotational selection process in effect prior to July first, nineteen hundred ninety-three. A record of proceedings before the impartial hearing officer shall be maintained and made available to the

parties, and the hearing shall be conducted in accordance with the regulations of the commissioner. The board of education or trustees of the school district or the state agency responsible for providing education to students with disabilities shall have the burden of proof, including the burden of persuasion and burden of production, in any such impartial hearing, except that a parent or person in parental relation seeking tuition reimbursement for a unilateral parental placement shall have the burden of persuasion and burden of production on the appropriateness of such placement. The decision of the impartial hearing officer shall be binding upon both parties unless appealed to the state review officer. The commissioner shall establish a department training program which shall be completed to the satisfaction of the commissioner as a condition of certification. Impartial hearing officers shall have the qualifications specified in subsection (f) of section fourteen hundred fifteen of title twenty of the United States code, the implementing federal regulations and the regulations of the commissioner. The commissioner shall promulgate regulations to ensure that no individual employed by a school district, school or program serving students with disabilities placed by a school district committee on special education acts as an impartial hearing officer and that no individual employed by such schools or programs serves as an impartial hearing officer for two years following the termination of such employment. The commissioner shall promulgate regulations establishing procedures for the suspension or revocation of impartial hearing officer certification for good cause. The commissioner shall establish maximum rates for the compensation of impartial hearing officers subject to the approval of the director of the division of the budget.

d. The commissioner shall promulgate regulations establishing procedures and timelines for expedited hearings in cases involving: (1) review of a decision that a student with a disability's behavior was not a manifestation of such student's disability, or (2) review of an interim alternative educational setting or other placement to the extent required under federal law, or (3) a request by the school district for a determination that maintaining the current educational placement of the student is substantially likely to result in injury to the student or to others.

* NB Effective until June 30, 2027

* 1. If the recommendation of the committee on special education is not acceptable to the parent or person in parental relationship of a student, or if the committee or board of education or trustees fails to make or effectuate such a recommendation within such periods of time as may be required by regulations of the commissioner, such parents or persons in parental relationship shall notify the board of education of this situation and the board shall appoint an impartial hearing officer to hear the appeal and make a determination within such period of time as the commissioner by regulation shall determine, provided that the board of education or trustees shall offer the parent or person in parental relationship the option of mediation pursuant to section forty-four hundred four-a of this article as an alternative to an impartial hearing. Individuals so appointed by a board of education shall be selected from a list of available hearing officers who have successfully completed a hearing officer training program conducted by the department according to a rotation selection process prescribed in regulations of the commissioner; except that a city school district of a city having a population of more than one million inhabitants shall be exempt from such regulations to the extent it maintains its rotational selection process in effect prior to July first, nineteen hundred ninety-three. A record of proceedings before the hearing officer shall be maintained and made available to the parties. The board of education or trustees of the school district or the state agency responsible for providing education to students with disabilities shall have the burden of proof, including the burden of persuasion and burden of production, in any such impartial hearing, except that a parent or person in parental relation seeking tuition reimbursement for a unilateral parental placement shall have the burden of persuasion and burden of production on the appropriateness of such placement. The decision of the hearing officer shall be binding upon both parties unless appealed to the state review officer. The commissioner shall establish a department training program which shall be completed to the satisfaction of the commissioner as a condition of certification. The commissioner shall develop and implement a plan to ensure that no individual employed by a school district, school or program serving students with disabilities placed by a school district committee on special education acts as an

impartial hearing officer and that no individual employed by such schools or programs serves as an impartial hearing officer for two years following the termination of such employment. Such plan shall be fully implemented no later than July first, nineteen hundred ninety-six. The commissioner shall promulgate regulations establishing procedures for the suspension or revocation of impartial hearing officer certification for good cause. The commissioner shall establish maximum rates for the compensation of impartial hearing officers subject to the approval of the director of the division of the budget. The commissioner shall promulgate regulations establishing procedures and timelines for expedited hearings in cases involving: (a) review of a decision that a student with a disability's behavior was not a manifestation of such student's disability, or (b) review of an interim alternative educational setting or other placement to the extent required under federal law, or (c) a request by the school district for a determination that maintaining the current educational placement of the student is substantially likely to result in injury to the student or to others.

* NB Effective June 30, 2027

1-a. If the parent or person in parental relation of a student files a due process complaint notice seeking an impartial due process hearing with respect to the evaluation, educational placement, provision of a free appropriate public education to the student or in accordance with section thirty-six hundred two-c of this chapter and an impartial hearing officer is not appointed within one hundred ninety-six days after filing such due process complaint notice with the local school district, in accordance with regulations promulgated pursuant to this section by the commissioner, an impartial hearing officer may then be immediately appointed to issue an order based upon a proposed order of relief submitted by the parent or person in parental relation of the student identifying appropriate and individualized programs and services for the student. School districts subject to this subdivision shall annually report, on a form prescribed by the commissioner, on the number of complaints that seek this relief, the relief sought, and the resolution of such complaints to the governor, the commissioner, the temporary president of the senate, the speaker of the assembly, the chair of the senate education committee, the chair of the senate city of

New York education committee and the chair of the assembly education committee.

2. Review by state review officer. A state review officer of the education department shall review and may modify, in such cases and to the extent that the review officer deems necessary, in order to properly effectuate the purposes of this article, any determination of the impartial hearing officer relating to the determination of the nature of a child's disability, selection of an appropriate special education program or service and the failure to provide such program and require such board to comply with the provisions of such modification. The commissioner shall adopt regulations governing the practice and procedure in such appeals to the state review officer; provided, however, that in no event shall any fee or charge whatsoever be imposed for any appeal taken pursuant to this subdivision. The state review officer is empowered to make all orders which are proper or necessary to give effect to the decision of the review officer.

3. Review of the determination of a state review officer regarding children with disabilities.

* a. Any final determination or order of a state review officer rendered pursuant to subdivision two of this section may only be reviewed in a proceeding brought in the supreme court pursuant to article four of the civil practice law and rules, and paragraph b of this subdivision, or in United States district court. Any such proceeding shall be commenced within four months after the determination to be reviewed becomes final and binding on the parties.

* NB Effective until June 30, 2027

* a. Any final determination or order of a state review officer rendered pursuant to subdivision two of this section may only be reviewed in a proceeding brought in the supreme court pursuant to article four of the civil practice law and rules, and paragraph b of this subdivision, or in United States district court.

* NB Effective June 30, 2027

* b. In any such proceeding under article four of the civil practice law and rules, the court may grant any relief authorized by the provisions of rule four hundred eleven of such law and rules, which

shall include any relief available in a civil action under section six hundred fifteen of the individuals with disabilities education act (20 U.S.C. section 1415) and also may, in its discretion remand the proceedings to the state review officer for further consideration upon a finding that any relevant and material evidence is then available which was not previously considered by the state review officer. Such proceeding shall be deemed a proceeding against a body or officer for purposes of section five hundred six of the civil practice law and rules. The court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant the relief that the court determines to be appropriate.

* NB Effective until June 30, 2027

* b. In any such proceeding under article four of the civil practice law and rules, the court may grant any relief authorized by the provisions of rule four hundred eleven of such law and rules, which shall include any relief available in a civil action under section six hundred fifteen of the individuals with disabilities education act (20 U.S.C. section 1415) and also may, in its discretion remand the proceedings to the state review officer for further consideration upon a finding that any relevant and material evidence is then available which was not previously considered by the state review officer. Such proceeding shall be deemed a proceeding against a body or officer for purposes of sections two hundred seventeen and five hundred six of the civil practice law and rules. The court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant the relief that the court determines to be appropriate.

* NB Effective June 30, 2027

4. a. During the pendency of any proceedings conducted pursuant to this section, other than a proceeding subject to paragraph b of this subdivision, and during the initial identification, evaluation and placement procedure pursuant to this section and during the initial identification, evaluation and placement procedure pursuant to section forty-four hundred two of this article, unless the local school district

and the parents or persons in parental relationship otherwise agree, the student shall remain in the then current educational placement of such student, or, if applying for initial admission to a public school, shall be placed in the public school program until all such proceedings have been completed.

* b. For students with disabilities placed in an interim alternative educational setting pursuant to clause (iv) or (vii) of subparagraph three of paragraph g of subdivision three of section thirty-two hundred fourteen of this chapter, during the pendency of proceedings conducted pursuant to this section in which the parents or persons in parental relation challenge the interim alternative educational setting or a manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the impartial hearing officer or until expiration of the time period of the student's placement in an interim alternative educational setting, whichever comes first, unless the local school district and the parents or persons in parental relation otherwise agree. After the expiration of such placement in an interim alternative educational setting, if the school district proposes to change the student's placement, during the pendency of any proceedings to challenge the proposed change in placement, the student shall return to and remain in the current educational placement, which shall be the student's placement prior to the interim alternative educational setting, unless the local school district and the parents or persons in parental relation otherwise agree or unless as a result of a decision by an impartial hearing officer in an expedited hearing, the interim alternative educational setting is extended for a period not to exceed forty-five school days based on a determination that maintaining the current educational placement of the student is substantially likely to result in injury to the student or to others. Such procedure for extension of an interim alternative educational setting may be repeated as necessary.

* NB Effective until June 30, 2027

* b. For students with disabilities placed in an interim alternative educational setting pursuant to clause (iv) or (vii) of subparagraph three of paragraph g of subdivision three of section thirty-two hundred fourteen of this chapter, during the pendency of proceedings conducted pursuant to this section in which the parents or persons in parental

relationship challenge the interim alternative educational setting or a manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until expiration of the time period of the student's interim alternative placement, whichever comes first, unless the local school district and the parents or persons in parental relationship otherwise agree. After the expiration of such interim alternative educational placement, if the school district proposes to change the student's placement, during the pendency of any proceedings to challenge the proposed change in placement, the student shall return to and remain in the current educational placement, which shall be the student's placement prior to the interim alternative educational setting, unless the local school district and the parents or persons in parental relationship otherwise agree or unless as a result of a decision by an impartial hearing officer in an expedited hearing, the interim alternative educational setting is extended or another appropriate placement is ordered for a period not to exceed forty-five days based on a determination that maintaining the current educational placement of the student is substantially likely to result in injury to the student or to others. Such procedure for extension of an interim alternative educational setting may be repeated as necessary.

* NB Effective June 30, 2027

5. For purposes of this section, to the extent required by federal law, a student presumed to have a disability for discipline purposes shall be deemed to be a student with a disability and the parents or persons in parental relationship of a student presumed to have a disability for discipline purposes shall be afforded the procedural rights of the parents or persons in parental relationship of a student with a disability. Nothing in this section shall be construed to confer upon a student presumed to have a disability for disciplinary purposes greater procedural rights than such student would have under the provisions of section six hundred fifteen of the individuals with disabilities education act.

§ 4404-a. Mediation program for students with disabilities. * 1. The

commissioner, in consultation with the office of court administration, shall establish a special education mediation program. For all school districts and state agencies responsible for the provision of special education, mediation of disputes regarding the provision of a free, appropriate public education, including matters arising prior to the filing of a complaint pursuant to subdivision one of section forty-four hundred four of this article, shall be conducted by mediators furnished by a community dispute resolution center under article twenty-one-A of the judiciary law.

* NB Effective until June 30, 2027

* 1. The commissioner, in consultation with the office of court administration, shall establish a special education mediation program. In all school districts, mediation of disputes regarding the provision of a free, appropriate public education shall be conducted by mediators furnished by a community dispute resolution center under article twenty-one-A of the judiciary law.

* NB Effective June 30, 2027

2. The board of education or trustees of each school district shall inform parents or persons in parental relationship of students with disabilities of the availability of the mediation program to resolve complaints regarding the education of a student with a disability at the same time notice of the availability of the impartial hearing procedures is provided to such parents or persons in parental relationship.

3. Notwithstanding any other provision of law to the contrary, the commissioner, in consultation with the office of court administration, shall assure that a list of qualified mediators who are knowledgeable in the laws and regulations relating to the provision of special education and related services is maintained. For purposes of this section, if not selected through a rotational selection process, mediators shall be selected by mutual agreement of both parties to the mediation.

* 4. A school district may establish procedures to offer parents or persons in parental relation and schools that elect not to use the mediation process the opportunity to meet, at a time and place convenient to such parents or persons in parental relation, with a disinterested party who is under contract with a community dispute

resolution center, to encourage the use of the mediation process by such parents and explain its benefits.

* NB Effective until June 30, 2027

* 4. A school district may establish procedures to require parents or persons in parental relationship who elect not to use the mediation process to meet, at a time and place convenient to such parents or persons in parental relationship, with a disinterested party who is under contract with a community dispute resolution center, to encourage the use of the mediation process by such parents and explain its benefits.

* NB Effective June 30, 2027

* 5. Each session in the mediation process shall be scheduled in a timely manner, and shall be held in a location that is convenient to the parties to the dispute. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. Such agreement shall be a legally binding agreement that sets forth the resolution of the dispute and: (i) states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil action or proceeding; (ii) is signed by both the parent or person in parental relation and a representative of the school district or agency who has the authority to bind such school district or agency; and (iii) is enforceable in any state court of competent jurisdiction or in a United States district court. The committee on special education or committee on preschool special education shall immediately amend the student's individualized education program to be consistent with such mediation agreement. Discussions that occur in the mediation process shall be confidential, and may not be used as evidence in any subsequent proceedings pursuant to section forty-four hundred four of this article or in any subsequent civil actions or proceedings.

* NB Effective until June 30, 2027

* 5. Each session in the mediation process shall be scheduled in a timely manner, and shall be held in a location that is convenient to the parties to the dispute. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. The committee on special education or committee on

preschool special education shall immediately amend the student's individualized education program to be consistent with such mediation agreement. Discussions that occur in the mediation process shall be confidential, and may not be used as evidence in any subsequent proceedings pursuant to section forty-four hundred four of this article or in any subsequent civil actions or proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

* NB Effective June 30, 2027

6. The provisions of this section shall not operate to diminish, deny, delay, or limit any rights provided for by this article or any other provisions of law, including the right of a parent or person in parental relationship to request an impartial hearing.

7. Nothing in this section shall be construed to limit a parent or person in parental relationship from requesting an impartial hearing, pursuant to the provisions of section forty-four hundred four of this article without utilizing the procedures set forth in this section. No such person shall be deemed to have failed to exhaust administrative remedies by requesting such an impartial hearing in the absence of or prior to mediation, as provided for by this section.

§ 4405. Computing financial responsibility for special educational services for certain children with disabilities. 1. Maintenance for children with disabilities in residential schools under the provisions of this article or state schools under the provisions of articles eighty-seven and eighty-eight of this chapter.

a. Maintenance for a student with a disability placed in a residential school under the provisions of this article shall be a charge upon the social services district wherein such child resides at the time of the commencement of the school year for which aid is to be paid. Financial responsibility for the maintenance of a student with a disability placed in a state school under the provisions of articles eighty-seven and eighty-eight of this chapter shall be in accordance with the provisions

of such articles.

c. Expenditures made by a social services district for the maintenance of a child with a disability placed in a residential school under the provisions of this article, including a child with a disability placed by a school district committee on special education pursuant to this article in a special act school district, or a state school subject to the provisions of articles eighty-seven and eighty-eight of this chapter, shall be subject to reimbursement by the child's school district of residence pursuant to the provisions of subdivision ten of section one hundred fifty-three of the social services law. The amount of such reimbursement shall be a charge upon such school district of residence.

2. Transportation expense. The transportation expense of each child with a disability shall be aidable in accordance with subdivision seven of section thirty-six hundred two of this chapter; provided, however, that for the school year commencing July first, nineteen hundred seventy-six, school districts shall be apportioned ninety per centum of the estimated amount of its approved costs of such year for the transportation of children with disabilities whose transportation was formerly provided under a family court order and is now a charge upon the school district, subject to the adjustment of any errors after the actual costs are ascertained.

3. Computing state financial responsibility for operating expenses for certain children with disabilities.

a. In addition to any other apportionments under the provisions of this chapter, there shall be apportioned to each applicable school district for each child with a disability in attendance in a state school under the provisions of paragraph d of subdivision two of section forty-four hundred one of this article or an approved program under the provisions of paragraphs e, f, g, h, i and l of such subdivision two, the product of such attendance, computed in accordance with regulations of the commissioner, and the excess cost aid: an amount computed by multiplying the excess cost, as defined in subdivision six of section

forty-four hundred one of this article by the excess cost aid ratio defined in subdivision seven of this section.

b. In addition to the apportionment provided to a school district pursuant to paragraph a of this subdivision for the attendance of a child with a disability in a state school under the provisions of paragraph d of subdivision two of section forty-four hundred one of this article, for each such child in attendance in such school prior to July first, nineteen hundred ninety, there shall be apportioned an additional amount. Such amount shall equal the product of the taper aidable cost multiplied by the taper aid ratio. The taper aidable cost shall equal the positive remainder resulting when (i) the apportionment attributable to such child pursuant to paragraph a of this subdivision is subtracted from (ii) the product of such child's attendance and the tuition for the state school such child attends. The taper aid ratio shall equal the quotient, computed to three decimals without rounding, resulting when the positive remainder of one minus the combined wealth ratio, as defined in subdivision three of section thirty-six hundred two of this chapter is divided by seventy-five one-hundredths. Such aid ratio shall not be less than zero nor more than one.

c. The apportionments to each school district pursuant to this subdivision shall be based on excess cost paid and attendance during the base year.

d. Notwithstanding sections thirty-six hundred seven and thirty-six hundred nine-a of this chapter, apportionments pursuant to this subdivision shall be paid to school districts upon submission of reports of attendance and approved tuition expenditures filed in a format prescribed by the commissioner and shall be paid from the annual apportionment of public moneys for the support of public schools in accordance with section thirty-six hundred nine-b of this chapter.

4. a. The commissioner of education and the commissioner of social services shall develop reimbursement methodologies for the tuition and maintenance components of approved private schools and special act school districts. The commissioner of education, in consultation with

the appropriate state agencies and departments, shall have responsibility for developing a reimbursement methodology for tuition which shall be based upon appropriate educational standards promulgated pursuant to regulations of the commissioner of education. The commissioner of social services, in consultation with appropriate state agencies and departments, shall have responsibility for developing a reimbursement methodology for maintenance, pursuant to section three hundred ninety-eight-a of the social services law and the regulations promulgated thereunder.

b. The commissioner of education shall develop reimbursement methodologies for the tuition components and, in consultation with the commissioner of social services, the maintenance components of the New York state school for the blind and the New York state school for the deaf based upon appropriate standards promulgated pursuant to regulations of the commissioner of education.

c. The director of the budget, in consultation with the commissioner of education, the commissioner of social services, and any other state agency or other source the director may deem appropriate, shall approve reimbursement methodologies for tuition and for maintenance. Any modification in the approved reimbursement methodologies shall be subject to the approval of the director of the budget. Notwithstanding any other provision of law, rule or regulation to the contrary, tuition rates established for the nineteen hundred ninety-five--ninety-six school year shall exclude the two percent cost of living adjustment authorized in rates established for the nineteen hundred ninety-four--ninety-five school year.

d. Effective upon final approval by the director of the budget of the reimbursement methodologies for both tuition and maintenance, the commissioner of education shall annually determine a tuition rate in conformance with this paragraph for each private school and special act school district.

e. Effective upon final approval by the director of the budget of the reimbursement methodologies for both tuition and maintenance, the

commissioner of social services shall annually determine a maintenance rate and a medical services rate, in accordance with this paragraph, for each private school and special act school district where applicable.

f. Effective upon final approval by the director of the budget of the reimbursement methodologies for both tuition and maintenance, the commissioner of education shall annually determine a tuition rate and, in consultation with the commissioner of social services, a maintenance rate and a medical services rate, if applicable, in conformance with this subdivision for the New York state school for the blind and the New York state school for the deaf.

g. All reimbursement rates determined pursuant to this subdivision shall be effective for the period July first through June thirtieth. Rates for the following year shall be submitted no later than April fifteenth to the director of the budget. The director shall act upon such rates within forty-five days of submission. Such rates shall not become effective until approved by the director of the budget. In the event that the rates are approved after July first, then such rates shall be deemed to apply retroactively to such date.

h. All reimbursements shall be subject to adjustment and final determination upon field audit conducted by the education department, the department of social services, the state comptroller or any agent thereof.

i. The commissioner of education, the commissioner of social services and the director of the budget, in consultation with other appropriate state agencies and departments, shall enter into an interagency agreement to assure effective implementation of the provisions of this paragraph. The agreement shall provide for, but not be limited to, the development of common accounting practices and audit procedures, common information and budget forms, coordinated financial and other reporting requirements for private schools and special act school districts, mechanisms for resolving appeals of rates established pursuant to this section, and mechanisms to evaluate and recommend modification to reimbursement methodologies.

j. (i) If the board of education of a special act school district listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended, seeks to close a special act school district, the board of education of the special act school district shall provide written notice to the commissioner with a plan for closure of the school at least ninety days prior to the closing date. Such plan shall include provision for the safe and orderly transfer of each student with a disability who was publicly placed in the program and a detailed and itemized list of estimated expenses necessary to close down the school and a detailed and itemized list of any estimated revenues to be received.

(ii) During the close-down period and until all necessary financial obligations of the school district have been met pursuant to this paragraph, the commissioner shall require the board of education of the school district to periodically submit, as required by the commissioner, financial reports and financial statements, detailing any tuition, and/or close-down costs and any revenues generated. In applying the reimbursement methodology to any remaining tuition costs and any other reasonable and appropriate expenses needed to close-down the special act school district, the commissioner shall reject any close-down costs that are unnecessary or unreasonable to close-down the school, whether or not the board of education submits a close-down plan.

k. (i) The tuition methodology established pursuant to this subdivision for the two thousand twenty-one--two thousand twenty-two school year shall authorize approved private residential or non-residential schools for the education of students with disabilities that are located within the state, and special act school districts to retain funds in excess of their allowable and reimbursable costs incurred for services and programs provided to school-age students. The amount of funds that may be annually retained shall not exceed one percent of the school's or school district's total allowable and reimbursable costs for services and programs provided to school-age students for the school year from which the funds are to be retained; provided that the total accumulated balance that may be retained shall not exceed four percent of such total costs for such school year; and

provided further that such funds shall not be recoverable on reconciliation of tuition rates, and shall be separate from and in addition to any other authorization to retain surplus funds on reconciliation.

(ii) The tuition methodology established pursuant to this subdivision for the two thousand twenty-two--two thousand twenty-three school year and annually thereafter shall authorize approved providers to retain funds in excess of their allowable and reimbursable costs incurred for services and programs provided to school-age and preschool students. The amount of funds that may be annually retained shall not exceed the allowable surplus percentage of the approved provider's total allowable and reimbursable costs for services and programs provided to school-age and preschool students for the school year from which the funds are to be retained, as defined in subparagraph (iii) of this paragraph; provided that such funds shall not be recoverable on reconciliation of tuition rates and provided further that any interest earned or investments realized on such funds shall supplement and not supplant any funds provided by the tuition methodology once retained. For purposes of this subparagraph, "approved providers" shall mean private residential or non-residential schools for the education of students with disabilities that are located within the state, special act school districts, and programs approved pursuant to section forty-four hundred ten of this article that are subject to tuition rate reconciliation.

(iii) The approved surplus percentage shall be as follows: eleven percent for the two thousand twenty-two--two thousand twenty-three through two thousand twenty-four--two thousand twenty-five school years, eight percent for the two thousand twenty-five--two thousand twenty-six school year, five percent for the two thousand twenty-six--two thousand twenty-seven school year, and two percent for the two thousand twenty-seven--two thousand twenty-eight school year and annually thereafter.

(iv) Funds authorized to be retained under this paragraph may be expended only pursuant to an authorization of the governing board of the school, school district or program approved pursuant to section forty-four hundred ten of this article, for a purpose expressly authorized as part of the approved tuition methodology for the year in which the funds are to be expended, provided that funds may be expended

to pay prior year outstanding debts. Any school, school district, or program approved pursuant to section forty-four hundred ten of this article that retains funds pursuant to this paragraph shall be required to annually report a statement of the total balance of any such retained funds, the amount, if any, retained in the prior school year, the amount, if any, dispersed in the prior school year, and any additional information requested by the department as part of the financial reports that are required to be annually submitted to the department.

5. The commissioner shall annually determine the tuition rate and the commissioner of social services shall annually determine the maintenance rate for special services or programs provided during the months of July and August for children with disabilities entitled to attend public schools without the payment of tuition pursuant to section thirty-two hundred two of this chapter. The commissioner of education shall annually determine the tuition rate, maintenance rate and the medical services rate, if applicable, for such children attending the New York state school for the blind or the New York state school for the deaf during the months of July and August. Such rates shall be determined in conformance with the reimbursement methodologies established pursuant to subdivision four of this section and shall be subject to the approval of the division of the budget. Rates shall be determined for all special services or programs as defined in section forty-four hundred one of this chapter and offered during July and August.

6. Tuition and maintenance rates established pursuant to this section, once certified by the director of the budget, shall be used in all contracts for the provision of programs and services for which such rates were established, provided, however, that the commissioner shall prorate the amount to be paid for an individual pupil enrolled for a period of time which is less than the full period of time approved for such program or services.

§ 4406. Procedures through the family court; cost of certain educational services. 1. When the family court pursuant to section two hundred thirty-six of the family court act shall issue an order to

provide for educational services, including transportation, tuition or maintenance of such children with disabilities, the commissioner, if he approves such order, shall issue a certificate to such effect in duplicate, one of which shall be filed with the clerk of the board of supervisors or other governing elective body of the county or chief fiscal officer of the city of New York and one in the office of the commissioner. Refusal of the commissioner to approve such order may be reviewed only in accordance with the provisions of article seventy-eight of the civil practice law and rules.

2. One-half of the cost of providing such services, as provided in subdivision one of this section, as certified by the commissioner, is hereby made a charge against the county or the city of New York in which any such child with disabilities resides, and the remaining one-half of the cost thereof shall be paid by the state out of moneys appropriated therefor. All claims for services rendered and for supplies furnished and for other expenses incurred in providing such services, shall be paid in the first instance by the board of supervisors or other governing elective body of the county or chief fiscal officer of the city of New York in which such child with disabilities resides, upon vouchers presented and audited in the same manner as in the case of other claims against the county or the city of New York.

3. The legislature shall appropriate an amount sufficient to pay one-half of the claims paid by a county or the city of New York for the purposes and in the manner herein specified. The clerk of the board of supervisors or other governing elective body of each county or chief fiscal officer of the city of New York which has paid claims as provided herein shall, not more than once in each month, transmit to the commissioner of education a certified statement in the form prescribed by him, stating the amount expended for the purposes specified herein, the date of each expenditure, and the purpose for which it was made. Upon the receipt of such certified statement the commissioner of education shall examine the same, and if such expenditures were made as required by law he shall approve it and transmit it to the comptroller for audit. The comptroller shall thereupon issue his warrant in the amount specified in such approved statement for the payment thereof out

of moneys appropriated therefor to the county treasurer of the county or chief fiscal officer of the city of New York by which such payments were made.

4. The commissioner is hereby authorized after consultation with an advisory task force to be appointed by the commissioner, appropriately representative of consumers and providers of such services, to establish program and expenditure guidelines and standards for the provision of special services or programs as defined in section forty-four hundred one of this article for children with disabilities who are under the age of five and are not entitled to attend public schools without the payment of tuition pursuant to section thirty-two hundred two of this chapter.

5. a. Each county and the city of New York may perform a fiscal audit of such services or programs within their respective county or city ordered by the family court pursuant to section two hundred thirty-six of the family court act for preschool age children with disabilities.

b. Payments made pursuant to this section by the county or the city of New York shall, upon the conclusion of the July first to June thirtieth school year for which such payment was made, be subject to audit against the actual difference between such audited expenditures and revenues. Any overpayments made shall be refunded to such county or city or such county or city shall withhold the amount of such overpayment from any other payments due to the claimant and shall report such overpayments to the commissioner.

6. Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on or after July first, two thousand based on a claim for services rendered, provided however, that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment issued on or after July first, two thousand or a final audit.

§ 4407. Special provisions relating to instruction of certain children

with disabilities. 1. When it shall appear to the satisfaction of the department that a child with a disability is not receiving instruction because there are no appropriate public or private facilities for instruction of such a child within this state because of the unusual type of the disability or combination of disabilities as certified by the commissioner, the school district of which each such pupil is a resident is authorized to contract with an educational facility located outside the state, which, in the judgment of the department, can meet the needs of such child for instruction. Contracts, rates, payments and reimbursements pursuant to this section shall be in accordance with section forty-four hundred five of this article.

2. The state education department shall maintain a register of such educational facilities which are outside of the state which, after inspection, it deems qualified to meet the needs of certain children for instruction pursuant to subdivision one of this section.

3. Notwithstanding the location of the educational facility, if a child meets the eligibility requirements of subdivision one of this section and has, prior to July first, nineteen hundred seventy-six received support under this section of law by attending an educational facility within the state, such child shall be allowed to continue such attendance. The provisions of subdivision one of this section shall apply to such child as though such child was in attendance at an out-of-state educational facility.

4. The school district of which such a child is a resident at the time of admission to such an educational facility shall be required to reimburse the state on account of any expenditure made by the state for such child pursuant to subdivision one or three of this section. For the school year commencing July first, nineteen hundred seventy-seven and continuing through the nineteen hundred eighty-eight -- eighty-nine school year, such reimbursement shall be an amount equal to the school district basic contribution defined in subdivision eight of section forty-four hundred one of this article. After the close of the school year for which such reimbursement is due, the comptroller may deduct from any state funds which become due to a school district an amount

equal to the reimbursement required to be made by such school district in accordance with this subdivision, and the amount so deducted shall not be included in the operating expense of such district for the purposes of computing the apportionment for operating expense pursuant to subdivision eleven of section thirty-six hundred two of this chapter.

5. The commissioner shall prescribe the form for the contracts between the school districts and the educational facilities which contracts shall include a unified statewide payment schedule. For the nineteen hundred eighty-nine--ninety school year, such contracts shall be deemed to be in effect as of July first, nineteen hundred eighty-nine.

§ 4408. Payment for July and August programs for students with disabilities. 1. State aid. The commissioner shall make payments for approved July and August programs for students with disabilities in accordance with this section in an amount equal to eighty percent of the sum of the approved tuition and maintenance rates and the transportation expense for the current year enrollment of students with disabilities ages five through twenty-one or students eligible for services during July and August pursuant to article eighty-five, eighty-seven or eighty-eight of this chapter, where such costs are determined pursuant to section forty-four hundred five of this article, provided that the placement of such students was approved by the commissioner, if required. Such programs shall operate for six weeks and shall be funded for thirty days of service, provided, however, that the observance of the legal holiday for Independence day may constitute a day of service. Upon certification by the school district in which the student resides, that such services were provided, such payment shall be made to the provider of such services, in accordance with the provisions of subdivision three of this section.

2. Chargeback to a municipality. Ten percent of the approved cost of July and August services provided pursuant to this section for each student shall be a charge against the municipality in which the parent, or person in parental relationship to such student, resided on July first of the school year in which such services were provided. The

comptroller shall deduct from any state funds which become due to a municipality an amount equal to such ten percent required in accordance with this subdivision which amount shall be credited to the local assistance account of the state education department as designated by the division of the budget.

3. Payment schedule. For aid payable in the two thousand six--two thousand seven school year, moneys appropriated annually to the department from the general fund - local assistance account under the office of prekindergarten through grade twelve education program for July and August programs for students with disabilities, shall be used as follows: (i) for remaining base year and prior school years obligations, (ii) for the purposes of subdivision four of this section for schools operated under articles eighty-seven and eighty-eight of this chapter, and (iii) notwithstanding any inconsistent provisions of this chapter, for payments made pursuant to this section for current school year obligations, provided, however, that such payments shall not exceed seventy percent of the state aid due for the sum of the approved tuition and maintenance rates and transportation expense provided for herein; provided, however, that payment of eligible claims shall be payable in the order that such claims have been approved for payment by the commissioner, but in no case shall a single payee draw down more than forty-five percent of the appropriation provided for the purposes of this section, and provided further that no claim shall be set aside for insufficiency of funds to make a complete payment, but shall be eligible for a partial payment in one year and shall retain its priority date status for appropriations provided for this section in future years.

4. Of the amount so appropriated to the department for the July and August programs for schools operated under articles eighty-seven and eighty-eight of this chapter, an amount shall be transferred to the special revenue funds - other, Batavia school for the blind and Rome school for the deaf accounts, pursuant to a plan to be developed by the commissioner and approved by the director of the budget for students with disabilities attending July and August programs pursuant to this section at such schools pursuant to such articles. Such amount shall be

determined by the tuition and maintenance rates and the total number of students with disabilities approved by the commissioner for placement for the July and August program. The commissioner shall establish the methodology for computation of such tuition and maintenance rates for each school which shall take into account all pertinent expenditures including administration, direct care staff, nondirect care staff and other than personal service costs.

5. State share. In accordance with the provisions of subparagraph four of paragraph b of subdivision one of section thirty-six hundred nine-a of this chapter for services provided during the two thousand eight--two thousand nine and prior school years, any moneys due the school district shall be reduced by an amount equal to fifty percent of any federal participation, pursuant to title XIX of the social security act, in special education programs provided pursuant to this section. For services provided during the two thousand nine--two thousand ten school year and thereafter, or for services provided in a prior school year that were not reimbursed by the state on or before April first, two thousand eleven, such state share shall be designated and transferred pursuant to section thirty-six hundred nine-b of this chapter.

6. Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on or after July first, nineteen hundred ninety-six based on a claim submitted later than three years after the end of the school year in which services were rendered, provided however that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment or a final audit.

§ 4410. Special education services and programs for preschool children with disabilities. 1. Definitions. As used in this section:

a. "Approved evaluator" means either:

(1) a program approved by the commissioner pursuant to paragraph b of subdivision nine of this section; or

(2) a school district or group of appropriately licensed and/or

certified professionals associated with a public or private agency approved by the commissioner pursuant to subdivision nine-a of this section.

b. "Approved program" means a program approved by the commissioner pursuant to paragraph a of subdivision nine of this section.

c. "Board" means:

(i) a board of education as defined in section two of this chapter; or

(ii) trustees of a common school district as defined in section sixteen hundred one of this chapter.

d. "City or county official" means the chief executive officer, or, in any county which does not have a chief executive officer, the county governing body, or the mayor of the city of New York.

e. "Committee" means committee on preschool special education.

f. "First eligible for services" means the earliest date on which a child becomes age-eligible for services pursuant to this section, and as defined in regulations of the commissioner in accordance with applicable federal law and regulations, except that a child who is already receiving services under section two hundred thirty-six of the family court act or its successor may, if the parent so chooses, continue to be eligible to receive such services through August thirty-first of the calendar year in which the child first becomes age-eligible to receive services pursuant to this section.

g. "Municipality" means a county outside the city of New York or the city of New York in the case of a county contained within the city of New York.

h. "Parent" means parent or person in parental relation.

i. "Preschool child" means a child with a disability as defined in section forty-four hundred one of this article who is first eligible for services as defined in paragraph f of this subdivision but who will not

have become five years of age on or before December first of the school year, or a later date if a board establishes such later date for eligibility to attend school. A child shall be deemed a preschool child through the month of August of the school year in which the child first becomes eligible to attend school pursuant to section thirty-two hundred two of this chapter.

j. "Related services" means those services as defined in paragraph k of subdivision two of section forty-four hundred one of this article provided to a preschool child at a site determined by the board, including but not limited to an approved or licensed prekindergarten or head start program; the work site of the provider; the child's home; a hospital; a state facility; or a child care location as defined in paragraph a of subdivision eight of this section. If the board determines that documented medical or special needs of the preschool child indicate that the child should not be transported to another site, the child shall be entitled to receive related services in the preschool child's home.

k. "Special education itinerant services" means an approved program provided by a certified special education teacher on an itinerant basis in accordance with the regulations of the commissioner, at a site determined by the board, including but not limited to an approved or licensed prekindergarten or head start program; the child's home; a hospital; a state facility; or a child care location as defined in paragraph a of subdivision eight of this section. If the board determines that documented medical or special needs of the preschool child indicate that the child should not be transported to another site, the child shall be entitled to receive special education itinerant services in the preschool child's home.

2. Provision of services. The board of each school district shall be responsible for the provision of special education services and programs to preschool children in accordance with the provisions of subdivision two of section four thousand four hundred one of this article, except as otherwise limited by regulations of the commissioner; provided, however, that prior to July first, nineteen hundred ninety-one, a board shall be

responsible for the provision of special education services and programs to a preschool child only to the extent that there is an approved program available for such preschool children.

3. Committee on preschool special education. a. Each such board shall establish one or more committees to conduct meetings to develop, review and revise the individualized education program of a preschool child with a disability.

* (1) Such board shall ensure that such committee is composed of at least the following members: (i) the parents of the preschool child; (ii) a regular education teacher of such child, whenever the child is or may be participating in a regular education environment; (iii) a special education teacher of the child or, if appropriate, a special education provider of the child; (iv) an appropriate professional employed by the school district who is qualified to provide, or supervise the provision of, special education, who is knowledgeable about the general curriculum of the school district and the availability of preschool special education programs and services and other resources in the school district and the municipality, and who shall serve as chairperson of the committee; (v) an additional parent of a child with a disability who resides in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program, provided that such parent shall not be employed by or under contract with the school district or municipality, and provided further that such additional parent shall not be a required member unless the parents, or a member of the committee on preschool special education, request that such additional parent member participate in accordance with this subparagraph; (vi) an individual who can interpret the instructional implications of evaluation results, provided that such individual may be the member appointed pursuant to clause (ii), (iii), (iv) or (vii) of this subparagraph where such individuals are determined by the school district to have the knowledge and expertise to do so; (vii) such other persons having knowledge or expertise regarding the child as the board or the parents shall designate, to the extent required under federal law; and for a child in transition from programs and services provided pursuant to applicable federal laws relating to early intervention services, at the request of the parent or person in

parental relation to the child, the appropriate professional designated by the agency that has been charged with the responsibility for the preschool child pursuant to said applicable federal laws. In addition, the chief executive officer of the municipality of the preschool child's residence shall appoint an appropriately certified or licensed professional to the committee. Attendance of the appointee of the municipality shall not be required for a quorum. The additional parent need not be in attendance at any meeting of the committee on preschool special education unless specifically requested in writing, at least seventy-two hours prior to such meeting, by the parents or other person in parental relation to the student in question or a member of the committee on preschool special education. The parents or persons in parental relation of the student in question shall receive proper written notice of their right to have an additional parent attend any meeting of the committee regarding the student along with a statement, prepared by the department, explaining the role of having the additional parent attend the meeting.

* NB Effective until June 30, 2027

* (1) Such board shall ensure that such committee is composed of at least the following members: (i) the parents of the preschool child; (ii) a regular education teacher of such child, whenever the child is or may be participating in a regular education environment; (iii) a special education teacher of the child or, if appropriate, a special education provider of the child; (iv) an appropriate professional employed by the school district who is qualified to provide, or supervise the provision of, special education, who is knowledgeable about the general curriculum of the school district and the availability of preschool special education programs and services and other resources in the school district and the municipality, and who shall serve as chairperson of the committee; (v) an additional parent of a child with a disability who resides in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program, provided that such parent shall not be employed by or under contract with the school district or municipality, and provided further that such additional parent shall not be a required member if the parents request that such additional parent member not participate; (vi) an individual who can interpret the instructional implications of

evaluation results, provided that such individual may be the member appointed pursuant to clause (ii), (iii), (iv) or (vii) of this subparagraph where such individuals are determined by the school district to have the knowledge and expertise to do so; (vii) such other persons having knowledge or expertise regarding the child as the board or the parents shall designate, to the extent required under federal law; and for a child in transition from programs and services provided pursuant to applicable federal laws relating to early intervention services, the appropriate professional designated by the agency that has been charged with the responsibility for the preschool child pursuant to said applicable federal laws. In addition, the chief executive officer of the municipality of the preschool child's residence shall appoint an appropriately certified or licensed professional to the committee. Attendance of the appointee of the municipality shall not be required for a quorum.

* NB Effective June 30, 2027

(2) At least five business days prior to a meeting of the committee on preschool special education notice of such meeting shall be given to each committee member, including the appointee of the municipality, and the parent of the preschool child, in writing by first class mail, postage prepaid, telefacsimile, or by personal service. The appropriately licensed or certified professional designated by the agency that has been charged with the responsibility for the preschool child pursuant to applicable federal laws relating to early intervention services shall attend all meetings of the committee conducted prior to the child's initial receipt of services pursuant to this section. The regular education teacher of the child shall participate in the development, review and revision of an individualized education program for the child to the extent required under federal law. A member of such committee shall be considered as a member of a committee on special education for the purposes of section thirty-eight hundred eleven of this chapter.

* (3) Notwithstanding any provision of law, rule or regulation to the contrary, a member of the committee on preschool special education, other than the parents or persons in parental relation to the student or the appointee of the municipality, is not required to attend a meeting of the team, in whole or in part, if the parent or person in parental

relation to the student and the school district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

* NB Repealed June 30, 2027

* (4) Notwithstanding any provision of law, rule or regulation to the contrary, a member of the committee on preschool special education, other than the parents or persons in parental relation to the student or the appointee of the municipality, may be excused from attending a meeting of the committee, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent or person in parental relation to the student and the school district consent, in writing, to the excusal and the excused member submits to the parent or person in parental relation to the student and such committee, written input into the development of the individualized education program, and in particular written input with respect to their area of curriculum or related services prior to the meeting.

* NB Repealed June 30, 2027

* (5) Requests for excusal of a member of the committee on preschool special education as provided for in subparagraphs three and four of this paragraph, and the written input as provided for in subparagraph four of this paragraph, shall be provided not less than five calendar days prior to the meeting date, in order to afford the parent or person in parental relation a reasonable time to review and consider the request. Provided however, that a parent or person in parental relation shall retain the right to request and/or agree with the school district to excuse a member of the committee on preschool education at any time including where the member is unable to attend the meeting because of an emergency or unavoidable scheduling conflict and the school district submits the written input for review and consideration by the parent or person in parental relation within a reasonable time prior to the meeting and prior to obtaining written consent of the parent or person in parental relation to such excusal.

* NB Repealed June 30, 2027

* (6) Notwithstanding any other provision of law, rule or regulation to the contrary, in making changes to a student's individualized

education program after the annual review has been conducted, the parent or person in parental relation to the student and the school district may agree not to convene a meeting of the committee on preschool special education for the purpose of making those changes, and instead may develop a written document to amend or modify the student's current individualized education program under the following circumstances:

(i) The parent or person in parental relation makes a request to the school district for an amendment to the individualized education program and the school district and such parent or person in parental relation agree in writing; or

(ii) The school district provides the parent or person in parental relation with a written proposal to amend a provision or provisions of the individualized education program that is conveyed in language understandable to the parent or person in parental relation in such parent's or such person's native language or other dominant mode of communication, informs and allows the parent or person in parental relation the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes and the parent or person in parental relation agrees in writing to such amendments.

(iii) If the parent or person in parental relation agrees to amend the individualized education program without a meeting, the parent or person in parental relation shall be provided prior written notice of the changes to the individualized education program resulting from such written document and the committee on preschool special education shall be notified of such changes. If the school district makes such changes by rewriting the entire individualized education program, it shall provide the parent or person in parental relation with a copy of the rewritten individualized education program. If the school district amends the individualized education program without rewriting the entire document, the school district shall provide the parent or person in parental relation with a copy of the document that amends or modifies the individualized education program or, upon request of the parent or person in parental relation, a revised copy of the individualized education program with the amendments incorporated.

Amendments to an individualized education program pursuant to this clause shall not affect the requirement that the committee on preschool

special education review the individualized education program at the annual meeting, or more often if necessary.

* NB Repealed June 30, 2027

b. Two or more boards may, subject to the approval of the commissioner, establish a joint committee. Boards seeking to establish such a joint committee shall apply to the commissioner for approval on a form prescribed by the commissioner. Such application shall include, but not be limited to, a plan for holding meetings in a manner and at a location convenient for parents.

c. A municipality with one or more boards located within the municipality may coordinate the scheduling and location of meetings with the prior consent of such board or boards and the approval of the commissioner.

d. The committee shall review, at least annually, the status of each preschool child.

e. In any meeting held to review or evaluate a preschool child, the preschool child's parent shall be given the opportunity to attend and participate in the meeting. The committee shall permit individuals invited by the parent to be present. To the extent possible, any meeting of the committee shall be held at a site mutually convenient to the members of the committee and the parent of the preschool child, including but not limited to the work site of the evaluator, the municipal representative on the committee, or the chairperson of the committee. In a city having a population of less than two hundred fifty thousand but more than two hundred thousand and in a city having a population of less than one hundred seventy-five thousand but more than one hundred fifty thousand, the chairperson of the committee shall determine the location of the meeting.

f. After notification by a service coordinator, as defined in section twenty-five hundred forty-one of the public health law, that a child receiving services pursuant to title II-A of article twenty-five of the public health law potentially will transition to receiving services

under this section and that a conference is to be convened to review the child's program options and establish a transition plan, which conference must occur at least ninety days before such child would be eligible for services under this section, the chairperson of the committee on preschool special education of the local school district or his or her designee in which such child resides shall participate in the conference.

g. In any meeting of the committee held to review or reevaluate the status of a preschool child, the professional who participated in the evaluation shall, upon the request of the parent or committee, attend and participate at such meeting.

4. Evaluations. a. The board shall identify each preschool child suspected of having a disability who resides within the district and, upon referral to the committee shall, with the consent of the parent, provide for an evaluation related to the suspected disability of the child. The board shall make such identification in accordance with regulations of the commissioner.

b. Each board shall, within time limits established by the commissioner, be responsible for providing the parent of a preschool child suspected of having a disability with a list of approved evaluators in the geographic area. The parent may select the evaluator from such list. Each board shall provide for dissemination of the list and other information to parents at appropriate sites including but not limited to pre-kindergarten, day care, head start programs and early childhood direction centers, pursuant to regulations of the commissioner.

c. The documentation of the evaluation shall include all assessment reports and a summary report of the findings of the evaluation on a form prescribed by the commissioner including a detailed statement of the preschool child's individual needs. The summary report shall not make reference to any specific provider of special services or programs. In addition, with the consent of the parents, approved evaluators and committees shall be provided with the most recent evaluation report for

a child in transition from programs and services provided pursuant to title two-a of article twenty-five of the public health law. Nothing shall prohibit an approved evaluator or the committee from reviewing other assessments or evaluations to determine if such assessments or evaluations fulfill the requirements of the regulations of the commissioner. Notwithstanding any inconsistent provisions of this section, the committee, in its discretion, may obtain an evaluation of the child from another approved evaluator prior to making any recommendation that would place a child in the approved program that conducted the evaluation of the child. If the committee recommends placing a child in an approved program that also conducted an evaluation of such child it shall indicate in writing that such placement is an appropriate one for the child. In addition, the committee shall provide notice to the commissioner of such recommendation.

d. The approved evaluator shall, following completion of the evaluation, transmit the documentation of the evaluation to all members of the committee and to a person designated by the municipality in which the preschool child resides. Each municipality shall notify the approved evaluators in the geographic area of the person so designated. The summary report of the evaluation shall be transmitted in English and when necessary, also in the dominant language or other mode of communication of the parent; the documentation of the evaluation shall be transmitted in English and, upon the request of the parent, also in the dominant language or other mode of communication of the parent, unless not clearly feasible to do so pursuant to regulations promulgated by the commissioner. Costs of translating the summary report and documentation of the evaluation shall be separately reimbursed. If, based on the evaluation, the committee finds that a child has a disability, the committee shall use the documentation of the evaluation to develop an individualized education program for the preschool child. Nothing herein shall prohibit an approved evaluator from at any time providing the parent with a copy of the documentation of the evaluation provided to the committee.

e. Prior to the committee meeting at which eligibility will be determined, the committee shall provide the parent with a copy of the

summary report of the findings of the evaluation, and shall provide the parent with written notice of the opportunity to address the committee in person or in writing. Upon timely request of the parent, the committee shall, prior to meeting, provide a copy of all written documentation to be considered by the committee; provided, however, that such material shall be provided to the parent at any time upon request.

f. If the parent disagrees with the evaluation, the parent may obtain an additional evaluation at public expense to the extent authorized by federal law or regulation.

5. Determination of services. a. The committee shall review all relevant information, including but not limited to:

(i) information presented by the parent and the child's teacher or teachers pertinent to each child suspected of having a disability;

(ii) the results of all evaluations; and

(iii) information provided by the appropriate licensed or certified professional designated by the agency that is charged with the responsibility for the child pursuant to applicable federal laws, if any.

b. (i) If the committee determines that the child has a disability, the committee shall recommend approved appropriate services or special programs and the frequency, duration and intensity of such services, including but not limited to the appropriateness of single services or half-day programs based on the individual needs of the preschool child. The committee shall first consider the appropriateness of providing: (i) related services only; (ii) special education itinerant services only; (iii) related services in combination with special education itinerant services; (iv) a half-day program, as defined in the regulations of the commissioner; (v) a full day program; in meeting the child's needs. If the committee determines that the child demonstrates the need for a single related service, such service shall be provided as a related service only or, where appropriate, as a special education itinerant service. Prior to recommending the provision of special education services in a setting which includes only preschool children with disabilities, the committee shall first consider providing special

education services in a setting which includes age-appropriate peers without disabilities. Provision of special education services in a setting with no regular contact with such age-appropriate peers shall be considered only when the nature or severity of the child's disability is such that education in a less restrictive environment with the use of supplementary aids and services cannot be achieved satisfactorily. The committee's recommendation shall include a statement of the reasons why less restrictive placements were not recommended. The committee may recommend placement in a program that uses psychotropic drugs only if the program has a written policy pertaining to such use and the parent is given a copy of such written policy at the time such recommendation is made.

(ii) The committee shall recommend approved appropriate services or special programs. The recommendation shall be based on the individual needs of the preschool child. Appropriate services may include one or more related services selected from a list maintained by a municipality pursuant to paragraph c of subdivision nine of this section; provided, however, that if the committee recommends one or more related services from such list, or itinerant services, the committee shall request that the parent identify the initial child care location arranged by the parent, or other site, at which each such service will be provided.

(iii) The reasons for such recommendation shall be in writing and shall be furnished to the preschool child's parent, the municipality in which the preschool child resides and the board. If the committee's recommendation differs from an expressed preference of a parent with respect to the frequency, duration or intensity of services, or with respect to more or less restrictive settings, the committee shall include in its statement the reasons why the committee recommended a program or service other than that preferred by the parent. The committee shall include in its recommendation any statement or statements provided by the parent, which the board shall consider.

(iv) The members of the committee or subcommittee may compile a list of appropriate and/or helpful services that may be available outside of the school setting to provide the parents or person in parental relation of a child with a disability with such information. Such list shall clearly state that these services are in addition to services supplied by the school district and will not be paid for by the school district.

Any member of a committee or his or her respective school district who, acting reasonably and in good faith, provides such information shall not be liable for such action.

c. After consideration of the recommendation of the committee and its statement of reasons, including any statement or statements of a parent setting forth an expressed preference, the board shall arrange for the provision of the recommended special services or programs from among the special services and programs approved for such purpose by the commissioner. In the event the special service or program will be provided in the child's home or another care setting for which the parent has made or subsequently makes arrangements, no transportation shall be indicated.

d. If the board disagrees with the recommendation of the committee, it shall set forth in writing a statement of its reasons and send the recommendation back to the committee, a notice of which shall be furnished to the preschool child's parent and the municipality in which the preschool child resides. In the event a board refers the recommendation back to the committee for reconsideration, the board shall also notify the parent and the committee in writing of the need to schedule a meeting to ensure timely placement. If the determination is for two or more related services, where possible, the board shall select from the list maintained by the municipality pursuant to paragraph c of subdivision nine of this section such related service providers that are employed by a single agency for the provision of such services. The board shall provide each related service provider with a copy of the individualized education program and the name and location of each related service provider. The board shall designate one of the service providers to coordinate the provision of the related services. If the determination is for special education itinerant services and one or more related services, the special education itinerant service provider shall be responsible for the coordination of such services pursuant to regulations of the commissioner.

* e. A preschool child shall receive the services of a program arranged for by the board commencing with the starting date for such program, unless such services are recommended by the committee less than

thirty days prior to, or after, the starting date for such program, in which case, such services shall be provided as soon as possible following development of the individualized education program, but no later than thirty days from the recommendation of the committee; provided, however, that in no case shall a child receive services prior to the date that such child is first eligible for services pursuant to paragraph f of subdivision one of this section.

* NB Effective until June 30, 2027

* e. A preschool child shall receive the services of a program arranged for by the board commencing with the starting date for such program, unless such services are recommended by the committee less than thirty days prior to, or after, the starting date for such program, in which case, such services shall be provided no later than thirty days from the recommendation of the committee; provided, however, that in no case shall a child receive services prior to the date that such child is first eligible for services pursuant to paragraph f of subdivision one of this section.

* NB Effective June 30, 2027

f. The board shall give written notice of the special services or programs arranged for to the appropriate municipality, and to the related service provider or the approved program selected to provide the services. The municipality shall contract with the approved program in a timely manner but in no event later than forty days from the receipt of written notice of the determination of the board. If the municipality is a city of one million or more persons, the municipality may delegate contracting authority to the board. The contract shall include but not be limited to any provisions required by the commissioner, shall adhere to the rates established pursuant to subdivision ten of this section as applicable and shall be in a form approved by the commissioner. After receipt of notification from a municipality of actions taken pursuant to this paragraph and subdivision eight of this section, the commissioner shall issue a notice of authorization for reimbursement to the municipality pursuant to the provisions of subdivisions ten and eleven of this section. Provided further, any agreement for transportation services pursuant to subdivision eight of this section shall be a contract, separate and distinct from the contract for special services

or programs pursuant to this section, between the municipality and the approved program which shall include but not be limited to any provisions required by the commissioner on a form prescribed by the commissioner.

g. The board shall determine the appropriate municipality based on the municipality within the school district in which the preschool child resides at the time such board issues its written notice of determination. The board shall terminate such determination if the board arranges for the provision of a new service or program for such child or if the preschool child moves out of the school district or moves to a different municipality within the school district. If the board terminates such determination for a preschool child because such child moves to a different municipality within the school district, such board shall issue a new written notice of determination for the same special education service or program effective the next school day which shall become the responsibility of the new municipality in which such child resides. Pursuant to regulations promulgated by the commissioner, if the preschool child moves to a school district that is within a reasonable distance of the child's current approved placement such child may continue in such placement if it is consistent with the individualized needs of the child and the board of the new school district shall issue a notice of determination to continue such placement, provided that nothing shall preclude a parent from requesting and receiving from the committee of the new school district a reevaluation of the continued placement of such preschool child prior to the annual review establishing the placement for the next school year.

h. Such special services or programs shall be furnished between the months of September and June of each year, except for those preschool children whose disabilities are severe enough to exhibit the need for a structured learning environment of twelve months duration to prevent substantial regression. The committee shall include in its recommendation for such services or programs a statement of the reasons for such recommendation. The board, after consideration of the recommendation of the committee, shall select an appropriate special service or program for each preschool child eligible for such special

service or program during the months of July and August from among those programs approved for such purpose by the commissioner. Nothing contained herein shall be construed to prevent the committee from recommending or the board from selecting a special service or program, or the frequency or duration of a special service or program, which is different in type or intensity than the service or program that the child is furnished between the months of September and June.

6. Professional practice issues. a. Notwithstanding any provisions of law to the contrary, approved programs operated by private providers shall be authorized to employ licensed professionals or contract with licensed professionals or entities legally authorized to provide professional services in accordance with section sixty-five hundred three-b of this chapter.

b. An approved program may be formed as an education corporation, or with the consent of the commissioner as: (i) a not-for-profit corporation; (ii) a business corporation that has the operation of an approved program or another special education school as a primary purpose; (iii) a limited liability company; (iv) a professional service limited liability company or a foreign professional service limited liability company in accordance with the applicable provisions of article twelve or thirteen of the limited liability company law; (v) a registered limited liability partnership or registered foreign limited liability partnership in accordance with article eight-B of the partnership law. In addition, a group of appropriately licensed or certified professionals may be formed as a professional services corporation established pursuant to article fifteen of the business corporation law or as a professional service limited liability company, foreign professional service limited liability company or registered limited liability partnership or registered foreign limited liability partnership in accordance with article eight-B of the partnership law. An approved program formed as such a professional service limited liability company or registered limited liability partnership may be authorized to provide special education itinerant services or other educational services not involving the practice of a profession under title eight of this chapter, and, upon grant of a waiver pursuant to

section sixty-five hundred three-b of this chapter, may employ or contract with individuals licensed or otherwise authorized to practice, or with a professional service corporation, partnership or other entity legally authorized to practice any profession under title eight of this chapter in which the entity would not be authorized to provide professional services under the applicable provisions of section twelve hundred three or subdivision (a) of section thirteen hundred one of the limited liability company law or sections 121-1500 or 121-1502 of the partnership law, provided that such contract is within the scope of the department's approval and is only for the purpose of conducting a multi-disciplinary evaluation of a preschool child suspected of having a disability or a preschool child with a disability or providing related services specified in the individualized education program of a preschool child with a disability.

c. Notwithstanding any other provision of law to the contrary, the exemption in subdivision two of section eighty-two hundred seven of this chapter shall apply to persons employed by a center-based program approved pursuant to subdivision nine of this section to perform the duties of a speech-language pathologist, audiologist, teacher of the speech and deaf and hard of hearing or teacher of the deaf to students enrolled in such approved center-based program in the course of their employment.

* d. Notwithstanding any other provision of law to the contrary, the exemption in subdivision one of section seventy-six hundred five of this chapter shall apply to persons employed on a full-time or part-time salary basis, which may include on an hourly, weekly, or monthly basis, or on a fee for evaluation services basis provided that such person is employed by and under the dominion and control of a center-based program approved pursuant to subdivision nine of this section as a certified school psychologist to provide activities, services and use of the title psychologist to students enrolled in such approved center-based program; and to certified school psychologists employed on a full-time or part-time salary basis, which may include on an hourly, weekly, or monthly basis, or on a fee for evaluation services basis provided that the school psychologist is employed by and under the dominion and control of a program that has been approved pursuant to paragraph b of

subdivision nine of this section, or subdivision nine-a of this section, to conduct a multi-disciplinary evaluation of a preschool child having or suspected of having a disability where authorized by paragraph a of subdivision six of section sixty-five hundred three-b of this chapter, in the course of their employment. Nothing in this section shall be construed to authorize a certified school psychologist or group of such school psychologists to engage in independent practice or practice outside of an employment relationship.

* NB Effective until June 30, 2028

* d. Notwithstanding any other provision of law to the contrary, the exemption in subdivision one of section seventy-six hundred five of this chapter shall apply to persons employed by a center-based program approved pursuant to subdivision nine of this section as a school psychologist to provide activities, services and use of the title psychologist to students enrolled in such approved center-based program in the course of their employment.

* NB Effective June 30, 2028

7. Appeals. * a. The parent may file a written request with the board for an impartial hearing with respect to any matter relating to the identification, evaluation or educational placement of, or provision of a free appropriate public education to, the preschool child or a manifestation determination or other matter relating to the preschool child's placement upon discipline, provided, however, that mediation shall be available to the parent in accordance with the procedures specified in section forty-four hundred four-a of this article.

* NB Effective until June 30, 2027

* a. If the determination of the board is not acceptable to the parent, or if the committee or board fails to make or effectuate such a recommendation within such periods of time as are required by subdivision five of this section or by the regulations of the commissioner, such parent may file a written request with the board for an impartial hearing, provided, however, that mediation shall be available to the parent in accordance with the procedures specified in section forty-four hundred four-a of this article.

* NB Effective June 30, 2027

* b. Upon receipt of such request, the board shall provide for a

hearing to be conducted in accordance with the provisions of subdivision one of section forty-four hundred four of this article. The impartial hearing officer shall render a decision, and mail a copy of the decision to the parents and to the board, not later than thirty calendar days after the receipt by the board of a request for a hearing or after the initiation of such a hearing by the board. The decision of the impartial hearing officer shall be based solely upon the record of the proceeding before the impartial hearing officer, and shall set forth the reasons and the factual basis for the determination. The decision shall also include a statement advising the parents and the board of the right to obtain a review of such a decision by a state review officer. The board may initiate a hearing to the extent provided in subdivision one of section forty-four hundred four of this article.

* NB Effective until June 30, 2027

* b. Upon receipt of such request, the board shall provide for a hearing to be conducted in accordance with the provisions of subdivision one of section forty-four hundred four of this article. The impartial hearing officer shall render a decision, and mail a copy of the decision to the parents and to the board, not later than thirty calendar days after the receipt by the board of a request for a hearing or after the initiation of such a hearing by the board. The decision of the impartial hearing officer shall be based solely upon the record of the proceeding before the impartial hearing officer, and shall set forth the reasons and the factual basis for the determination. The decision shall also include a statement advising the parents and the board of the right to obtain a review of such a decision by a state review officer.

* NB Effective June 30, 2027

* c. During the pendency of an appeal pursuant to this subdivision, unless the board and the parent otherwise agree:

(i) a preschool child who has received services pursuant to subdivision five of this section, shall remain in the current educational placement; or

(ii) a preschool child not previously served pursuant to this section shall, if the parent agrees, receive services in the program designated by the board pursuant to such subdivision five, which designation resulted in such appeal.

A preschool child who is transitioning from part C of the individuals with disabilities education act and/or title two-A of article twenty-five of the public health law and is no longer eligible for services under part C and title two-A of article twenty-five of the public health law by reason of age, the school district or other public agency is not required to provide the services that the child had been receiving under part C and such title two-A. If the child is found eligible for special education programs and services pursuant to this section, and the parent or person in parental relation consents to the initial provision of services, then the school district or other public agency shall provide those special education programs and services that are not in dispute between the parent and the school district or other public agency.

* NB Effective until June 30, 2027

* c. During the pendency of an appeal pursuant to this subdivision, unless the board and the parent otherwise agree:

(i) a preschool child who has received services pursuant to subdivision five of this section, shall remain in the current educational placement; or

(ii) a preschool child not previously served pursuant to this section shall, if the parent agrees, receive services in the program designated by the board pursuant to such subdivision five, which designation resulted in such appeal; or

(iii) a preschool child who received services pursuant to section two hundred thirty-six of the family court act during the previous year may receive, from the provider of such services, preschool special education services in an approved program appropriate to the needs of such child.

* NB Effective June 30, 2027

d. A state review officer of the education department shall review the decision of the impartial hearing officer in the manner prescribed in subdivision two of section forty-four hundred four of this article and render a decision no later than thirty days after the decision of such hearing officer.

e. Review of the final determination or order of the state review officer may be brought in the manner prescribed in subdivision three of

section forty-four hundred four of this article.

8. Transportation. The municipality in which a preschool child resides shall, beginning with the first day of service, provide either directly or by contract for suitable transportation, as determined by the board, to and from special services or programs; provided, however, that if the municipality is a city with a population of one million or more persons the municipality may delegate the authority to provide such transportation to the board; and provided further, that prior to providing such transportation directly or contracting with another entity to provide such transportation, such municipality or board shall request and encourage the parents to transport their children at public expense, where cost-effective, at a rate per mile or a public service fare established by the municipality and approved by the commissioner. Except as otherwise provided in this section, the parents' inability or declination to transport their child shall in no way affect the municipality's or board's responsibility to provide recommended services. Such transportation shall be provided once daily from the child care location to the special service or program and once daily from the special service or program to the child care location up to fifty miles from the child care location. If the board determines that a child must receive special services and programs at a location greater than fifty miles from the child care location, it shall request approval of the commissioner. For the purposes of this subdivision, the term "child care location" shall mean a child's home or a place where care for less than twenty-four hours a day is provided on a regular basis and includes, but is not limited to, a variety of child care services such as day care centers, family day care homes and in-home care by persons other than parents. All transportation of such children shall be provided pursuant to the procedures set forth in section two hundred thirty-six of the family court act using the date called for in the written notice of determination of the board or the date of the written notice of determination of the board, whichever comes later, in lieu of the date the court order was issued. Notwithstanding this subdivision or any provision of law to the contrary, transportation expenses incurred by a municipality for operating and maintenance costs pursuant to this subdivision during the period between the issuance of executive order

202.4 on March sixteenth, two thousand twenty and the issuance of executive order 202.28 on May seventh, two thousand twenty shall be reimbursable and considered approved costs in accordance with the provisions of this section and the regulations of the commissioner.

9. Program approval. a. Providers of special services or programs shall apply to the commissioner for program approval on a form prescribed by the commissioner; such application shall include, but not be limited to, a listing of the services to be provided, the population to be served, a plan for providing services in the least restrictive environment and a description of its evaluation component, if any. The commissioner shall approve programs in accordance with regulations adopted for such purpose and shall periodically review such programs at which time the commissioner shall provide the municipality in which the program is located or for which the municipality bears fiscal responsibility an opportunity for comment within thirty days of the review. In collaboration with municipalities and representatives of approved programs, the commissioner shall develop procedures for conducting such reviews. Municipalities shall be allowed to participate in such departmental review process. Such review shall be conducted by individuals with appropriate experience as determined by the commissioner and shall be conducted not more than once every three years.

(iii) Commencing July first, nineteen hundred ninety-six and continuing through June thirtieth, two thousand three, a moratorium on the approval of any new or expanded programs in settings which include only preschool children with disabilities is established. Exceptions shall be made for cases in which school districts document a critical need for a new or expanded program in a setting which includes only preschool children with disabilities, to meet the projected demand for services for preschool children in the least restrictive environment. Applications for new or expanded programs may be made directly to the state education department. Nothing herein shall prohibit the commissioner from approving the modification of a full-day program into half-day sessions.

Commencing July 1, 1999 the department shall only approve any new or

expanded programs in settings which include only preschool children with disabilities, if the applicant can document a critical need for a new or expanded program in a setting which includes only preschool children with disabilities to meet the projected demand for services for preschool children in the least restrictive environment. If the department determines that approval will not be granted, it must notify the applicant, in writing, of its reasons for not granting such approval. The department shall establish guidelines, within 90 days of the effective date of this section which shall state the criteria used to determine if the applicant has demonstrated such a critical need. The department is authorized to consult with the local school district to verify any data submitted.

On December 1, 2003 the commissioner shall submit a report to the board of regents, the majority leader of the senate, the speaker of the assembly and governor evaluating the impact of such moratorium on the availability of preschool special education services. The report shall include: (i) information regarding the number of applications for new programs and program expansions and the disposition of those applications by the commissioner; (ii) an assessment of the projected need for additional classes serving only disabled children and those serving disabled children with their non-disabled peers and in other less restrictive settings; (iii) an assessment of the projected need for additional programs due to program closings in the region, number of children receiving early intervention services and existing waiting lists; (iv) an assessment of the distance that children must be transported to receive preschool special education services; (v) an evaluation of the programmatic performance and cost-effectiveness of existing programs; (vi) recommendations regarding ways in which improved quality and cost-effectiveness could be achieved through the selective expansion of effective programs and/or the curtailment of less effective programs; and (vii) an assessment of the availability and effectiveness of approved programs providing services to preschool children with autism.

b. As part of an application submitted pursuant to paragraph a of this subdivision, a provider of special services or programs shall submit a

description of its multi-disciplinary evaluation component, if any, which shall be subject to the approval of the commissioner in accordance with regulations adopted for such purpose after consultation with the appropriate advisory committee. Such components or program may rely in part on formal written agreements or affiliations with appropriately certified or licensed professionals, or agencies employing such professionals, provided that such professionals or agencies perform their responsibilities in conformance with regulations of the commissioner and that providers fully disclose any such arrangements on all applications for program approval, and provided further that the provider certifies that it shall apply for and obtain a waiver pursuant to section sixty-five hundred three-b of this chapter prior to providing evaluation services pursuant to such written agreements or affiliations. Nothing herein shall require a provider of special services or programs to have a multidisciplinary evaluation program.

c. Municipalities, or in the case of a city of one million or more persons, the board, shall maintain a list of appropriately certified or licensed professionals to deliver related services consistent with this section and the regulations of the commissioner and shall determine reasonable reimbursement for such services subject to the approval of the commissioner. Such list shall also include reasonable reimbursement, as determined by the municipality and approved by the commissioner and the director of the budget, for the coordination of two or more related services pursuant to paragraph d of subdivision five of this section.

d. Providers may make application to conduct a program that relies on formal written agreements or affiliations with other approved programs or appropriately certified or licensed professionals, provided that such arrangements are fully disclosed on all applications to the commissioner for program approval, and provided further that the provider certifies it shall apply for and obtain a waiver pursuant to section sixty-five hundred three-b of this chapter prior to providing related services pursuant to any such written agreements or affiliations involving licensed professionals.

e. Nothing herein shall preclude an approved program from providing

services in the preschool child's home.

f. As part of an application submitted pursuant to paragraph a of this subdivision, a provider of special services or programs shall describe any program in which preschool children will receive services in conjunction with children placed pursuant to section two hundred thirty-six of the family court act or title II-A of article twenty-five of the public health law. If such preschool program otherwise meets the criteria for approval of preschool programs established by regulations of the commissioner, the commissioner shall approve such program.

g. As part of an application submitted pursuant to paragraph a of this subdivision, a provider of special services or programs shall certify pursuant to regulations promulgated by the commissioner that it will take measures to ensure its executive director or person performing the duties of a chief executive officer: (i) meets the criteria established by the commissioner to be an executive director; and (ii) if paid as a full time executive director, he or she is employed in a full time, full year position and shall not engage in activity that would interfere with or impair such executive director's ability to carry out and perform his or her duties, responsibilities and obligations.

* 9-a. (a) A group of appropriately licensed and/or certified professionals associated with a public or private agency may apply to the commissioner for approval as an evaluator on a form prescribed by the commissioner. The commissioner shall approve evaluators pursuant to this subdivision consistent with the approval process for the multi-disciplinary evaluation component of programs approved pursuant to subdivision nine of this section consistent with regulations adopted pursuant to such subdivision. All school districts are deemed approved evaluators of preschool students suspected of having a disability without the need to submit an application to the commissioner if staff who provide such evaluation services shall have appropriate licensure and/or certification.

Such application shall include, but not be limited to, a description of the multi-disciplinary evaluation services proposed to be provided and a demonstration that all agency employees and staff who provide such

evaluation services shall have appropriate licensure and/or certification and that the individual who shall have direct supervision responsibilities over such staff shall have an appropriate level of experience in providing evaluation or services to preschool or kindergarten-aged children with disabilities. To be eligible for approval as an evaluator under this subdivision on and after July first, two thousand eleven, a group of appropriately licensed or certified professionals shall be formed as a limited liability company or professional services corporation established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law. The approval of any groups of licensed or certified professionals that are in existence on July first, two thousand eleven and would not be eligible for approval thereafter shall terminate on July first, two thousand thirteen.

(b) The commissioner shall periodically review such evaluators at which time the commissioner shall provide the municipality in which the evaluator is located an opportunity for comment.

(c) The commissioner shall establish a billing and reimbursement system for services provided by school districts and evaluators approved pursuant to the provisions of this subdivision consistent with billing and reimbursement for evaluation services provided by evaluators approved pursuant to the provisions of subdivision nine of this section.

* NB Repealed July 1, 2027

9-b. Program reapproval process. The commissioner shall periodically review and reapprove programs, including the provision of evaluation services, in accordance with regulations adopted for such purpose, which shall include reapproval criteria designed to assure that quality services are provided in a necessary and cost efficient manner and in the least restrictive environment which may include settings in which age-appropriate peers without disabilities are typically found. In reviewing programs and the provision of evaluation services, the commissioner shall consider factors including, but not limited to, the percentage of children receiving services from the approved program that conducted the evaluation of the child; and whether there has been evidence of misleading or erroneous advertising. The division of the

budget shall consider in a timely manner all requests submitted by the department to hire sufficient staff to conduct such periodic reapproval of programs, as determined by the commissioner, using available federal funds.

Such reapproval process shall provide the municipality in which the program is located or for which the municipality bears fiscal responsibility, an opportunity for comment thirty or more days prior to completion of the reapproval. In collaboration with municipalities and representatives of approved programs, the commissioner shall develop procedures for conducting such reapprovals. Municipalities shall be allowed to participate in such departmental review process. Such reapprovals shall be conducted by individuals with appropriate experience as determined by the commissioner and shall be conducted not more than once every three years, unless the commissioner, on his or her own initiative or at the request of a municipality, determined that reapprovals are earlier or more frequently required. The commissioner shall commence such reapproval process no later than January fifteenth, nineteen hundred ninety-seven. Program reapprovals may result in disapproval of the entire program or a component of the program, including but not limited to the evaluation component. In reapproving a program component, such approval criteria shall include, but not be limited to:

a. the extent to which the program offers services in settings with regular contact with age-appropriate peers, where appropriate to the needs of the population served; and

b. whether there has been evidence of misleading or erroneous advertising.

Such reapproval shall assure an appropriate opportunity to be heard on the findings of the reapproval and the opportunity to address such findings through corrective or remedial action, where applicable. Such reapproval process shall also provide for the determination of action on the part of the department to address the findings of the reapproval which may include, but not be limited to, the withdrawal of approval to

provide evaluation services.

9-c. Advertising. The commissioner is authorized to require approved programs and evaluators to periodically submit copies of advertising for review, and to commence a proceeding to revoke the approval of an approved program or evaluator pursuant to this subdivision for false, misleading, deceptive or fraudulent advertising pursuant to regulations to be promulgated by the commissioner, which shall be consistent with article twenty-two-a of the general business law. Such regulations shall prohibit advertisements from including misleading or erroneous information with respect to services to be provided to preschool children and their families. The department shall issue guidelines as to appropriate advertising content. In a revocation proceeding, such guidelines shall not be presumptive evidence that particular advertising is appropriate.

9-d. Business plans. Approved providers of special services and programs, including local educational agencies, shall develop and submit to the commissioner, by January first, nineteen hundred ninety-seven, a business plan, the contents of which shall be determined by the commissioner, which redirects fiscal and personnel resources toward providing special education programs and services in settings with children who do not have disabilities, and reduces the reliance on programs and settings which include only preschool children with disabilities.

10. Approved costs. a. (i) (A) Commencing with the nineteen hundred ninety--ninety-one school year, the commissioner shall annually determine the tuition rate for approved services or programs provided to preschool children pursuant to this section. Such rates for providers of such services and programs shall be determined in conformance with a methodology established pursuant to subdivision four of section forty-four hundred five of this article after consultation with and a review of an annual report prepared by the advisory committee established pursuant to paragraph a of subdivision twelve of this section and shall be subject to the approval of the director of the budget. Notwithstanding any other provision of law, rule or regulation

to the contrary, tuition rates established for the nineteen hundred ninety-five--ninety-six school year shall exclude the two percent cost of living adjustment authorized in rates established for the nineteen hundred ninety-four--ninety-five school year.

(B) Commencing with the two thousand fifteen--two thousand sixteen school year, such special education itinerant services shall be provided by approved programs, and such approved programs shall be reimbursed for such services based on the actual attendance of preschool children receiving such services.

(C) Notwithstanding any other provision of law, rule or regulation to the contrary, on or before the two thousand sixteen--two thousand seventeen school year and thereafter, to be phased-in over no more than four years from such starting year, the commissioner, subject to the approval of the director of the budget, shall establish regional tuition rates for special education itinerant services based on average actual costs in accordance with a methodology established pursuant to subdivision four of section forty-four hundred five of this article.

(D) Notwithstanding any other provision of law, rule or regulation to the contrary, commencing with the two thousand eighteen--two thousand nineteen school year, approved preschool integrated special class programs shall be reimbursed for such services based on an alternative methodology for reimbursement to be established by the commissioner. In developing such methodology the commissioner shall seek input from stakeholders that would be impacted by such alternative methodology. The alternative methodology, subject to the approval of the director of the budget, shall be proposed by the department no later than April first, two thousand eighteen.

(ii) Upon request, the commissioner shall, on a timely basis, transmit to the municipality in which an approved program is located any information provided by such approved program for the purpose of establishing a rate for the program.

(iii) Following determination of tuition rates pursuant to subparagraph (i) of this paragraph, the commissioner shall submit such rates to the director of the budget for approval and shall simultaneously transmit to each municipality the rates for programs located in the municipality. Within thirty calendar days of the commissioner's transmittal date, the municipality may submit comments in

writing to the commissioner. The commissioner shall consider such comments and, if he deems it appropriate, adjust such rate prior to final action by the director of the budget. If the commissioner does not adjust the rate, the commissioner shall respond to the comments presented by the municipality.

b. Reimbursement for evaluations conducted by approved evaluators shall be provided pursuant to regulations of the commissioner after consultation with the advisory committee established pursuant to paragraph a of subdivision twelve of this section and shall be subject to approval by the director of the budget.

c. Approved costs for transportation shall be the costs incurred by the municipality in accordance with the provisions of subdivision eight of this section. The commissioner shall establish, in consultation with the municipalities, and with the approval of the director of the budget, regional ceilings for each region of the state, as defined by the commissioner, on the maximum allowable state reimbursement. In developing such ceilings, the commissioner shall consider the size of the geographic area to be served, the projected number of children requiring transportation services and such other factors as the commissioner shall determine may influence the cost of transportation services.

d. (i) At the beginning of the school year, the commissioner shall allocate funds for reimbursement of allowable administrative costs, as defined in regulations of the commissioner, incurred by a board pursuant to this section. Such allocation shall be in an amount equal to a school district's pro rata share of the statewide base year count of preschool children as a percent of federal funds available for such reimbursement, as determined by the commissioner. In January of any school year in which additional federal funds are determined by the commissioner to be available for such reimbursement, the commissioner shall equitably allocate such funds for reimbursement of allowable administrative costs, in a manner determined by the commissioner which is consistent with federal statutes and regulations governing the use of federal funds, to school districts which have demonstrated a need for such additional

funds. At the close of the school year for which such funds were allocated, each board shall submit, in a form prescribed by the commissioner, a statement of the allowable administrative costs incurred pursuant to this section. A board may, subject to approval of the commissioner, submit any allowable administrative costs for which federal funds are not allocated to that school district pursuant to this subdivision to the appropriate municipality or municipalities for reimbursement pursuant to subdivision eleven of this section.

(ii) Boards may submit reasonable costs incurred pursuant to paragraphs a through d of subdivision seven of this section to the appropriate municipality for reimbursement. Boards may also submit to the appropriate municipality for reimbursement of reasonable costs incurred pursuant to paragraph e of subdivision seven of this section: (A) in an action or proceeding brought by another party or (B) in an action or proceeding brought by the board, other than an action or proceeding brought against the state, a department, board or agency of the state or a state officer, except where such state defendant is joined as a necessary party to such action or proceeding, if, upon final disposition of the action or proceeding, the board receives a judgment in its favor annulling the determination or order of the state review officer. The municipality shall be reimbursed for payment of such costs pursuant to subdivision eleven of this section.

(iii) On or after July first, nineteen hundred ninety, and annually thereafter until June thirtieth, two thousand one, municipalities shall be eligible for reimbursement for administrative costs incurred during the preceding year of fifty dollars for each eligible preschool child served in such year pursuant to this section. On or after July first, two thousand one, and annually thereafter, municipalities shall be eligible for reimbursement for administrative costs incurred during the preceding year of seventy-five dollars for each eligible preschool child served in such year pursuant to this section. Each municipality shall submit a claim in a form prescribed by the commissioner. Upon approval, reimbursement shall be made by the commissioner from appropriations available therefor. Such reimbursement shall be made in the first instance from any federal funds designated under federal law for local use, as determined by the commissioner, that are available after satisfying the provisions of subparagraph (i) of this paragraph. To the

extent that such federal funds are not sufficient or available to reimburse a municipality for such costs, reimbursement shall be made with state funds.

e. Public special education funding provided for the purposes of this section shall not be used to purchase regular preschool educational services, day care or other child care services, or to purchase any instructional service other than special services or programs as defined in subdivision two of section forty-four hundred one of this article or in this section, and the purchase of such regular preschool educational services and child care services shall not be approvable pursuant to this section as a charge upon the municipality or the board.

11. Financial responsibility for approved costs. a. The approved costs for a preschool child who receives services pursuant to this section shall be a charge upon the municipality wherein such child resides. All approved costs shall be paid in the first instance and at least quarterly by the appropriate governing body or officer of the municipality upon vouchers presented and audited in the same manner as the case of other claims against the municipality. Notwithstanding any inconsistent provisions of this section, upon notification by the commissioner, a municipality may withhold payments due any provider for services rendered to preschool children in a program for which the commissioner has been unable to establish a tuition rate due to the failure of the provider to file complete and accurate reports for such purpose, as required by the commissioner.

b. (i) Commencing with the reimbursement of municipalities for services provided pursuant to this section on or after July first, nineteen hundred ninety-three, the state shall reimburse fifty-nine and one half percent of the approved costs paid by a municipality for the purposes of this section. Commencing with the reimbursement of municipalities for services provided pursuant to this section on or after July first, nineteen hundred ninety-four, the state shall reimburse sixty-nine and one-half percent of the approved costs paid by a municipality for the purposes of this section. The state shall reimburse fifty percent of the approved costs paid by a municipality for

the purposes of this section for services provided prior to July first, nineteen hundred ninety-three. Such state reimbursement to the municipality shall not be paid prior to April first of the school year in which such approved costs are paid by the municipality.

(ii) In accordance with a schedule adopted by the commissioner, each municipality which has been notified by a board of its obligation to contract for the provision of approved special services or programs for a preschool child shall be provided with a listing of all such children by the commissioner. Such list shall include approved services and costs as prescribed by the commissioner for each such child for whom the municipality shall certify, on such list, the amount expended for such purposes and the date of expenditure. Upon the receipt of such certified statement, the commissioner shall examine the same, and if such expenditures were made as required by this section, the commissioner shall approve it and transmit it to the comptroller for audit. The comptroller shall thereupon issue his warrant, in the amount specified in such approved statement for the payment thereof out of moneys appropriated therefor, to the municipal treasurer or chief fiscal officer as the case may be.

(iii) (a) Notwithstanding the provisions of this paragraph, any monies due municipalities pursuant to this paragraph for services provided during the two thousand eight--two thousand nine and prior school years shall be reduced by an amount equal to the product of the percentage of the approved costs reimbursed by the state pursuant to subparagraph (i) of this paragraph and any federal participation, pursuant to title XIX of the social security act, in special education programs provided pursuant to this section. The commissioner shall deduct such amount, as certified by the commissioner of health as the authorized fiscal agent of the state education department. Such deductions shall be made in accordance with a plan developed by the commissioner and approved by the director of the budget. To the extent that such deductions exceed moneys owed to the municipality pursuant to this paragraph, such excess shall be deducted from any other payments due the municipality.

(b) Any moneys due municipalities pursuant to this paragraph for services provided during the two thousand nine--two thousand ten school year and thereafter, or for services provided in a prior school year that were not reimbursed by the state on or before April first, two

thousand eleven, shall, in the first instance, be designated as the state share of moneys due a municipality pursuant to title XIX of the social security act, on account of school supportive health services provided to preschool students with disabilities pursuant to this section. Such state share shall be assigned on behalf of municipalities to the department of health, as provided herein; the amount designated as such nonfederal share shall be transferred by the commissioner to the department of health based on the monthly report of the commissioner of health to the commissioner; and any remaining moneys to be apportioned to a municipality pursuant to this section shall be paid in accordance with this section. The amount to be assigned to the department of health, as determined by the commissioner of health, for any municipality shall not exceed the federal share of any moneys due such municipality pursuant to title XIX of the social security act. Moneys designated as state share moneys shall be paid to such municipality by the department of health based on the submission and approval of claims related to such school supportive health services, in the manner provided by law.

(iv) Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on or after July first, nineteen hundred ninety-six based on a claim for services provided during school years nineteen hundred eighty-nine--ninety, nineteen hundred ninety--ninety-one, nineteen hundred ninety-one-ninety-two, nineteen hundred ninety-two--ninety-three, nineteen hundred ninety-three--ninety-four, and nineteen hundred ninety-four--ninety-five which is submitted later than two years after the end of the nineteen hundred ninety-five--ninety-six school year; provided, however, that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment or a final audit, and provided further that the commissioner may grant a waiver to a municipality excusing the late filing of such a claim upon a finding that the delay was caused by a party other than the municipality or a board to which the municipality delegated authority pursuant to paragraph f of subdivision five or subdivision eight of this section.

(v) Notwithstanding any other provision of law to the contrary, no payments shall be made by the commissioner pursuant to this section on

or after July first, nineteen hundred ninety-six based on a claim for services provided in the nineteen hundred ninety-five--ninety-six school year or thereafter which is submitted later than three years after the end of the school year in which services were rendered, provided, however, that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment or a final audit, and provided further that the commissioner may grant a waiver to a municipality excusing the late filing of such a claim upon a finding that the delay was caused by a party other than the municipality or a board to which the municipality delegates authority pursuant to paragraph f of subdivision five or subdivision eight of this section.

(vi) Notwithstanding any other provision of law to the contrary, beginning with state reimbursement otherwise payable in the two thousand six--two thousand seven state fiscal year and in each year thereafter, payments pursuant to this section, subject to county agreement and in the amounts specified in such agreement, shall be paid no later than June thirtieth of the state fiscal year next following the state fiscal year in which such reimbursement was otherwise eligible for payment and in which the liability to the county for such state reimbursement accrued, provided that such payments in a subsequent state fiscal year shall be recognized by the state and the applicable county as satisfying the state reimbursement obligation for the prior state fiscal year. Any unspent amount associated with such county agreements shall not be available for payments to other counties or municipalities.

c. (i) Each municipality, or, in addition, in the case of a city of one million or more persons, the board, may perform a fiscal audit of such services or programs for which it bears fiscal responsibility in accordance with audit standards established by the commissioner, which may include site visitation. The department shall provide guidelines on standards and procedures to municipalities and boards, for fiscal audits of services or programs pursuant to this section. Prior to commencing a fiscal audit pursuant to this subparagraph, a municipality shall ascertain that neither the state nor any other municipality has performed a fiscal audit of the same services or programs within the current fiscal year for such program. If it is determined that no such audit has been performed, the municipality shall inquire with the

department to determine which other municipalities, if any, bear financial responsibility for the services or programs to be audited and shall afford such other municipalities an opportunity to recommend issues to be examined through the audit. Municipalities completing audits pursuant to this subparagraph shall provide copies to the department, the provider of the services and programs and all other municipalities previously determined to bear financial responsibility for the audited services and programs. No other municipality may conduct an additional fiscal audit of the same services or programs during such current fiscal year for such program.

(ii) Payments made pursuant to this section by a municipality shall, upon conclusion of the July first to June thirtieth school year for which such payment was made, be subject to audit against the actual difference between such audited expenditures and revenues. The municipality shall submit the results of any such audit to the commissioner and the commissioner of social services, if appropriate, for review and, if warranted, adjustment of the tuition and/or maintenance rates. The municipality is authorized to recover overpayments made to a provider of special services or programs pursuant to this section as determined by the commissioner or the commissioner of health based upon their adjustment of a tuition and/or maintenance rate, provided that for purposes of making such adjustment and recovery, the municipality shall be deemed to have paid one hundred percent of the disallowed costs. Such recovery may be accomplished by withholding such amount from any moneys due the provider in the current year, or by direct reimbursement. The commissioner shall promulgate rules and regulations necessary to implement the provisions of this paragraph within sixty days of the effective date of the chapter of the laws of two thousand thirteen which amended this subparagraph.

12. Advisory committees. a. The commissioner shall establish an advisory committee consisting of representatives of municipalities to advise the commissioner on establishing the rate methodology authorized by subdivision ten of this section.

b. The commissioner shall establish such other advisory committees as he deems necessary to implement the provisions of this section.

13. a. The commissioner shall adopt regulations to implement the provisions of this section. Such regulations shall include:

(i) regional cost ceilings on average per pupil transportation cost for the reimbursement of transportation expenditures, where regions shall be as defined by the commissioner;

(ii) the requirement that committees identify transportation options for preschool children, consistent with this article, including encouraging parents to transport their children at public expense where cost-effective; and

(iii) the requirement that each program approved pursuant to the provisions of this section shall make application to the commissioner for approval to provide special education itinerant services.

b. The commissioner shall ensure that eligibility criteria are consistently applied.

c. The commissioner shall, in consultation with clinicians trained in early childhood educational services, municipal representatives, representatives of parents of children requiring preschool and school age special education services, representatives of statewide and regional provider organizations, academic experts concerned with the provision of special education services, and such other early childhood education professionals as the commissioner shall deem appropriate, develop clinical practice guidelines for the purpose of assisting evaluators with respect to appropriate diagnosis and evaluation, and committees with respect to the type, frequency and duration of services. The commissioner may at his or her own discretion use existing advisory committees and may add additional members to develop these guidelines. Such guidelines shall be designed to assure that appropriate services are provided in a manner which is necessary and cost efficient, and in the least restrictive environment, and shall promote the education of children in integrated settings with children who do not have disabilities insofar as possible and appropriate, including through the provision of related services or special education itinerant services.

* d. The commissioner shall establish procedures for administrative appeals to resolve interagency disputes between boards and

municipalities over responsibility for provision of, or payment for, special education programs or services to preschool children with disabilities. During the pendency of any such appeal, the board or, where applicable, a state department or agency responsible for developing the preschool child's individualized education program, shall provide and pay for the special education programs and services on the preschool child's individualized education program and may seek reimbursement in the appeal. The commissioner shall be authorized to make all orders that in the commissioner's judgment are proper or necessary to give effect to the decision in the appeal. Upon a determination that a public agency has failed to provide or pay for such special education programs and services, the commissioner shall certify the amount of such costs to the state comptroller and the state comptroller to deduct such amount from any state funds that become due to such public agency.

* NB Repealed June 30, 2027

§ 4410-a. Responsibility for certain temporary-resident preschool children with disabilities. 1. Definitions. For the purpose of this section, the following definitions shall apply:

a. "Foster care child" shall mean a child placed in foster care by a social services district.

b. "Homeless child" shall mean a homeless child as defined in paragraph a of subdivision one of section thirty-two hundred nine of this chapter.

c. "Municipality" shall mean a county outside the city of New York or the city, in the case of a county in the city of New York.

d. "Municipality of current location" shall mean a municipality in which a child lives which is different from the municipality in which a child or such child's family lived at the time a social services district assumed responsibility for the placement of such child or family, or at the time such child was admitted for care and/or treatment

in a facility licensed or operated by another state agency.

e. "Municipality of residence" shall mean the municipality in which a child or such child's family lived at the time the local social services district assumed responsibility for the placement of such child or family, or at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency.

f. "Preschool child with a disability" shall mean a child eligible for services pursuant to section forty-four hundred ten of this chapter.

g. "School district of current location" shall mean a school district in which a child lives which is different from the school district in which a child or such child's family lived at the time a social services district assumed responsibility for the placement of such child or family, or at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency.

h. "Child in residential care" shall mean a child residing in a facility licensed or operated by another state agency as defined by section 1.03 of the mental hygiene law or by section two of the public health law.

2. School district evaluation and placement responsibility. The school district of current location of a foster care or homeless child or child in residential care shall be responsible for the evaluation and placement procedures prescribed for a preschool child suspected of having a disability pursuant to section forty-four hundred ten of this chapter. In issuing its written notice of determination of services, the board of education of such school district shall identify the municipality of residence of a preschool child with a disability who is a foster care or homeless child or child in residential care. Such notice of determination shall be transmitted to both the municipality of residence and the municipality of current location.

3. Contract and payment responsibility. The municipality of current location shall be the municipality of record for a preschool child with

a disability who is a foster care or homeless child or child in residential care for the purposes of section forty-four hundred ten of this chapter provided, however, that, notwithstanding the provision of paragraph b of subdivision eleven of such section, the state shall reimburse one hundred percent of the approved costs paid by such municipality which shall be offset by the local contribution due pursuant to subdivision four of this section.

4. Local contribution. The municipality of residence shall be financially responsible for the local contribution which shall equal that portion of the approved costs of services to a foster care or homeless child or child in residential care with a disability which would not be reimbursed pursuant to the schedule set out in paragraph b of subdivision eleven of section forty-four hundred ten of this chapter. The commissioner shall certify to the comptroller the amount of the local contribution owed by each municipality to the state. The comptroller shall deduct the amount of such local contribution first from any moneys due the municipality pursuant to such section and then from any other moneys due or to become due such municipality.

§ 4410-b. Use of certain federal funds. 1. Definitions. For purposes of this section:

a. "Approved preschool special education program" shall mean a public or private agency which has been approved by the commissioner as a provider of special education programs or services to preschool students with disabilities pursuant to subdivision nine of section forty-four hundred ten of this article or pursuant to article eighty-five of this chapter.

b. "Base year" shall mean the school year next preceding the school year in which funds are sub-allocated pursuant to this section.

c. "IEP team" means a committee on special education, a subcommittee on special education, a committee on preschool special education or a subcommittee on preschool special education.

d. "Public or private agency" shall mean an approved preschool special education program, or a state-supported school operating pursuant to article eighty-five of this chapter, or an approved private non-residential or residential school that provides special services or programs pursuant to subdivision two of section forty-four hundred one of this article. Such term shall not include an individual providing related services only to preschool students with disabilities pursuant to section forty-four hundred ten of this article. Such term shall include a board of cooperative educational services only to the extent it is an approved preschool special education program, and only for those students provided special education programs or services pursuant to section forty-four hundred ten of this article.

2. Preschool grants for children with disabilities. Each school district receiving an allocation of funds pursuant to section six hundred nineteen of the individuals with disabilities education act for the nineteen hundred ninety-nine--two thousand school year or any subsequent school year shall sub-allocate such funds in accordance with this subdivision to other public and private agencies providing special education services to students ages three to five who were placed in such agency by the school district's IEP team. For school years prior to two thousand six--two thousand seven, such sub-allocations shall be made on a per capita basis, based upon the number of students three to five years of age who were placed in such agency by the school district's IEP team and are served by the public or private agency as of December first of the base year, as reported to the commissioner; and, for school years two thousand six--two thousand seven and thereafter, such sub-allocations shall be made on a per capita basis, based upon the number of students three to five years of age who were placed in such agency by the school district's IEP team and who are receiving special education programming and instruction from the public or private agency as of December first of the base year, as reported to the commissioner, and according to a formulae based upon the number of students three to five years of age who are receiving related services only from the public or private agency as of December first of the base year, as reported to the commissioner, such that such sub-allocation shall be in

an amount determined in accordance with the provisions of this subdivision; provided, however, that for the nineteen hundred ninety-nine--two thousand school year, the sub-allocation payable to each public or private agency shall not be less than five hundred forty-eight dollars per pupil. For the school year two thousand six--two thousand seven, the per capita sub-allocation shall be adjusted whereby each student three to five years of age who was placed in an agency by the school district's IEP team and who is receiving special education programming and instruction therefrom shall be counted as one per capita and each such student who is receiving related services only from such public or private agency shall be counted as two-thirds of a per capita, for purposes of determining such per capita sub-allocation for such school year and that for the school year two thousand seven--two thousand eight and thereafter, shall be counted as one-third for the purposes of determining the per capita sub-allocation for such school year; provided, however, that any municipality which, prior to July first, two thousand three, operated an approved special education itinerant teacher program for students three to five years of age who were placed in such program by a school district's IEP team, shall be deemed to be a public or private agency for purposes of this section and the sub-allocation directed by this subdivision shall be made on a per capita basis, based upon the number of students, three to five years of age who are receiving special education programming and instruction and related services only therefrom. In the event the total amount allocated to any school district pursuant to such section six hundred nineteen for the nineteen hundred ninety-nine--two thousand school year is insufficient to pay such sub-allocations at the required per pupil level, the school district may apply to the department for a supplemental allocation of funds in the amount of such deficiency from the state allocation received pursuant to such section six hundred nineteen. Payments of such sub-allocation shall be made in the same proportion as such funds are paid to the school district by the state, within thirty days after: (i) the school district receives any portion of its allocation of funds for the current year pursuant to section six hundred nineteen of the individuals with disabilities education act; or (ii) the school district receives an application for a sub-allocation by a public or private agency, or, for the nineteen hundred

ninety-nine--two thousand school year only, the school district receives notice from the commissioner that such an application for a sub-allocation has been filed with the commissioner, whichever occurs later.

3. Federal flow-through funds. Each school district receiving an allocation of funds pursuant to section six hundred eleven of the individuals with disabilities education act for the nineteen hundred ninety-nine--two thousand school year or any subsequent school year shall sub-allocate such funds in accordance with this subdivision to other public and private agencies providing special education services to students ages three to twenty-one who were placed in such agency by the school district's IEP team. For school years prior to two thousand six--two thousand seven, such sub-allocations shall be made on a per capita basis, based upon the number of students three to twenty-one years of age who were placed in such agency by the school district's IEP team and were served by the public or private agency as of December first of the base year, as reported to the commissioner; and, for the school year two thousand six--two thousand seven and thereafter, such sub-allocations shall be made on a per capita basis, based upon the number of students three to twenty-one years of age who were placed in such agency by the school district's IEP team and who were receiving special education programming and instruction from the public or private agency as of December first of the base year, as reported to the commissioner, and according to a formulae based upon the number of students three to twenty-one years of age who were receiving related services only from the public or private agency as of December first of the base year, as reported to the commissioner, such that such sub-allocation shall be in an amount determined in accordance with the provisions of this subdivision. For the school year two thousand six--two thousand seven, the per capita sub-allocation shall be adjusted whereby each student three to twenty-one years of age who was placed in an agency by the school district's IEP team and who is receiving special education programming and instruction therefrom shall be counted as one per capita and each such student who is receiving related services only from such public or private agency shall be counted as two-thirds of a per capita, for purposes of determining such per capita sub-allocation

for such school year and that for the school year two thousand seven--two thousand eight and thereafter, shall be counted as one-third for the purposes of determining the per capita sub-allocation for such school year; provided, however, that any municipality which, prior to July first, two thousand three, operated an approved special education itinerant teacher program for students three to five years of age who were placed in such program by a school district's IEP team, shall be deemed to be a public or private agency for purposes of this section and the sub-allocation directed by this subdivision shall be made on a per capita basis, based upon the number of students, three to twenty-one years of age who are receiving special education programming and instruction and related services only therefrom. Payments of such sub-allocation shall be made in the same proportion as such funds are paid to the school district by the state within thirty days after: (i) the school district receives any portion of its allocation of funds for the current year pursuant to section six hundred eleven of the individuals with disabilities education act; or (ii) the school district receives an application for a sub-allocation by a public or private agency, or, for the nineteen hundred ninety-nine--two thousand school year only, the school district receives notice from the commissioner that such an application for a sub-allocation has been filed with the commissioner; whichever occurs later.

4. Charter schools. Notwithstanding the provisions of subdivisions two and three of this section, any sub-allocation of funds received pursuant to sections six hundred eleven and six hundred nineteen of the individuals with disabilities education act shall be made in accordance with section twenty-eight hundred fifty-six of this chapter and the regulations of the commissioner implementing such section.

5. Carryover funds. In addition to the sub-allocations required pursuant to subdivisions two and three of this section, each school district receiving carryover funds from the nineteen hundred ninety-eight--ninety-nine allocation pursuant to sections six hundred eleven and six hundred nineteen of the individuals with disabilities education act shall sub-allocate such carryover funds pursuant to this subdivision to public and private agencies that have their chief

administrative offices located within the school district and have carryover funds remaining from such allocation. Such sub-allocations shall be made in the amounts determined by the commissioner in accordance with procedures established by the commissioner. In the event such a public or private agency has its chief administrative offices located outside of the state, such agency may designate any school district having resident students attending its programs as the district responsible for sub-allocation of its nineteen hundred ninety-eight--ninety-nine carryover funds pursuant to this subdivision.

6. Unobligated funds. Notwithstanding any other provision of law to the contrary, funds sub-allocated to public and private agencies pursuant to subdivisions two and three of this section for any school year that are neither obligated by the last day of the project year nor expended consistent with procedures established by the commissioner shall be carried over to the following school year and shall be made available to such agencies in accordance with procedures established by the commissioner, commencing in July and August of such following school year.

7. Funds; failure to apply. Any school district that fails to apply for its full allocation of funds pursuant to both sections six hundred eleven and six hundred nineteen of the individuals with disabilities education act by a date to be prescribed by the commissioner shall nevertheless be required to make sub-allocations to public or private agencies pursuant to this section using local funds, based on the full amount that the school district was eligible to receive, as if the district had received an allocation of federal funds on such date.

8. Reporting requirements. a. Each public or private agency that receives a sub-allocation of funds pursuant to this section shall submit an annual cost report in a form approved by the commissioner.

b. The commissioner shall, in consultation with representatives of statewide and regional provider organizations including municipalities and school district personnel and other interested parties:

(1) develop forms to be submitted by school districts that report the

number of students three to twenty-one years of age who are placed in a public or private agency providing special education services and who are receiving special education programming and instruction from such agency, and the number of such students who are receiving related services only from such agency; and

(2) develop guidelines to assure that funds allocated and sub-allocated pursuant to this section are used for purposes consistent with federal laws and regulations governing such funds.

§ 4410-c. Audits of special education services program providers for preschool children with disabilities. 1. Notwithstanding any other provision of law to the contrary and within such funds as are made available for such purpose, the comptroller shall audit the expenses reported to the department by every program provider of special education services for preschool children with disabilities in the state. Pursuant to a plan developed by the comptroller, such audits shall be conducted in a manner so as to cause every such provider to be audited by the comptroller at least once by March thirty-first, two thousand eighteen.

2. a. The priority and frequency of such audits, and any audits conducted thereafter, shall be based upon a risk assessment process conducted by the comptroller which may include investigations of alleged improprieties, previous audit findings and recommendations, or other financial performance indicators.

b. In undertaking such audits the comptroller's review shall include, but not be limited to, examining, auditing and evaluating relevant financial documents and records of providers for the particular years included within the scope of the audit.

c. All audits shall include any appropriate findings and recommendations of the comptroller regarding the propriety of the amounts reported as expenses to the department as well as any other findings deemed appropriate with respect to the public funding of the special education services.

d. The comptroller shall refer any findings of fraud, abuse or other conduct constituting a crime that are uncovered during the course of an audit, as warranted to an appropriate agency or agencies possessing jurisdiction.

e. The final audit report resulting from audits performed pursuant to this section shall be posted to the department's internet website and otherwise made available to the public upon request for a period of at least five years. Furthermore, the audited provider shall be required to post the final audit report on its internet website, if any, for a period of five years.

f. The comptroller shall inform and advise the governor and the legislature in December of each year regarding its audits of expenses reported to the department by program providers of special education services for preschool children with disabilities conducted during the preceding twelve months and regarding any other pertinent information the comptroller deems appropriate.

ARTICLE 90

GIFTED EDUCATION

Section 4451. Powers of the department with respect to gifted pupils.
4452. Guidelines and definition.
4453. Advisory council on the education of gifted pupils.

§ 4451. Powers of the department with respect to gifted pupils. Subject to the availability of funds, the state education department is hereby authorized and empowered to assist districts in meeting the educational needs of gifted pupils through the following:

1. provide information to school districts concerning development of programs, curriculum resources, instructional procedures and strategies to identify and encourage gifted pupils;

2. provide technical assistance and inservice education for teachers and administrators;

3. maintain a record of programs available, and make this record available for public inspection;

4. develop, maintain, and distribute a handbook for parents of gifted pupils.

§ 4452. Guidelines and definition. 1. In order to provide for educational programs to meet special needs of gifted pupils, the commissioner is hereby authorized to make recommendations to school districts in accordance with the provisions of this subdivision and section thirty-six hundred two of this chapter.

a. As used in this article, the term "gifted pupils" shall mean those pupils who show evidence of high performance capability and exceptional potential in areas such as general intellectual ability, special academic aptitude and outstanding ability in visual and performing arts. Such definition shall include those pupils who require educational programs or services beyond those normally provided by the regular school program in order to realize their full potential.

b. Prior to payment of state funds for education of gifted pupils, a school district shall submit to the commissioner a summary plan for the identification and education of gifted pupils. The plan shall be in form and content as prescribed by the commissioner.

c. Upon acceptance by a local school district of the apportionments made under section thirty-six hundred two of this chapter such district shall use such funding in accordance with guidelines to be established by the commissioner for services to gifted pupils. Such services shall include but not be limited to identification, instructional programs, planning, inservice education and program evaluation. A board of education may contract with another district or board of cooperative educational services to provide the program and/or services with the

approval of the commissioner under guidelines established by the commissioner.

d. The identification of pupils for participation in gifted programs funded under this chapter shall commence through the referral of a parent, teacher, or administrator.

e. Upon referral of a pupil for participation in a gifted program funded under this chapter, the school district shall so inform the parent or guardian of such pupil's referral and shall seek their approval to administer diagnostic tests or other evaluation mechanisms related to the program objectives of the district in order to determine eligibility for participation in such gifted program. Failing to receive approval, the child shall not be tested, evaluated or participate in the program. In no case shall the parent, guardian or pupil be charged a fee for the administration of such diagnostic tests or other evaluation mechanisms.

f. The parent or guardian of a pupil designated as gifted shall be informed by the local school authorities of the pupil's placement in such gifted program funded under this chapter.

2. The commissioner shall establish procedures for evaluation of the quality and educational effectiveness of programs for gifted pupils.

§ 4453. Advisory council on the education of gifted pupils. 1. Subject to the availability of funds, the commissioner may establish within the department an advisory council on the education of gifted pupils. Such council shall assist and advise the commissioner and his designees with respect to policies and procedures relating to the education of gifted pupils and programs associated therewith.

2. Such advisory council appointed by the commissioner shall consist of at least ten members, who are directly concerned with gifted pupils or who have specialized in the education of such pupils, provided, however, that such advisory council shall include at least one parent of

such a pupil. The members shall be residents of this state and shall be selected on the basis of their competence, concern, and professional activity in the education of gifted pupils.

3. The advisory council shall meet at least twice each year at a location to be determined by the commissioner. The advisory council shall report at least annually to the commissioner.

4. Five years or sooner after the effective date of this section, the commissioner shall review the necessity of such advisory council, and shall make a determination whether to continue or disband such council.

ARTICLE 91

SCHOOL CAMPS

Section 4501. Establishment of camps by school districts and appropriations authorized.
4502. Establishment of camps by city school districts and appropriations authorized.

§ 4501. Establishment of camps by school districts and appropriations authorized. 1. A school district, acting through its board of education, is hereby authorized to establish camps on lands acquired by such school district by purchase, gift, grant, devise, rent or lease or on lands the use of which has otherwise been acquired by such school district for camp purposes. Also, two or more school districts may jointly acquire lands for camp purposes in the same manner and establish and operate such school camps thereon as joint projects within the limit of funds provided therefor by the respective school districts and in accordance with regulations approved by the commissioner of education. Such camps shall be used to furnish education, physical training, recreation and maintenance for all children of school age, whether in attendance at a public or non-public school, and shall be under the jurisdiction of the board of education of such school district. Such board may, however, fix a reasonable fee to cover cost of food and instructional materials. Such board shall provide opportunity for

children to receive instruction in such subjects as such board may deem proper. Such board shall prescribe the activities to be carried on and shall set up rules and regulations for admission to such camps and the conduct and discipline thereof. No child, whether in attendance at a public or non-public school, shall be denied admission to such a camp or physical training, recreation and maintenance at such a camp, because of inability to pay any required costs or fees; but no child shall be entitled to free education, physical training, recreation and maintenance in any such camp for a period in excess of two weeks during any one year, unless the board of education prescribe and direct that physically handicapped or other children be maintained for a longer period. The board of education of such school district shall make a report at the annual meeting of such school district, of matters relating to carrying out the provisions of this section.

2. Any such school district is hereby authorized to appropriate in the manner prescribed by law relating to such school district such sums as may be necessary for the purpose of carrying out the provisions of this section. Money shall be paid out of the treasury of such school district in the manner provided by law.

3. The provisions of this section shall not apply to the board of education of the city of New York.

§ 4502. Establishment of camps by city school districts and appropriations authorized. 1. A city school district, acting through its board of education, is hereby authorized to establish camps on land provided therefor in parks adjacent to such city school district under the jurisdiction and control of the state office of parks and recreation or department of environmental conservation, or elsewhere. Such camps shall be used to furnish instruction, recreation and maintenance to children of school age. The board of education shall provide opportunity for children to receive instruction in such subjects as it may deem proper. Such board shall prescribe the activities to be carried on and shall set up rules and regulations for admission to such camps and the conduct and discipline thereof. Such camps shall be operated between

July first and August thirty-first of each year and at such other times as such board of education may prescribe. No child shall be entitled to free instruction and maintenance in any such camp for a period in excess of two weeks during any one year, unless the board of education prescribe and direct that physically handicapped or other children be maintained for a longer period.

2. The board of education of a city school district may establish a camp for children to be located in state parks on Long Island, which have been or shall be selected by the state office of parks and recreation on account of accessibility and availability, as a model camp for the establishment of future camps.

3. The board of education of a city school district is hereby authorized to appropriate such sums as may be necessary for the purpose of carrying out the provisions of this article.

ARTICLE 93
CAREER, PRACTICAL ARTS, CONTINUING ADULT EDUCATION AND VOCATIONAL AND EDUCATIONAL GUIDANCE

Section 4601. Advisory councils.
4602. Career education.
4603. Practical arts.
4604. Continuing education adult schools.
4605. Vocational and educational guidance.
4606. School-to-employment program.
4607. Bridge to employment, work tryout and education program.

§ 4601. Advisory councils. 1. The board of education of each school district and of each board of cooperative educational services maintaining an approved career education program shall appoint an advisory council for career education consisting of at least ten members. The membership shall include, but not be limited to, persons:

a. Familiar with the vocational needs and problems of management and

labor in the region.

b. Familiar with programs of career education at the postsecondary and adult levels.

c. Familiar with the manpower needs and requirements of the region to be served.

d. Familiar with the special educational needs of the physically and mentally handicapped.

e. Representative of community interests, including persons familiar with the special needs of the population to be served.

f. A student who is participating in a career education program at the school district or board of cooperative educational services district being served by the advisory council.

2. It shall be the duty of such advisory council for career education to advise the board of education or board of cooperative education on the development of and policy matters arising in the administration of career education, including the preparation of long-range and annual program plans submitted to the commissioner of education, and assist with an annual evaluation of career education programs, services and activities provided by the school district or board of cooperative education.

3. Advisory councils may appoint consultant committees representative of specific occupational fields to assist in the work of the council and the board of education or board of cooperative education with respect to the planning, development and requirements for establishment of new programs or evaluation and revision of existing programs.

4. The board of education of any school district or the board of cooperative educational services may employ such professional, technical and clerical personnel as may be necessary to enable the advisory council to carry out its functions specified in this section.

§ 4602. Career education. 1. The board of education of each school district shall provide secondary school pupils and adults access to programs of career education, commensurate with the interests and capabilities of those desiring and having a need for preparatory training, retraining or upgrading for employment, and develop realistic programs in accord with manpower needs in existing and emerging occupations for present and projected employment opportunities.

2. Career education programs and classes shall be organized and conducted by boards of education or arranged through shared services as provided by boards of cooperative educational services, in accordance with the rules of the board of regents and the regulations of the commissioner of education. Boards of education that are designated by the commissioner as major career education providers shall submit to the commissioner every two years, no later than the date specified by the commissioner, a career education program plan, in a form specified by the commissioner, which shall be revised annually.

3. Programs may include pre-vocational activities, career classes, apprentice related instruction, cooperative education, work experience, continuing adult career education, and other effective means of preparation and of upgrading employment capabilities. Classes for out-of-school youth sixteen years of age and over and for adults may be conducted during the day and/or evening.

4. The board of education of each school district maintaining programs in career education, practical arts, vocational and educational guidance, or continuing career education for adults has full power and authority:

a. To employ properly certified directors, supervisors, principals, teachers and counselors and assign them to serve in the schools and classes authorized by this article.

b. To establish approved courses of study.

c. To purchase or acquire sites and grounds; to purchase, acquire, lease or construct and to repair suitable shops and buildings or to arrange for shared services.

d. To purchase necessary machinery, tools, apparatus, books and supplies.

e. To enter into agreements with one or more financing agencies to provide for the acceptance by such board of credit cards as a means of payment of course fees or tuition when required for instructional programs. Any such agreement shall govern the terms and conditions upon which a credit card proffered as a means of payment of such fees or tuition shall be accepted or declined and the manner in and conditions upon which the financing agency shall pay to such board of education the amount of such fees or tuition paid by means of a credit card pursuant to such agreement. Any such agreement may provide for the payment by such board of education to such financing agency of fees for the services provided by such financing agency. For purposes of this paragraph, the following terms shall have the following meanings:

(i) "Credit card" means any credit card, credit plate, charge plate, courtesy card, debit card or other identification card or device issued by a person to another person which may be used to obtain a cash advance or a loan or credit, or to purchase or lease property or services on the credit of the person issuing the credit card or a person who has agreed with the issuer to pay obligations arising from the use of a credit card issued to another person.

(ii) "Financing agency" means any agency defined as such in subdivision eighteen of section four hundred one of the personal property law;

(iii) "Person" means an individual, partnership, corporation or any other legal or commercial entity.

5. School days spent in legal employment by pupils enrolled in approved career cooperative education programs who are in part-time school attendance shall be included in the average daily attendance and average daily membership for apportionment of state aid under provisions

of section thirty-six hundred two of this chapter.

§ 4603. Practical arts. 1. The board of education of each school district may establish and maintain non-vocational practical arts tryout or exploratory courses in industrial arts, home economics, business and agriculture.

2. Such practical arts courses and exploratory courses shall be classified as general education. The schools which offer such courses shall not designate them as trade, technical or occupational courses.

§ 4604. Continuing education adult schools. 1. The board of education of each school district may establish and maintain day and evening schools for adults, the controlling purpose of which shall be to provide a general program of continuing education in all its aspects for the improvement of the civic, vocational and general intelligence of adults and to enable them to make a wise use of their leisure time. Such continuing education adult schools may be of the following kinds:

a. Citizenship schools providing instruction in English, civics, the common branches and other subjects which may increase the civic and general intelligence of foreign born, illiterate and non-English speaking persons.

b. General continuing education adult schools providing instruction in approved high school subjects, general cultural subjects, approved occupational subjects, music, dramatic arts, fine, applied and practical arts subjects.

c. Recreation and leisure time schools providing instruction in physical education, health education, sports, games, arts and crafts and leisure time activities generally.

2. The common council, council or board of estimate and apportionment of a city, the board of supervisors or other governing elective body of

a county, the board of trustees of an incorporated village and the town board of a town may make appropriations to aid and promote the extension of education among illiterate and non-English speaking persons within the jurisdiction of such respective bodies.

3. The commissioner is authorized and directed to promulgate rules and regulations to provide for the notification of participants in adult continuing education schools of the emergency procedures to be followed in the event of fire.

§ 4605. Vocational and educational guidance. 1. The board of education of each school district or board of cooperative educational services may employ qualified persons for the purpose of providing vocational and educational guidance for minors. Such vocational and educational guidance service and the qualifications of the counselors employed for such work shall be approved by the commissioner.

2. The board of education of each school district or board of cooperative educational services may establish, conduct and maintain as a part of the public school system a guidance bureau which shall perform such of the following duties as may be determined by such board:

a. Providing information and counsel for pupils regarding educational and occupational opportunities.

b. Providing employment and follow-up services for minors in cooperation with existing public agencies.

c. Conducting research studies of pupils and the local educational and occupational opportunities in cooperation with existing public agencies.

d. Assisting in the organization of courses of study dealing with educational and occupational opportunities for use in the schools and in teaching and supervising such courses.

e. Organizing and conducting a counseling service in the schools to

assist pupils in the formation of their educational and vocational plans.

f. Cooperating with other staff members to advance the educational and occupational progress of pupils.

§ 4606. School-to-employment program. 1. The commissioner is hereby authorized to make apportionments to school districts in accordance with the provisions of this section, to encourage and assist such districts to provide a school-to-employment program to consist of a part-time school and a part-time employment program.

2. Any school district planning to establish such a program shall submit to the commissioner on or before the first day of May of the school year preceding the school year during which the program is to be conducted, an application, together with such information as the commissioner shall require, including at least a complete statement of purposes of the program, the detailed procedures of operation, a detailed estimate of the cost of such program and a complete description of the manner in which the program will operate.

In the event that any funds of a school district are to be utilized to provide a stipend for students in the part-time employment program, the plan shall indicate the types of employment situations which will be furnished such students. The plan shall indicate that no public funds will be used to pay a student in an employment situation furnished by a non-governmental employer.

3. The commissioner shall evaluate such applications and shall promulgate a list in accordance with the merit and value of the various programs and where several programs are evaluated, as having equal merit and value, the date of receipt of the application.

4. The commissioner shall determine the amount of apportionment which shall be made to those programs which he deems to have merit within the amount of the appropriation therefor.

5. Notwithstanding any other provision or law to the contrary, vocational schools and classes may be organized and conducted in accordance with regulations adopted by the commissioner to provide a program for students fifteen years of age and over who might benefit from appropriate instruction consisting of a part-time school and a part-time employment program.

6. Any school district conducting a school-to-employment program is hereby authorized and empowered to do and perform any and all acts necessary or convenient to enable it to carry out the provisions of this article and it is authorized to enter into a contract with any person, firm, association, partnership, corporation or governmental agency whereby such person, firm, association, partnership, corporation or governmental agency will provide part-time employment to students enrolled in such program, the consideration of such contract, if it otherwise meets the provisions of this section, to be a legal charge against the school district. Any person, firm, association, partnership, corporation or governmental agency participating with a school district in a school-to-employment program is not to be penalized for participating in such program by reason of the fact that such child may be only fifteen years of age or may not have otherwise complied with other provisions of the law which would be applicable thereto, and any pupil obtaining vocational experience in participation with a school district in a school-to-employment program is not to be deemed an employee within the meaning of the labor law, provided that the school-to-employment program involved meets the regulations of the commissioner.

§ 4607. Bridge to employment, work tryout and education program. 1. The commissioner is hereby authorized and directed to make grants within the limits of the appropriation available for such purpose, to major education providers, as defined in the Vocational Education Act of 1963, service delivery area administrative entities and private industry councils as established by the Job Training Partnership Act (JTPA) of 1982 in accordance with the provisions of this section, to encourage the

establishment of a bridge to employment, work tryout and education program for certain targeted populations with businesses with no more than two hundred fifty employees in any facility and no more than an aggregate of one thousand employees in the state of New York. Priority shall be accorded to jointly developed proposals from major education providers, as defined in the Vocational Education Act, and service delivery area administrative entities. For the purposes of a statewide program, the commissioner is hereby authorized to develop regulations, and to consult with the commissioner of labor, to establish administrative, program, and expenditure guidelines and standards for the work tryout experience and the bridge to employment programs pursuant to this chapter. Such regulations and guidelines shall include provisions for educational services to meet additional job skill requirements for youth or adults to continue such employment placements.

2. Any agency or organization, eligible for a grant or contract under the provisions of subdivision one of this section, which plans to establish a bridge to employment, work tryout and education program shall submit an application to the commissioner on or before the first day of July of each year in which such program is conducted provided, however, that such application for the nineteen hundred eighty-seven--eighty-eight pilot program shall be filed by September first, nineteen hundred eighty-seven. Priority shall be accorded to jointly developed proposals from major education providers and service delivery area administrative entities. Such application shall include but not be limited to, at least a statement of the purpose of the program, a detailed estimate of the cost of such program, a complete description of the manner in which the program will operate and how the program will improve and expand education and placement services currently offered by the applicant, and such other information as the commissioner shall require.

3. For the purposes of a statewide program, the commissioner in the consultation with the commissioner of labor shall evaluate such applications, using as criteria the merit and value of the various programs submitted and prior experience of such agency or agencies and subcontracts in provision of placement services. The commissioner shall

then promulgate a list of those programs that have been selected according to regulations established by the commissioner.

4. The commissioner shall determine the amount of the apportionment which shall be made to those programs which he deems to have merit within the amount of the appropriation therefor.

5. A person who seeks to participate under the bridge to employment, work tryout and education program must be:

a. (1) a secondary student who has completed an career sequence or
(2) a community college graduate who has completed a certificate or associate degree program in career education and
(3) unemployed three months after completion of such education; or

b. (1) an unemployed adult at least twenty-one years of age or older who has completed a career education adult and/or other training program or have the necessary capacity and past employment history to explore new job experiences and
(2) meet any of the following qualifications:
(i) single parent;
(ii) dislocated worker;
(iii) long-term unemployed;
(iv) displaced homemaker;
(v) older worker;
(vi) economically disadvantaged;
(vii) handicapped individuals; or
(viii) such other individuals as the commissioner may determine to be eligible.

c. Notwithstanding any other provision of law, the work experience under this chapter shall not affect any predetermined eligibility under the Job Training Partnership Act of 1982 or any other appropriate educational services program.

6. Any agency or organization designated by the commissioner to conduct a bridge to employment, work tryout and education program is

hereby authorized and empowered to do and perform all acts necessary or convenient to enable it to carry out the provisions of this section and it is authorized to enter into a contract with any person, firm, association, partnership or corporation whereby such person, firm, association, partnership or corporation will provide work tryout experience to participants enrolled in such program, the consideration for such contract, if it otherwise meets the provisions of this section, to be a legal charge against the agency or organization. However, no placements will be made with any person, firm, association, partnership or corporation where there is an industry/labor controversy, as defined in regulations of the commissioner of labor.

7. Use of funds. a. Work tryout experiences. Agencies or organizations participating in the bridge to employment, work tryout and education program may provide to eligible participants up to one hundred hours of full-time or part-time work tryout experiences with small to medium-sized employers at no cost to those participating employers. No such experiences may last more than forty hours with any single employer. Employers who elect to retain a participant from the work tryout experience may transfer such participants to a bridge to employment placement component of the program and receive full benefit of such program. Up to fifty percent of the funds are to be used to support, administer and promote the work tryout experience program.

Notwithstanding any other provision of law to the contrary, any participants in the work tryout experience who are returned back to the program operator because of lack of skills required to retain employment shall be provided education and training in such skills as the program operator deems necessary and available from local, state or federal funded training programs.

b. Bridge to employment placement. The remaining funds are to be utilized to provide a bridge to employment placement program with small and medium employers. Eligible agencies and organizations serving as program operators may subcontract with temporary help services, employment and training agencies, or employers for placement of participants with the following support provided from these funds:

(1) Payroll administration and program promotion by the agency or organization or sub-contractor for up to two hundred eighty hours but not more than seven weeks for each person placed in employment.

(2) Appropriate share of wages and fringe benefits for such employment.

Employers will be responsible for payment of at least fifty percent of the wages and fringe benefits for such employment. After seven weeks of employment the bridge to employment and education program benefits shall cease and the employer must pay all expenses.

Employers participating in the program shall not be required to participate for any specific period of time. Participants may be hired by participating employers at any time or may be returned to the bridge to employment and education program operator at any time with a statement of circumstances and/or work related deficiencies. Continued employer participation in the program shall be determined by demonstrated transition to unsubsidized employment at levels established by the agency or organization and approved by the commissioner. However, employers who have released an excessive number of participants from the bridge to employment programs within the first six months of placement pursuant to commissioner regulations shall be prohibited from seeking further placements from the bridge to employment program.

c. Employment and training agencies or temporary help services or other organizations which may serve as subcontractors may charge overhead and promotional expenses as provided in approved contracts for work tryout experience and bridge to employment programs as specified in guidelines and/or regulations of the commissioner. Such agencies, services or organizations shall endeavor to serve at least fifty percent of the participants in the bridge to employment program from paragraph b of subdivision five of this section.

d. Notwithstanding any provision of law to the contrary, any eligible adult who is either economically disadvantaged or handicapped shall be eligible for forty additional hours of work tryout experience benefits and one hundred twenty additional hours of bridge to employment

placement benefits.

8. Notwithstanding any other provision of law to the contrary, any participants in the bridge to employment and education program who are referred back to the program operator because of lack of skills required to retain employment shall be provided education and training in such skills as the placement agency deems necessary and available from local, state or federal funded training programs.

ARTICLE 95

FARM SCHOOLS IN COUNTIES

Section 4701. Establishment of farm schools.
4702. Acquisition of lands and erection of buildings.
4703. Board of managers.
4704. Powers and duties of board.
4705. Powers of superintendent; discipline of school.
4706. Course of instruction.
4707. Children admitted to such school.
4708. State aid.
4709. Agreements with parents and guardians to pay expense of maintenance; compulsory support.
4710. Maintenance by county.
4711. Reports to board of supervisors; inspection.
4712. Powers of commissioner of education and education department.

§ 4701. Establishment of farm schools. The board of supervisors or other governing elective body of any county outside of the city of New York may adopt a resolution by a majority vote of the members of such board or body establishing a farm school for the purpose of giving instruction in the trades and in industrial, agricultural and homemaking subjects to children of the county not more than eighteen nor less than eight years of age who may be admitted thereto as provided by law.

§ 4702. Acquisition of lands and erection of buildings. Upon the adoption of the resolution as provided in section forty-seven hundred one the board of supervisors or other governing elective body shall purchase land in some conveniently accessible place in the county to be used for the purpose of such school. They may acquire such land by gift, purchase or condemnation. The land when so acquired shall be held in the name of the county for the benefit of such school. Upon the acquisition of such land such board or body shall erect the necessary buildings and suitably equip them for use. Such board or body may also provide for the improvement of existing buildings and make such repairs and alterations on the buildings upon the land used for the purpose of the school as may be necessary for the maintenance and operation thereof.

§ 4703. Board of managers. The board of managers of such school shall consist of not less than five members and shall be composed of all the city, village and district superintendents of schools of the county in which it is located, in addition to such other members as may be necessary to make a total membership of such board of not less than five. Such additional members of the board shall be appointed by the board of supervisors or other governing elective body from the resident taxpayers of the county, who shall serve for terms of four years commencing on the first day of January succeeding their appointment. Such terms shall be so arranged that the terms of no two of the members so appointed shall expire in the same year, and for this purpose the terms of the members first appointed hereunder shall be as follows: In case one member shall be appointed, the term shall be four years, in case two members shall be appointed, the terms shall be four and two years, respectively, in case three members shall be appointed, the terms shall be four, three and two years, and in case four members shall be appointed, the terms shall be four, three, two and one year, respectively, which terms shall commence on the first day of January succeeding their appointment, and their successors shall be appointed for full terms of four years as above provided. Appointments to fill vacancies shall be for the unexpired portion of the terms. The members of the board shall serve without compensation. They shall receive their

necessary expenses incurred in the performance of their duties. The amount of such expenses shall be charged against the county and shall be paid in the same manner as other county charges. The board shall organize by the election of one of its members as chairman and another as secretary.

§ 4704. Powers and duties of board. The board of managers of such school shall be responsible for the operation and maintenance of the school; employ a superintendent and such teachers and assistants as may be required for the operation and maintenance of the school when authorized so to do by the board of supervisors or other governing elective body of the county; fix the compensation of such superintendent, teachers and assistants within the amount made available therefor by the said board or body; prescribe rules and regulations for the management of the school and for the purpose of carrying into effect the object thereof; provide for the detention, maintenance and instruction of all children who are admitted to the school.

§ 4705. Powers of superintendent; discipline of school. The superintendent of the school shall, subject to the regulations of the board of managers:

1. Have the general management of the school and the land, buildings and equipment thereof, and devote his entire time to its affairs;

2. Be responsible for the welfare of pupils of the school and see that the regulations and directions of the board of managers are carried into effect;

3. Supervise and direct the methods of instruction and the performance of duties by the teachers, assistants and employees of such school;

4. Prescribe rules for the government and discipline of the pupils of the school and cause such rules to be enforced;

5. Protect and care for the property of the school;

6. Give special attention to the proper instruction, detention, restraint, discipline, comfort and physical and moral welfare of the pupils of the school, and perform such other duties as may be required of him by the board of managers, with a view of carrying out the purposes of this article.

§ 4706. Course of instruction. The board of managers shall prescribe the courses of instruction to be followed in such school, subject to the approval of the commissioner of education. Such instruction shall include instruction in agriculture, mechanic arts, trades and homemaking. The provisions of this chapter and of the regulations of the education department relating to vocational instruction in the public schools shall apply to such school so far as they do not conflict with the provisions of this article and may be made applicable thereto.

§ 4707. Children admitted to such school. Children not more than eighteen nor less than eight years of age may be admitted to or received in such school, either (1) upon the application of the parents or guardians having the legal custody or control of such children, accompanied by the written consent of such parents or guardians, or (2) upon commitment thereto as truants or (3) upon commitment thereto as juvenile delinquents as provided by law, provided that children convicted of crime shall not be committed to such school. Children who have no homes or who are without proper parental control or who are under improper guardianship may be sent to and received in such school, in the same manner and under the same authority as in case of other children who are improperly provided for at home.

§ 4708. State aid. There shall be annually apportioned to such school from the moneys appropriated by the state legislature for the support of the public schools of the state the sum of one thousand dollars and an additional sum of two hundred dollars for each teacher employed therein

for a period of thirty-six weeks during each school year, whose entire time is given to the instruction of pupils in such school. No such apportionment shall be made unless there are at least fifteen pupils enrolled and actually in attendance at such school during such period of thirty-six weeks, and unless such school maintains an organization and a course of study and is conducted in a manner approved by the commissioner of education.

§ 4709. Agreements with parents and guardians to pay expense of maintenance; compulsory support. The board of managers may make an agreement with the parents or guardian of a child in such school for the payment of an amount therein specified for the instruction and maintenance of such pupil. An application for the admission of a child with the consent of the parents or guardian shall not be granted unless suitable provision be made for the clothing of such child. The amount agreed to be paid for instruction, maintenance and clothing shall be secured to the satisfaction of the board of managers. Such board shall ascertain by investigation the financial ability of parents, guardians, and other persons legally liable for the support of pupils admitted to such school upon commitment, and may demand of such parents, guardians or persons the payment of an amount reasonably sufficient to pay all or a portion of the cost of the instruction, maintenance and clothing of such pupils. The board may proceed against such parents, guardians or persons, by proper suit or proceeding in a court of competent jurisdiction for the recovery of the amount agreed or required to be paid, as herein provided. The amount so recovered, after the payment of the necessary costs and expenses of such suit or proceeding, shall be paid into the treasury of the county, and shall be applied to the payment of the cost of the instruction, maintenance and clothing of such pupils.

§ 4710. Maintenance by county. The board of supervisors or other governing elective body shall provide for the maintenance of such school, the repair and improvement of the lands and buildings used or occupied thereby, and the equipment thereof with necessary machinery,

tools, apparatus and supplies. The cost thereof, and the expenses incurred for such purposes, shall be charges against the county and shall be audited and paid in the same manner as other charges against the county. The maintenance herein provided for shall include the support, instruction, care, board and clothing of pupils and such other expenses as are necessarily incurred in the operation of the school.

§ 4711. Reports to board of supervisors; inspection. The board of managers of such school shall report in writing to the board of supervisors or other governing elective body of the county when called upon to do so, and shall transmit such report to the clerk of such board or body, annually, on or before the thirtieth day of June. Such annual report shall state such facts in respect to the school as the board of managers may deem advisable and as the board of supervisors or other governing elective body may require. Such board or body may, by a committee or any of its members or appointees, inspect such school, and for such purpose may enter upon the land and into the buildings of such school at all reasonable times.

§ 4712. Powers of commissioner of education and education department. A school established as provided herein shall be deemed a part of the public school system of the state, and shall be subject to the supervision and control of the commissioner of education and the education department in the same manner as other public schools, and shall not be subject to any of the laws of the state relating to charitable or penal institutions.

ARTICLE 97

HOME SCHOOLS IN CERTAIN CITIES

Section 4801. Establishment of home schools.
4802. Acquisition of lands and erection of buildings.
4803. Board of managers.
4804. Powers and duties of managers.
4805. Course of instruction.

4806. Powers of superintendent and discipline of school.
4807. Children admitted to such school.
4808. Jurisdiction of courts.
4809. Transfer of pupils.
4810. Quarantine.
4811. State aid.
4812. Agreements with parents and guardians to pay expense of maintenance; compulsory support.
4813. Maintenance by city.
4814. Report of superintendent.
4815. Powers of commissioner of education and education department.

§ 4801. Establishment of home schools. The common council of any city having a population of over seventy thousand but less than two hundred fifty thousand inhabitants may adopt a resolution by a majority vote establishing a home school for the purpose of giving instruction in the trades, industrial, agricultural and homemaking subjects in addition to instruction in public school subjects to children of the city and other children not more than eighteen years nor less than eight years of age who may be admitted thereto as hereinafter provided. Such school shall be known as the Home School of.....(Name of city establishing school).

§ 4802. Acquisition of lands and erection of buildings. Upon the adoption of the resolution as provided in section forty-eight hundred one, the city, through its properly constituted officers having power and jurisdiction therein, shall lease or purchase land in a convenient, accessible place in the county in which such city is located and not less than six miles from the center of the city to be used for the purpose of such school. Such land may be acquired by gift, purchase or condemnation. The land when so acquired shall be held in the name of the city for the benefit of such school. Upon acquisition of such land the city shall erect the necessary buildings and suitably equip them for use. Such city may also provide for the improvement of existing

buildings and make such repairs and alterations upon the buildings upon the land used for the purposes of the school as may be necessary for the maintenance and operation thereof.

§ 4803. Board of managers. The board of managers of such school shall consist of not less than five members to be appointed by the mayor of such city and of which board the superintendent of schools in any such city shall be one member ex-officio. Members of the board other than the said superintendent shall be appointed from resident taxpayers of the city who shall serve for terms of four years commencing upon the first day of January succeeding the appointment. Such terms shall be so arranged that the terms of no two of the members so appointed shall expire in the same year, and for this purpose the terms of members first appointed hereunder shall be as follows: In case one member shall be appointed the term shall be four years; in case two members are appointed the term shall be four and two years respectively; in case three members are appointed the term shall be four, three and two years; in case four members shall be appointed the terms shall be four, three, two and one year respectively. Such terms shall commence on the first day of January succeeding the appointment and their successors shall be appointed for a full term of four years as above provided. Appointments to fill vacancies shall be for the unexpired portion of the terms. The members of the board shall serve without compensation. They shall receive their necessary expenses incurred in the performance of their duties. The amount of such expenses shall be charged against the city and paid in the same manner as other city charges. The board shall organize by the election of one of its members as chairman and another as secretary.

§ 4804. Powers and duties of managers. 1. The board of managers of such school shall be responsible for the operation and maintenance of the school; employ a superintendent and such teachers and assistants as may be required for the operation and maintenance of the school; fix compensation of such superintendent, teachers and assistants within the amount made available therefor by the board of estimate and

apportionment or other similar body or officer of such city; prescribe rules and regulations for the management of the school and for the purpose of carrying into effect the object thereof; provide for the detention, maintenance and instruction of all children who are admitted to the school. Such board shall on or before the first day of January each year furnish to the mayor estimates in writing of the amount of expenditures for the next fiscal year. All expenses and appropriations for such school shall be subject to the provisions of sections seventy-three, seventy-four, seventy-five, seventy-six and seventy-seven of second class cities law, and of any and all other provisions of said law applicable thereto.

2. The board of managers shall have full power to discharge or parole at any time any child admitted to such school. A child under sixteen years of age committed to the school by a court and paroled for good conduct may be arrested and detained in the school for violation of the terms of his parole.

§ 4805. Course of instruction. The board of managers shall prescribe the course of instruction to be followed in such school, subject to the approval of the commissioner of education. Such instruction shall include instruction in agriculture, mechanic arts, trades and homemaking and in the duties, responsibilities and privileges of citizenship. The provisions of this article and of the regulations of the education department relating to vocational instruction in the public schools shall apply to such school so far as they do not conflict with the provisions of this article and may be made applicable thereto.

§ 4806. Powers of superintendent and discipline of school. The superintendent of the school shall, subject to the regulations of the board of managers:

1. Have the general management of the school, land, buildings and equipment thereof, and devote his entire time to its affairs.

2. Supervise and direct the methods of instruction and the performance of duties by the teachers, assistants and employees of such school.

3. Be responsible for the welfare of the pupils of the school, see that the regulations and directions of the board of managers are carried into effect.

4. Prescribe rules for the government and discipline of the pupils of the school and cause such rules to be enforced. Discipline shall be maintained by the honor system so far as practicable. Close or solitary confinement shall not be used excepting when necessary for the maintenance of proper discipline.

5. Protect and care for the property of the school.

6. Give special attention to the proper instruction, detention, restraint, discipline, comfort, physical and moral welfare of the pupils of the school and perform such other duties as may be required of him by the board of managers with a view of carrying out the provisions of this article.

§ 4807. Children admitted to such school. Children not more than eighteen nor less than eight years of age may be admitted to or received in such school as follows:

1. Upon the application of the parents or guardians having the legal custody and control of such children accompanied by the written consent of such parents or guardians.

2. Truants or children coming within any of the descriptions mentioned in section thirty-two hundred fourteen of this chapter upon commitment thereto either by the school authorities or by a court having jurisdiction thereof.

3. Children coming within any of the descriptions mentioned in sections four hundred eighty-five and four hundred eighty-six of the

penal law upon commitment thereto by a court.

4. Children under twelve years found guilty of juvenile delinquency.

5. Children over twelve and under sixteen years of age found guilty of juvenile delinquency for the first time and for an offense of a grade not higher than misdemeanor.

Children resident in the city establishing such school duly committed thereto shall be received therein. The board of managers may in their discretion and upon such terms as to payment of expenses as they see fit, admit children resident in the county in which said city is situated or resident in any adjoining county not having a city to which this article applies.

§ 4808. Jurisdiction of courts. Courts having jurisdiction of children shall have power to commit children to the school who are receivable therein as set forth in section forty-eight hundred seven. Commitments by such courts shall be in accordance with the provisions of the penal law and code of criminal procedure applicable thereto. The commitment shall not be for any fixed period of detention. Such detention shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of the child so committed to its home, if after due investigation such home is found to be satisfactory. The provisions of section four hundred eighty-six of the penal law as to commitments to institutions shall apply fully to commitments to the school.

§ 4809. Transfer of pupils. The board of managers shall have full power to transfer to other institutions any child if a court grants a petition for transfer pursuant to section seven hundred seventy-three of the family court act.

§ 4810. Quarantine. A pupil committed to the school either by court

or school authorities upon being received shall be kept separate and apart for a period of not less than seven days. During this time a complete physical and mental examination of such child shall be made by qualified physicians. Such physicians shall make reports in writing to the superintendent stating fully the results of such examinations; such reports shall be kept on file by the superintendent in proper and systematic order.

During the period of such quarantine the superintendent and teachers shall give special attention to the pupil with a view of obtaining knowledge of the child and gaining his confidence.

§ 4811. State aid. There shall be annually apportioned to such school from the moneys appropriated by the state legislature for the support of the public schools of the state the sum of one thousand dollars and an additional sum of two hundred dollars for each teacher employed therein for a period of thirty-six weeks during each school year, whose entire time is given to the instruction of pupils in such school. No such apportionment shall be made unless there are at least fifteen pupils enrolled and actually in attendance at such school during such period of thirty-six weeks, and unless such school maintains an organization and a course of study, and is conducted in a manner approved by the commissioner of education.

§ 4812. Agreements with parents and guardians to pay expense of maintenance; compulsory support. The board of managers may make an agreement with the parents or guardian of a child in such school for the payment of an amount therein specified for the instruction and maintenance of such pupil. An application for the admission of a child with the consent of the parents or guardian shall not be granted unless suitable provision be made for the clothing of such child. The amount agreed to be paid for instruction, maintenance and clothing shall be secured to the satisfaction of the board of managers. Such board shall ascertain by investigation the financial ability of parents, guardians and other persons legally liable for the support of pupils admitted to

such school upon commitment, and may demand of such parents, guardians or persons the payment of an amount reasonably sufficient to pay all or a portion of the cost of instruction, maintenance, and clothing of such pupils. The board may proceed against such parents, guardians or persons, by proper suit or proceeding in a court of competent jurisdiction for the recovery of the amount agreed or required to be paid, as herein provided. The amount so recovered, after the payment of the proper costs and expenses of such suit or proceeding, shall be paid into the treasury of the city, and shall be applied to the payment of the cost of the instruction, maintenance, and clothing of such pupils. Such action at law shall be brought in the name of the city by the corporation counsel thereof.

This provision shall in no way affect the power of the committing court to order payment as provided in subdivision b of section nine hundred twenty-one of the code of criminal procedure.

Children committed either by court or school authorities of the city shall be a charge upon such city. Children so committed from outside of the city shall be a charge upon the city, incorporated village or township from which committed.

§ 4813. Maintenance by city. The board of estimate and apportionment or other similar body or officer shall provide for the maintenance of such school, the repair and improvement of the lands and buildings used or occupied thereby, and the equipment thereof with necessary machinery, tools, apparatus and supplies. The cost thereof, and the expenses incurred for such purposes, shall be charged against the city and shall be audited and paid in the same manner as other charges against the city. The maintenance herein provided for shall include the support, instruction, care, board and clothing of pupils and such other expenses as are necessarily incurred in the operation of the school.

§ 4814. Report of superintendent. The superintendent of the school shall report annually to the mayor in accordance with the provisions of

section twenty-three of the second-class cities law. Such report shall be countersigned by a majority of the board of managers. The mayor shall have power to inspect the school at any time, and may appoint a committee of citizens who shall have power to inspect such school and for such purpose may enter upon the lands and into the buildings of such school at all reasonable times.

§ 4815. Powers of commissioner of education and education department. A school established as provided herein shall be deemed a part of the public school system of the state, and shall be subject to the supervision and control of the commissioner of education and the education department in the same manner as other public schools, and shall not be subject to any of the laws of the state relating to charitable or penal institutions.

ARTICLE 99

NEW YORK NAUTICAL SCHOOL

Section 4901. New York nautical school may be established and maintained.
4902. Management.
4903. Chamber of commerce to appoint committee to serve as council.
4904. Expenses.

§ 4901. New York nautical school may be established and maintained. The board of education of the city of New York, in its discretion, may provide and maintain a nautical school in such city for the education and training of pupils in the science and practice of navigation; may furnish accommodations for such school and make all needful rules and regulations therefor, and for the number and compensation of instructors and others employed therein; may prescribe the government and discipline thereof and the terms and conditions upon which pupils shall be received and instructed therein and discharged therefrom and provide in all things for the good management of such nautical school. Such board

shall have power to purchase the books, apparatus, stationery and other things necessary or expedient to enable such school to be properly and successfully conducted; and may cause such school or the pupils, or part of the pupils thereof, to go on board vessels in the harbor of New York and take cruises in or from such harbor for the purpose of obtaining a practical knowledge in navigation and of the duties of mariners. Such board is hereby authorized to apply to the United States government for the requisite use of vessels and supplies for the purposes above mentioned.

§ 4902. Management. The board of education of the city of New York shall appoint annually at least three of its number who, subject to the control, supervision and approbation of the board, shall constitute an executive committee for the care, government and management of such nautical school, under rules and regulations so prescribed, and whose duty it shall be, among other things, to recommend the rules and regulations which they deem necessary and proper for such school.

§ 4903. Chamber of commerce to appoint committee to serve as council. The chamber of commerce of New York is authorized to provide for and appoint a committee of its members to serve as a council of the nautical school, whose duty it shall be, as far as may be, to advise and cooperate with the board of education of the city of New York in the establishment and management of such school and from time to time to visit and examine the same, and to communicate in respect thereof with the board of education or such executive committee thereof, and to make reports to the chamber of commerce which may transmit to the commissioner of education such reports, or any thereof, or an abstract of the same, with such recommendations as may be deemed advisable.

§ 4904. Expenses. After the establishment and organization of such school the expenses thereof, and of carrying out the provisions of this article, shall be defrayed from the moneys raised by law for the support of public schools in the city of New York.

ARTICLE 101

LICENSED PRIVATE CAREER SCHOOLS AND CERTIFIED ENGLISH AS A SECOND LANGUAGE SCHOOLS

Section 5001. Licensed private career schools.
5002. Standards for licensed private career schools.
5003. Disciplinary actions, hearings and penalties.
5004. Private school agent's certificate.
5005. Disclosure to students.
5006. Teachout plans.
5007. Tuition reimbursement account.
5008. Trust accounts.
5009. Duties of the commissioner.
5010. Advisory council.

§ 5001. Licensed private career schools. 1. Schools required to be licensed. No private school which charges tuition or fees related to instruction and which is not exempted hereunder shall be operated by any person or persons, firm, corporation, or private organization for the purpose of teaching or giving instruction in any subject or subjects, unless it is licensed by the department. As used in this article:

a. "licensed private career school" or "licensed private school" shall mean any entity offering to instruct or teach any subject by any plan or method including written, visual or audio-visual methods, and shall include any institution licensed or registered as a registered business school or computer training facility on the effective date of chapter three hundred eighty-one of the laws of two thousand twelve. Following such effective date, there shall be no distinction between institutions previously defined as "registered business schools" or "computer training facilities" and other licensed private schools, and any reference in law to a registered business school or computer training facility shall be deemed a reference to a licensed private career school. Institutions holding a valid business school registration on such effective date, including computer-training facilities, shall have

such registrations replaced by the commissioner, at no cost, with licenses valid until the expiration date listed on such previous registration;

b. "certified English as a second language school" or "certified ESL school" shall mean a language school conducted for-profit which provides instruction in English as a second language and which accepts no public funds and is certified pursuant to paragraph f of subdivision four of this section; and

c. "online education marketplace" shall mean a website or other internet-based online technology tool with which a licensed private career school or certified ESL school contracts for marketing or advertising services, or services in connection with the collection of tuition and/or fees, to the extent authorized in subdivision three of section five thousand four of this article.

2. Exempt schools. The following schools are exempted from the licensing requirement of this section:

a. institutions authorized to confer degrees in this state;

b. schools providing kindergarten, nursery, elementary or secondary education, except schools conducted for profit which provide instruction in English as a second language or preparation for high school equivalency examinations to out-of-school youth or adults;

c. schools operated by governmental agencies or authorities;

d. schools which engage exclusively in training of students with disabilities as defined in section forty-four hundred one of this chapter;

e. schools conducted on a not-for-profit basis by firms or organizations for the training of their own employees only, provided that such instruction is offered at no charge to such employees, or by a fraternal society or benevolent order for its members or their immediate

relatives only;

f. schools which provide instruction in the following subjects only: religion, dancing, music, painting, drawing, sculpture, poetry, dramatic art, languages, reading comprehension, mathematics, recreation, yoga, martial arts, pilates and athletics, including the training of students to teach such subjects, provided, however, that schools conducted for the purpose of training personal trainers shall be excluded from this exemption and shall be required to obtain licensure;

g. schools in which the course of instruction is licensed, registered or approved under any other section of this chapter or by any other department or agency of the state;

h. schools which provide instruction designed solely for giving flight training and/or related ground school instruction;

i. schools in which instruction designed solely to prepare applicants for admission to professional licensing examinations administered by the department pursuant to title eight of this chapter, and applicants for examination for admission to the practice of law;

j. schools which offer continuing education courses exclusively for individuals licensed by the department pursuant to title eight of this chapter and for individuals admitted to the practice of law;

k. schools which provide instruction given exclusively to employees of a person or organization which has contracted with another person or organization to provide such instruction at no cost to the employees;

l. conferences, trade shows, workshops, seminars, institutes or courses of study offered and sponsored either jointly or individually by recognized trade, business or professional organizations for the benefit of their membership;

m. schools that limit their total conferences, trade shows, workshops, seminars, institutes or other course offerings to no more than twice in

one calendar year with each of those offerings for no more than five days;

n. schools which provide instruction exclusively to persons employed full-time or part-time in the field in which instruction is being offered, where the instruction is provided to meet continuing education standards required for professional licensure as defined by law in this state;

o. schools in candidacy status pursuant to subparagraph (iv) of paragraph b of subdivision four of this section; and

p. schools which provide instruction in photography exclusively for non-occupational purposes.

2-a. Schools exempted pursuant to subdivision two of this section may waive such exemption and apply for a license; provided, however, that the review of such applications shall be left to the discretion of the commissioner.

2-b. Programs offered by licensed private career schools to employees of a person or organization which has contracted with another person or organization to provide such instruction at no cost to the employees shall be exempt from the requirements of this article, provided that the following requirements are met:

a. Only employees of the employer for which the program is being offered may enroll in classes that make up the program.

b. Certificates or diplomas awarded to students in the program may not reference in any way the department.

c. Prior to the commencement of the program, such schools shall submit to the department a disclosure form, prescribed by the commissioner, copies of which shall be provided to all students in such exempt program, which shall include but not be limited to the following information:

(i) a description of the location and time period in which the program will be offered;

(ii) a statement that the students enrolled in the program shall not be subject to any tuition liability for the program, even if such students do not complete the program;

(iii) a statement that the program being provided to the employer has not been approved by the department and is not under the department's jurisdiction and that the students in the program have been advised of the fact; and

(iv) the signatures of the school director or owner of the school and the representative of the employer for which the program is being offered certifying the accuracy of the statements on the form.

d. Any additional student openings in a program deemed exempt by the department may be made available to students not affiliated with the employer on the condition that such students execute a disclosure form as prescribed in paragraph c of this subdivision. Such admitted students shall only constitute up to ten percent of the exempt program's total capacity.

4. Application, renewal application and application fees. a. Application and renewal application for a license as a private career school required by the commissioner shall be filed on forms prescribed and provided by the department. Except as provided in subparagraph (iii) of paragraph e of this subdivision, each renewal application for a private career school licensed pursuant to this section shall include an audited financial statement audited according to generally accepted auditing standards by an independent certified public accountant or an independent public accountant and statistical reports certified by the owner or operator of the school, as required by the commissioner; provided, however, that the commissioner shall accept a copy of a current financial statement previously filed by a school with any other governmental agency in compliance with the provisions of any federal or state laws, or rules or regulations if such statement contains all of the information required under this subdivision and conforms to this subdivision's requirements of auditing, review and certification. Any required audit of the financial statement shall be a condition of

licensure and shall be paid for by the school, and the results of the audit shall be forwarded to the commissioner. Applications not accompanied by the audits and reports required pursuant to this subdivision shall not be considered for approval by the commissioner. Initial applications shall be accompanied by financial reports as required by the commissioner. The applicant shall receive a written approval or denial together with the reasons for a denial of such application.

b. (i) An initial license issued pursuant to the provisions of this article shall be valid for a period of two years. A renewal of license issued pursuant to the provisions of this article shall be valid for a period of four years.

(ii) Every applicant and renewal applicant shall pay to the department a nonrefundable, nontransferable application fee. The initial application fee for new schools shall be five thousand dollars, of which three thousand dollars shall accrue to the credit of the proprietary vocational school supervision account and two thousand dollars shall accrue to the tuition reimbursement account. For additional licensed locations of currently operating schools, the application fee shall be two thousand five hundred dollars, which shall accrue to the credit of the proprietary vocational school supervision account. For renewal applications, the fee shall be based on gross annual tuition income as determined by the annual financial statements required in paragraph a of this subdivision for the most recent school fiscal year, according to the following schedule:

GROSS ANNUAL TUITION INCOME	FEE
0-$199,999	$ 750.00
$200,000-$499,999	$ 1,500.00
$500,000-$999,999	$ 2,225.00
$1,000,000-$4,999,999	$ 4,500.00
$5,000,000-$9,999,999	$ 9,000.00
$10,000,000 or above	$18,000.00

Such renewal fees shall accrue to the credit of the proprietary vocational school supervision account. If the evaluation of a particular course or facility requires the services of an expert not employed by

the department, the department shall retain such expert and the school shall reimburse the department for the reasonable cost of such services.

(iii) Each school shall display, near the entrance to the school, the license which has been issued to it. Such authorization shall be displayed only during the period of its validity.

c. An application for renewal of any license shall be submitted at least one hundred twenty days prior to the expiration date of the current authorization to operate accompanied by the nonrefundable application fee and such certified statistical reports and annual financial statements required pursuant to this subdivision.

d. When complete and timely application has been made for renewal of any license, the school shall receive a written approval or denial, together with the reasons for denial of renewal, from the commissioner no less than thirty days prior to the date such license expires.

e. Financial statements and statistical reports. (i) Licensed private career schools and candidate schools shall submit such certified statistical reports and annual financial statements as required by the commissioner. The commissioner may require audited statistical reports upon a determination that a school has provided false or inaccurate certified statistical reports. The financial statements shall be based on the fiscal year of the school and shall also include an itemized account of tuition refunds due and owing to past or presently enrolled students. Statistical reports shall include, but not be limited to, enrollment, completion and placement data. The commissioner shall use such financial statements and statistical reports submitted for the purposes of licensure of schools, establishing fees or assessments pursuant to this article and determining standards pursuant to paragraph b of subdivision five of section five thousand two of this article. The attorney general, the comptroller and the president of the higher education services corporation shall have access to this information when it is necessary to perform their duties as required by state law.

(ii) Any school which received five hundred thousand dollars or more in gross tuition in a school fiscal year shall be required to submit to the commissioner an annual audited financial statement prepared in

accordance with generally accepted accounting principles for that fiscal year. In addition, any school which has a gross tuition of less than five hundred thousand dollars in a school fiscal year but whose combined state and federal student financial aid in such year equals one hundred thousand dollars or more shall also submit an annual audited financial statement to the commissioner for that fiscal year.

(iii) Schools whose gross tuition is less than five hundred thousand dollars in a school fiscal year and which receive less than one hundred thousand dollars in state and federal student financial aid in a school fiscal year shall file with the commissioner an unaudited financial statement in a format prescribed by the commissioner, provided, however, that any such school shall file an audited financial statement the fiscal year after a reviewed financial statement is submitted. For such schools, audited financial statements are required every two years, at minimum, with reviewed financial statements allowed during the alternate year. Upon a determination by the commissioner that a school has submitted false or inaccurate statements or that a significant, unsubstantiated decline in gross tuition has occurred, the commissioner may require any such school to file an audited financial statement pursuant to this paragraph even during alternate years when reviewed statements would ordinarily be allowed.

f. Alternate licensing provision. The commissioner shall issue regulations which define alternate licensing or certification requirements for the following:

(1) correspondence schools in which all approved programs and courses are under three hundred hours;

(2) schools which are eligible for exemption under this section but which elect to be licensed;

(3) non-profit schools exempt from taxation under section 501(c)(3) of the internal revenue code whose programs are funded entirely through donations from individuals or philanthropic organizations, or endowments, and interest accrued thereon; and

(4) language schools conducted for-profit which provide instruction in English as a second language and which accept no public funds.

5. Required disclosure for licensure. a. The commissioner shall

require that each applicant for a license for the operation of a private career school disclose the following information:

(1) Whether the applicant, or any corporation, partnership, association or organization or person holding an ownership or control interest in such school, or any employee responsible in a supervisory capacity for the administration of student funds or governmental funds, has been convicted of a crime defined in this article, or any other crime involving the operation of any educational or training program, or, in connection with the operation of any such program, a crime involving the unlawful acquisition, use, payment or expenditure of educational or training program funds; and

(2) Whether the applicant, or any corporation, partnership, association or organization or person holding an ownership or control interest in such school, or any employee responsible in a supervisory capacity for the administration of student funds or governmental funds has been convicted:

(A) in this state of any of the following felonies defined in the penal law: bribery involving public servants; commercial bribery; perjury in the second degree; rewarding official misconduct; larceny, in connection with the provision of services or involving the theft of governmental funds; offering a false instrument for filing, falsifying business records; tampering with public records; criminal usury; scheme to defraud; or defrauding the government; or

(B) in any other jurisdiction of an offense which is substantially similar to any of the felonies defined in clause (A) of this subparagraph and for which a sentence to a term of imprisonment in excess of one year was authorized and is authorized in this state regardless of whether such sentence was imposed; and

(3) Whether the applicant, or any corporation, partnership, association or organization or person holding an ownership or control interest in such school, or any employee responsible in a supervisory capacity for the administration of student funds or governmental funds, has been finally determined in any administrative or civil proceeding to have committed a violation of any provision of this article or any rules and regulations promulgated pursuant thereto, or any related order or determination of the commissioner, or of any similar statute, rule, regulation, order or determination of another jurisdiction pertaining to

the licensure and operation of any educational or training program; and

(4) Whether any school owned or operated by the applicant closed or ceased operation and, if so, whether at the time of the closing the applicant was subject to a pending disciplinary action, disallowance, fine or other penalty and whether it owed refunds to any government agency or students.

b. No application for any license pursuant to this article shall be denied by reason of disclosure pursuant to this subdivision of the applicant, or any corporation, partnership, association or organization or person holding an ownership or control interest in such school, or any employee responsible in a supervisory capacity for the administration of student funds or governmental funds unless the commissioner makes a written determination that there is a direct relationship between one or more of such previous offenses and the license sought, or that issuance of the license would create an unreasonable risk to property or to the safety, education or welfare of specific individuals or the general public. In making such determination, the commissioner shall be guided by the factors set forth in section seven hundred fifty-three of the correction law. For purposes of this subdivision, "ownership or control interest" means: with respect to a school that is organized as or owned by a corporation, a position as an officer or director of such corporation; or, with respect to a school that is organized as or owned by a partnership, a position as a partner; or any other interest totaling ten percent or more, whether direct or indirect, in the total equity or assets of such school.

c. The commissioner may deny, suspend, revoke or decline to renew any license: (1) if the significance of the convictions or administrative violations warrant such action; (2) if the commissioner determines that a school did not make any disclosure required by this subdivision; or (3) if the commissioner determines that a school's financial condition may result in the interruption or cessation of instruction or jeopardize student tuition funds.

6. If, during the period for which a license is granted, the commissioner determines that a school's financial condition may result

in the interruption or cessation of instruction or jeopardize student tuition funds, the commissioner may, upon notice to the school, place the school on probation for a period of no more than one year, during which time the school and the department must make efforts to resolve the problems at the school. The school shall submit a report on its financial condition to the commissioner within the time prescribed by the commissioner. Such report shall be in the form and shall include content prescribed by the commissioner and shall be reviewed by the commissioner to determine the school's financial viability. The commissioner may suspend or revoke the school's license, as well as require the cessation of student enrollment, upon a determination that the school's financial condition continues to threaten its ability to educate students and/or the student tuition funds. Alternatives for the school to demonstrate a fiscally sound operation may include securing and maintaining a performance bond, payable to the commissioner, in an appropriate amount to eliminate any liability to the tuition reimbursement account should the school cease operation, limiting the collection of tuition funds until each student completes the program of study, or other means acceptable to the commissioner. If no resolution can be attained, a hearing, pursuant to subdivisions two and three of section five thousand three of this article will be scheduled. Such probation may include additional monitoring, inspections, limitations on enrollment, teaching out some or all of a school's present students or temporary cessation of instruction.

7. No license granted under this section shall be transferable or assignable without the approval of the commissioner. Upon transfer or assignment of any interest totaling twenty-five percent or more, whether direct or indirect, in the total equity or assets of a school, such school shall be deemed a new school required to submit a new school application and obtain a new license pursuant to this article. Provided, however, that upon such a substantial change in interest, the previous school license shall remain in effect until the new license is issued or denied or the previous license expires or is revoked, whichever occurs first.

8. No licensed school shall discontinue operation or surrender its

license unless thirty days written notice of its intention to do so and a plan for maintenance of safe keeping of the records of the school is provided to the commissioner. However, upon good cause shown, the commissioner may waive the thirty days notice requirement.

9. Annual supervision fund and tuition reimbursement account assessment. a. The commissioner shall annually assess each school a total percentage of that school's gross tuition pursuant to subdivision three of section five thousand two of this article, as determined by the annual audited financial statement required by this article. This assessment shall be based upon each school's gross tuition from the previous year, and shall be payable to the commissioner in equal quarterly installments which shall be due on June first, September first, December first and March first.

b. (i) Such annualized assessment shall be one percent for schools which have paid less than sixteen quarters of assessments, but such annual assessment shall not fall below five hundred dollars.

(ii) Such annualized assessment shall be eight-tenths of one percent for schools which have paid sixteen or more quarters of assessments, but such annual assessment shall not fall below five hundred dollars.

c. (i) Of the total assessment provided for herein, five-tenths of one percent shall accrue to the credit of the tuition reimbursement account pursuant to section five thousand seven of this article for those schools which have paid less than sixteen quarters of assessments. Of the total assessment provided for schools which have paid sixteen or more quarters of assessments, three-tenths of one percent shall accrue to the credit of the tuition reimbursement account pursuant to section five thousand seven of this article. For schools paying the minimum five hundred dollars annual assessment, none shall accrue to the tuition reimbursement account.

(ii) The balance of the total assessment provided for herein shall be dedicated to fund the department's supervision and regulation of licensed private schools pursuant to an annual appropriation and an annual plan of expenditure prepared by the commissioner and approved by the director of the budget.

d. Payments made within thirty days following the due date shall be subject to interest at one percent above the prevailing prime rate. Thereafter, late payments may result in suspension of licensure by the commissioner. Payments required by this subdivision shall be considered a condition of licensure.

§ 5002. Standards for licensed private career schools. Any school licensed pursuant to section five thousand one of this article shall be organized and conducted only as a school and shall be subject to the jurisdiction of the department exclusively, or in conjunction with such other state agency or department or district attorney upon which jurisdiction has also been conferred by law. Such schools shall be subject to and comply with the provisions of this section.

1. Standards. a. No program of such schools shall be conducted in a factory or commercial establishment, except where the use of facilities or equipment of such factory or commercial establishment is permitted for necessary or desirable educational purposes and objectives.

b. For every such school, the commissioner shall set forth in regulation standards governing all of the following:

(1) criteria for admission, which shall provide that students at least possess a high school diploma or its equivalent or demonstrate the ability to benefit from the instruction, except that in the case of students who do not possess a high school diploma or its equivalent, certification of the students' ability to benefit from instruction shall be provided to the commissioner as provided in paragraph c of this subdivision;

(2) the standards and the methods of instruction;

(3) the equipment available for instruction with the maximum enrollment that such equipment and physical plant will accommodate;

(4) the qualifications and experience of teaching and management personnel;

(5) the form and content of the student enrollment agreement or contract, provided that such agreement or contract shall be written in

the same language as that principally used in the sales presentation;

(6) the methods of collecting tuition;

(7) eligibility criteria for programs that will require licensure;

(8) the sufficiency and suitability of the resources available for the support of such school; and

(9) counseling provided to students.

b-1. (1) Student loans or other financial aid funds received from federal, state, or local governments or administered under the federal student financial assistance programs governed by Title IV of the Higher Education Act of nineteen hundred sixty-five, 20 U.S.C. section 1070 et seq., as amended, must be collected and applied in the manner as controlled by the applicable federal, state or local regulations.

(2) Student loans or other financial aid funds received from private entities, including, but not limited to, banks, financing companies, and other lending sources must be collected or disbursed in the following manner:

(A) Loans or other financial aid payments for amounts of five thousand dollars or less may be disbursed as a single disbursement, regardless of course length.

(B) Loans or other financial aid payments for amounts greater than five thousand dollars that reflect a class term of less than six months shall have two equal disbursements. The disbursement schedule for such loans or payments shall be as follows: one-half of the tuition amount released initially, and the remainder released halfway through the course term.

(C) Loans or other financial aid payments for amounts greater than five thousand dollars that reflect a class term of greater than six months, but less than twelve months must have three equal disbursements. The disbursement schedule for such loans or payments shall be as follows: one-third of the tuition amount released initially, the second disbursement shall be released one-third of the way through the length of the training, and the remainder released two-thirds of the way through the course term.

(D) Loans of other financial aid payments for amounts greater than five thousand dollars that reflect a class term greater than twelve months shall have four equal disbursements. The disbursement schedule

for such loans or payments shall be as follows: one-quarter of the tuition amount released initially, the second disbursement shall be released one quarter of the way through the length of the training; the third disbursement shall be released halfway through the length of the training, and the remainder shall be released three-quarters of the way through the training.

(3) No school may enter into any contract or agreement with or receive any students loan or financial aid funds from private entities, including, but not limited to, banks, financing companies, and any other private lending sources unless the private entity has a disbursement policy that, at a minimum, meets the requirements of subparagraph two of this paragraph.

(4) The term private entity referenced in subparagraphs two and three of this paragraph shall not be construed to include a friend or family member of the student who is not in the routine business of providing student loans or financial aid funds. The provision of such a loan or fund by a private entity shall also not include the payment of the student's tuition or fees by use of a credit card.

c. Notwithstanding any other provisions of this article to the contrary, the commissioner shall define alternative educational and curriculum standards for any program of less than forty hours designed exclusively for non-occupational, personal enrichment purposes.

d. Admission of students under the ability to benefit provision.

(1) Certification. Each school admitting students who do not possess at least a high school diploma or its equivalent shall certify to the satisfaction of the commissioner that such prospective students have been administered and passed an examination which has been approved by the commissioner to determine their ability to benefit from the chosen curriculum prior to admission to the curriculum or course of study. Such examination shall, whenever possible, be a nationally recognized test appropriate for the course of instruction which has been approved by the commissioner. The examination results of each such student who is admitted shall be made available to the commissioner at a time prescribed by the commissioner and, together with the student's original answer sheet, shall be maintained by the school in the student's

permanent record. For any student failing to achieve the necessary score on such examination for enrollment, the school shall be required to provide such student with a listing of appropriate counseling and educational opportunities available to the student at no cost, as determined by the commissioner. Where appropriate, the commissioner may accept such other entrance requirement documentation such as prerequisite coursework, professional or vendor certifications, personal interviews, and/or attestations of equivalent knowledge in lieu of the examination requirement.

(2) Counseling. Each school offering curricula which admit students who do not possess a high school diploma or its equivalent shall develop a plan to be approved by the commissioner for the counseling of such students on an individual basis on matters including but not limited to the student's ability to progress in the curriculum, the student's financial aid rights and responsibilities, the availability of programs to earn a high school equivalency diploma, including programs provided at no cost to the student, and the potential of the training to prepare the student for available employment opportunities within the region.

(3) Compliance. (A) The commissioner shall monitor compliance with this paragraph and verify the examination and counseling process and student examination scores. Such procedures may include but not be limited to an annual, statistically significant, random sampling of the examinations taken by prospective students of each school administering such examinations.

(B) In the event that the commissioner determines that the school is out of compliance with the examination process and counseling, the commissioner shall require that examinations and counseling for students admitted under the ability to benefit provision and the counseling required by subparagraph two of this paragraph be conducted off the premises of the school by an entity approved by the commissioner for such period of time as the commissioner deems appropriate, the cost of which shall be incurred by the school.

2. Inspections. a. Every school licensed pursuant to this article shall maintain adequate and accurate records for a period of not less than seven years at its principal place of business within this state. Such records shall be maintained in a manner and form prescribed by the

commissioner and shall be made available to the department and the higher education services corporation upon request.

b. In addition to other requirements in this article, the information to be made a part of the record shall include, but not be limited to:

(1) names and addresses of each enrolled student;

(2) the course of study offered by the institution;

(3) the name and address of its faculty, together with a record of the educational qualifications of each;

(4) the graduation date of each student; and

(5) for each student who fails to complete his or her program, the student's last date of attendance and, if applicable, the amount of any refund paid to, or on behalf of, the student and the date the refund was made.

c. The commissioner shall conduct periodic unscheduled inspections of licensed private career schools to monitor compliance with the provisions of this article or the rules or regulations promulgated thereunder or any final order or decision of the commissioner made pursuant to this article. The department shall conduct an inspection of each school at least once every licensure period. All schools shall provide upon request of the department, any and all records necessary to review compliance with the provisions of this article.

d. Student permanent records, as defined in the regulations of the commissioner, shall be maintained for a period of twenty years.

3. Tuition liability. a. The tuition charge for programs approved for participation in student financial aid general award programs pursuant to articles thirteen and fourteen of this chapter shall be apportioned on the basis of terms, quarters or semesters. For the purposes of this section, the terms "term", "quarter" and "semester" shall be defined in regulations by the commissioner.

b. The tuition refund policy for the first term or quarter of any program at schools licensed pursuant to section five thousand one of this article shall be as follows:

(1) For programs which are divided into quarters of up to fourteen weeks, the school shall evenly divide the total tuition charges among the number of quarters. After instruction is begun in a school, if a student withdraws or is discontinued, the school may retain no more than:

(i) zero percent of the quarter's tuition if the termination is during the first week of instruction; or

(ii) twenty-five percent of the quarter's tuition if the termination is during the second week of instruction; or

(iii) fifty percent of the quarter's tuition if the termination is during the third week of instruction; or

(iv) seventy-five percent of the quarter's tuition if the termination is during the fourth week of instruction; or

(v) one hundred percent of the quarter's tuition if the termination occurs after the fourth week of instruction.

(2) For programs organized by terms of fifteen, sixteen, seventeen or eighteen weeks apiece, the school shall evenly divide the total tuition charges among the number of terms. After instruction is begun in a school, if a student withdraws or is discontinued, the school may retain no more than:

(i) zero percent of the term's tuition if the termination is during the first week of instruction; or

(ii) twenty percent of the term's tuition if the termination is during the second week of instruction; or

(iii) thirty-five percent of the term's tuition if the termination is during the third week of instruction; or

(iv) fifty percent of the term's tuition if the termination is during the fourth week of instruction; or

(v) seventy percent of the term's tuition if the termination is during the fifth week of instruction; or

(vi) one hundred percent of the term's tuition if the termination occurs after the completion of the fifth week of instruction.

c. (1) The tuition refund policy for the second term or quarter of any program at schools licensed pursuant to section five thousand one of this article shall be as follows:

(A) For programs which are divided into quarters of up to fourteen

weeks, the school shall evenly divide the total tuition charges among the number of quarters. After instruction is begun in a school, if a student withdraws or is discontinued, the school may retain no more than:

(i) twenty-five percent of the quarter's tuition if the termination is during the first week of instruction; or

(ii) fifty percent of the quarter's tuition if the termination is during the second week of instruction; or

(iii) seventy-five percent of the quarter's tuition if the termination is during the third week of instruction; or

(iv) one hundred percent of the quarter's tuition if the termination occurs after the third week of instruction.

(B) For programs organized by terms of fifteen, sixteen, seventeen or eighteen weeks apiece, the school shall evenly divide the total tuition charges among the number of terms. After instruction is begun in a school, if a student withdraws or is discontinued, the school may retain no more than:

(i) twenty percent of the term's tuition if the termination is during the first week of instruction; or

(ii) thirty-five percent of the term's tuition if the termination is during the second week of instruction; or

(iii) fifty percent of the term's tuition if the termination is during the third week of instruction; or

(iv) seventy percent of the term's tuition if the termination is during the fourth week of instruction; or

(v) one hundred percent of the term's tuition if the termination occurs after the completion of the fourth week of instruction.

(2) Notwithstanding the provisions of subparagraph one of this paragraph, the tuition refund policy set forth in paragraph b of this subdivision shall apply unless the school demonstrates that there are no significant educational changes in the educational program of the student, such changes as defined in regulations of the commissioner.

d. The tuition refund policy for the third and any subsequent term or quarter of any program licensed pursuant to section five thousand one of this article shall be the policy set forth in subparagraph one of paragraph c of this subdivision.

e. No program shall have a term in excess of eighteen weeks.

f. The amount of the refund shall be calculated based on the last day of student attendance.

g. (1) Any refund due to a student shall be paid by the school within forty-five days of the date on which the student withdraws from the program. For the purposes of this article, such date shall be the earliest of (i) the date on which the student gives written notice to the school or (ii) the date on which the student is deemed to have withdrawn pursuant to subparagraph two of this paragraph.

(2) If a student has failed to attend classes for a period of thirty calendar days, the school shall send by regular mail a notice to the student that the student shall be deemed to have withdrawn from the program if the student does not notify the school to the contrary within twelve days from the date on which the letter is sent. If the student fails to respond within such twelve-day period, the student shall be deemed to have withdrawn and the school shall notify the higher education services corporation that the student has withdrawn and the date of the withdrawal.

h. Schools shall submit, for approval by the commissioner, the school catalog with a weekly tuition liability chart for each program that indicates the amount of refund due the student in the event of withdrawal.

i. Upon payment of a refund to a lender, the school shall forthwith send a notice to a person designated by the president of the higher education services corporation upon a form approved by the president that such refund was made.

j. If the higher education services corporation fails to receive the notice required by paragraph i of this subdivision, it shall forthwith notify the student of his or her right to a refund and the commissioner of such failure. Upon receipt of such notification, the commissioner shall take appropriate action against the school.

4. Curriculum approval. a. An application and fee shall be made for the initial approval of a curriculum or course and shall include such information as the commissioner may require by regulation. Approval shall be valid for a period not to exceed four years. The application fee for any curriculum of one hundred clock hours or more shall be two hundred fifty dollars. The application fee for any course of less than one hundred clock hours shall be one hundred dollars. Such application fees shall accrue to the credit of the proprietary vocational school supervision account.

b. In approving curriculum, the commissioner shall take into consideration the following:

(1) that the entrance requirements demonstrate that students possess the skills, competencies and prerequisite knowledge needed to progress in the curriculum;

(2) that the content will enable the student to develop those skills and competencies required for employment in the occupational area for which the curriculum was developed;

(3) that the school will utilize appropriate instructional methods;

(4) that the instructional equipment used within the curriculum is comparable to the equipment currently used by business or industry in the occupational area for which the curriculum was developed; and

(5) that a curriculum may include instruction in English as a second language at a beginning or basic level, provided such instruction shall not constitute more than fifty percent of such program.

c. (1) If the evaluation of a particular course or facility requires the services of an expert not employed by the department, the department shall retain such expert at the school's expense in addition to the application fees prescribed in paragraph a of this subdivision.

(2) If, in the interest of expediting the approvals, a school requests the department to employ an outside consultant, the school shall pay the cost of such services in addition to the application fees prescribed in paragraph a of this subdivision.

d. The commissioner shall act on applications for approval of a course

or curriculum within one hundred twenty days of receipt of a complete application and, in the case of a denial, shall set forth in writing the reasons for such denial.

e. Notwithstanding paragraphs b, c and d of this subdivision, curriculum certified by a nationally recognized vendor as defined in commissioner's regulations shall be recognized by the department in lieu of an expert evaluation when such curriculum is adopted by a school in the original format provided by the vendor as long as the proposed curriculum is a stand alone program and not part of a larger comprehensive course.

f. Notwithstanding any other provision of the law, a not-for-profit licensed career school, that is eligible for participation in the tuition assistance program and which has national accreditation, may, for the purpose of calculation of federal financial aid amounts only, measure students' academic progress in an approved curriculum in non-degree granting credit hours, based upon a national accrediting agency's conversion and approval of clock hours to non-degree credit hours. For the purposes of this paragraph, "national accreditation" shall mean accreditation by a national accrediting agency as defined in the commissioner's regulations.

5. Application for reapproval. a. An application and fee shall be made for reapproval of a curriculum or course. Such application shall be considered timely if submitted at least one hundred twenty days prior to the expiration of the current approval. The application fee for any curriculum of one hundred clock hours or more shall be two hundred fifty dollars. The application fee for any course of less than one hundred clock hours shall be one hundred dollars, provided that no fee shall be assessed for the submission of a reapproval application without change. Such application fee shall accrue to the credit of the proprietary vocational school supervision account.

b. Curriculum reapproval standards. (1) The commissioner shall prescribe by regulation, standards for reapproval after the first year of licensure, of any curriculum or course based upon factors including but

not limited to the following, as appropriate:

(i) for each curriculum or course, the percentage of students who have dropped out;

(ii) the acquisition of a specified minimum level of skills by the students; and

(iii) for each curriculum or course, the percentage of students placed in occupations related to the instruction, where applicable.

(2) Such standards shall be consistent with those applied to all non-degree career education programs.

c. Reapproval contingency. Reapproval of a curriculum or course shall be contingent upon a demonstration by the applicant that the curriculum or course has met the curriculum reapproval standards set forth in this subdivision. Except as otherwise provided in paragraph d of this subdivision, no such curriculum or course or substantially similar curriculum or course may be given without reapproval by the commissioner.

d. When timely and complete application is made for the reapproval of a curriculum or course, and no written denial is made thirty days prior to the date of expiration of the existing approval, the curriculum or course shall be deemed to be approved for the period of the curriculum. If the application is denied, the commissioner shall set forth in writing the reasons for such denial.

e. The commissioner may provide in regulations for reapproval procedures, consistent with this subdivision, for applications submitted less than one hundred twenty days from the expiration date.

f. The commissioner shall act upon enrollment agreements and catalogs within ninety days of receipt, and, in the case of denial, shall set forth in writing the reasons for such denial. If the commissioner fails to act within ninety days, a catalog shall be deemed approved for one year and an enrollment agreement shall be deemed approved until the commissioner acts upon it.

6. a. Teachers and directors. No person shall be employed by a private

career school as a director or teacher who is not licensed in such capacity by the department pursuant to regulations of the commissioner, which shall take into consideration such factors as moral character, educational qualifications and practical experience. The application shall include a statement, signed by the president or chief executive officer of the school, certifying that to the best of his or her knowledge, the applicant is able to meet the educational qualifications and practical experience set forth in the commissioner's regulations. Such application shall be considered timely if mailed to the commissioner and postmarked four days prior to employment at the school and must be completed within twenty days thereafter; provided, however, that the commissioner may, for good cause shown, extend the time within which to complete the application. When a complete application is made, the commissioner shall act upon such application within thirty days. If no written denial is made within the thirty days, the application shall be deemed to be approved until the commissioner acts upon it or until the end of the term or semester, whichever occurs first. If a written denial is made after the thirty day period, the commissioner may allow the applicant to teach at the school for the remainder of the term or semester if the commissioner determines that the removal of the teacher would not be in the best educational interest of the students. This subdivision shall not apply to directors or teachers employed on or before July first, nineteen hundred seventy-two. Teachers' licenses issued on or after the effective date of the chapter of the laws of two thousand twelve which amended this paragraph shall be valid at all licensed private career schools for the courses, curricula, or occupations indicated on the license. Teachers holding valid private school teacher licenses valid at only one school location shall have them replaced, at no cost, with licenses valid at any licensed school in the same subject or subjects and with the same expiration date as was listed on the previous teaching license.

b. A school director shall have access to all student and school records which shall be maintained in accordance with this article and the regulations of the commissioner and shall make such records available to the commissioner or the commissioner's designee upon request during an on-site school inspection.

c. Notwithstanding paragraph a of this subdivision, a teacher who has been certified as an instructor by a nationally recognized vendor as defined in commissioner's regulations may be deemed qualified as an instructor by the department, provided such teacher shall only provide instruction in the course or courses for which he or she holds vendor's certification. A teacher authorized by this paragraph will be subject to all licensing fees required by the department for licensed teachers.

7. Advertising. a. The commissioner is authorized to commence a disciplinary proceeding pursuant to this article for false, misleading, deceptive or fraudulent advertising pursuant to regulations promulgated by the commissioner which shall be consistent with article twenty-two-A of the general business law. The department shall issue guidelines as to appropriate advertising content. In developing such guidelines, the department shall consider advertising for similar programs offered by various educational institutions. In a disciplinary action or other proceeding, such guidelines shall not be presumptive evidence that particular advertising is appropriate.

b. Beginning on January first, two thousand, all schools shall include in their advertising, promotional material, or letterhead the statement "Licensed by the State of New York", and an accompanying symbol to indicate such status, issued by the commissioner pursuant to section five thousand nine of this article.

8. The higher education services corporation shall adopt rules and regulations to effectuate the cessation of collection activities by lenders or by the corporation in cases in which a licensed private career school at which the student enrolled has closed or ceased its teaching activities during the academic period for which the loan was made or guaranteed.

§ 5003. Disciplinary actions, hearings and penalties. 1. Disciplinary action. a. The commissioner for good cause, after affording a school an opportunity for a hearing, may take disciplinary action as hereinafter

provided against any school authorized to operate under this article.

b. Good cause shall include, but not be limited to, any of the following:

(1) fraudulent statements or representations to the department, the public or any student in connection with any activity of the school;

(2) violation of any provision of this article or regulation of the commissioner;

(3) conviction or a plea of no contest on the part of any owner, operator, director or teacher:

(A) of any of the following felonies defined in the penal law: bribery involving public servants; commercial bribery; perjury in the second degree; rewarding official misconduct; larceny, in connection with the provision of services or involving the theft of governmental funds; offering a false instrument for filing, falsifying business records; tampering with public records; criminal usury; scheme to defraud; or defrauding the government; or

(B) in any other jurisdiction of an offense which is substantially similar to any of the felonies defined in clause (A) of this subparagraph and for which a sentence to a term of imprisonment in excess of one year was authorized and is authorized in this state regardless of whether such sentence was imposed; or

(4) incompetence of any owner or operator to operate a school.

c. (1) Any person who believes he or she has been aggrieved by a violation of this section, except a person aggrieved by the actions or omissions of a candidate school, shall have the right to file a written complaint within: (A) two years of the alleged violation; or (B) one year of receiving notification from the higher education services corporation or any other guarantee agency that the student has defaulted on a student loan payment; provided, however, that no complaint may be filed after three years from the date of the alleged violation. The commissioner shall maintain a written record of each complaint that is made. The commissioner shall also send to the complainant a form acknowledging the complaint and requesting further information if necessary and shall advise the director of the school that a complaint has been made and, where appropriate the nature of the complaint.

(2) The commissioner shall within twenty days of receipt of such written complaint commence an investigation of the alleged violation and shall within ninety days of the receipt of such written complaint, issue a written finding. The commissioner shall furnish such findings to the person who filed the complaint and to the chief operating officer of the school cited in the complaint. If the commissioner finds that there has been a violation of this section, the commissioner shall take appropriate action.

(3) The commissioner may initiate an investigation without a complaint.

(4) Notwithstanding the provisions of subparagraph one of this paragraph or any other provision of this article to the contrary, a student at a candidate school shall have the right to file a written complaint from an alleged violation of the provisions of clause three of subparagraph (iv) of paragraph b of subdivision four of section five thousand one of this article that require disclosure of candidacy status and its implications and a signed attestation by the student, within two years of such violation. Upon a finding that such a violation has occurred, the candidate school shall be required to provide a refund of all monies and fees received from or on behalf of the student. Appropriate action shall also be taken against the candidate school pursuant to the provisions of subparagraph (iv) of paragraph b of subdivision four of section five thousand one of this article.

(5) No owner, operator, licensed personnel, or agent thereof of a licensed private career school shall discriminate, intimidate, or retaliate against any person who files a written complaint pursuant to this paragraph.

2. Hearing procedures. a. Upon a finding that there is good cause to believe that a candidate school under the provisions of subparagraph (iv) of paragraph b of subdivision four of section five thousand one of this article, or a licensed school, or an officer, agent, employee, partner or teacher, has committed a violation of this article, the commissioner shall initiate proceedings by serving a notice of hearing upon each and every such party subject to the administrative action. The school or such party shall be given reasonable notice of hearing, including the time, place, and nature of the hearing and a statement

sufficiently particular to give notice of the transactions or occurrences intended to be proved, the material elements of each cause of action and the civil penalties and/or administrative sanctions sought.

b. Opportunity shall be afforded to the party to respond and present evidence and argument on the issues involved in the hearing including the right of cross examination. In a hearing, the school or such party shall be accorded the right to have its representative appear in person or by or with counsel or other representative. Disposition may be made in any hearing by stipulation, agreed settlement, consent order, default or other informal method.

c. (1) The commissioner shall designate an impartial hearing officer to conduct the hearing, who shall be empowered to:

(A) administer oaths and affirmations; and

(B) regulate the course of the hearings, set the time and place for continued hearings, and fix the time for filing of briefs and other documents; and

(C) direct the school or such party to appear and confer to consider the simplification of the issues by consent; and

(D) grant a request for an adjournment of the hearing only upon good cause shown.

(2) The strict legal rules of evidence shall not apply, but the decision shall be supported by substantial evidence in the record.

3. Decision after hearing. The hearing officer shall make written findings of fact and conclusions of law, and shall also recommend in writing to the commissioner a final decision including penalties. The hearing officer shall mail a copy of his or her findings of fact, conclusions of law and recommended penalty to the party and his or her attorney, or representative. The commissioner shall make the final decision, which shall be based exclusively on evidence and other materials introduced at the hearing. If it is determined that a party has committed a violation, the commissioner shall issue a final order and shall impose penalties in accordance with this section. The commissioner shall send by certified mail, return receipt requested, a

copy of the final order to the party and his or her attorney, or representative. The commissioner shall, at the request of the school or such party, furnish a copy of the transcript or any part thereof upon payment of the cost thereof.

4. Judicial review. Any order imposed under this section shall be subject to judicial review under article seventy-eight of the civil practice law and rules, but no such determination shall be stayed or enjoined except upon application to the court after notice to the commissioner.

5. Enforcement proceedings. The attorney general, in his or her own capacity, or at the request of the commissioner, may bring an appropriate action or proceeding in any court of competent jurisdiction to recover a fine or otherwise enforce any provision of this article.

6. Civil penalties and administrative sanctions. a. A hearing officer may recommend, and the commissioner may impose, a civil penalty not to exceed three thousand five hundred dollars for any violation of this article, including a school's failure to offer a course or program as approved by the commissioner. In the case of a second or further violation committed within five years of the previous violation, the liability shall be a civil penalty not to exceed seven thousand five hundred dollars for each such violation.

b. Notwithstanding the provisions of paragraph a of this subdivision, a hearing officer may recommend, and the commissioner may impose a civil penalty not to exceed seventy-five thousand dollars or double the documented amount from which the school benefited, whichever is greater, for any of the following violations: (1) operation of a school without a license in violation of section five thousand one of this article; (2) operation of a school knowing that the school's license has been suspended or revoked; (3) use of false, misleading, deceptive or fraudulent advertising; (4) employment of recruiters on the basis of a commission, bonus or quota, except as authorized by the commissioner; (5) directing or authorizing recruiters to offer guarantees of jobs upon completion of a course; (6) failure to make a tuition refund when such

failure is part of a pattern of misconduct; (7) the offering of a course or program that has not been approved by the commissioner; (8) admitting students, who subsequently drop out, who were admitted in violation of the admission standards established by the commissioner, where such admissions constitute a pattern of misconduct and where the drop out resulted at least in part from such violation; (9) failure to provide the notice of discontinuance and the plan required by subdivision seven of section five thousand one of this article; or (10) violation of any other provision of this article, or any rule or regulation promulgated pursuant thereto, when such violation constitutes part of a pattern of misconduct which significantly impairs the educational quality of the program or programs being offered by the school. For each enumerated offense, a second or further violation committed within five years, shall be subject to a civil penalty not to exceed one and one-half times the amount of the previous violation for each such violation.

c. In addition to the penalties authorized in paragraphs a and b of this subdivision, a hearing officer may recommend and the commissioner may impose any of the following administrative sanctions: (1) a cease and desist order; (2) a mandatory direction; (3) a suspension or revocation of a license; (4) a probation order; or (5) an order of restitution.

d. Penalty factors. In the recommendation of any penalty, a hearing officer shall, at a minimum, give due consideration, where applicable, to the good faith of the violator and the gravity of the violation.

e. The commissioner may suspend a license upon the failure of a school to pay any fee, fine, penalty, settlement or assessment as required by this article unless such failure is determined by the commissioner to be for good cause.

f. All civil penalties, fines and settlements received after April first, nineteen hundred ninety shall accrue to the credit of the tuition reimbursement account established pursuant to section ninety-seven-hh of the state finance law.

7. Criminal penalties. In addition to any other penalties elsewhere prescribed:

a. Any person who knowingly violates any of the provisions of this article shall be guilty of a class B misdemeanor punishable in accordance with the penal law. If the conviction is for a second offense committed within five years of the first conviction under this paragraph, such person shall be guilty of a class A misdemeanor punishable in accordance with the penal law.

b. Any person who knowingly (1) falsifies or destroys school or other business records relating to the operation of the school with intent to defraud; (2) fails to make a tuition refund as required by section five thousand two of this article with the intent to defraud more than one person; or (3) operates a school without a valid license required by section five thousand one of this article shall be guilty of a class A misdemeanor punishable in accordance with the penal law.

c. Any person who, having been convicted within the past five years of failing to make a tuition refund in violation of subparagraph two of paragraph b of this subdivision, knowingly and intentionally engages in a scheme constituting a systematic ongoing course of conduct involving the wrongful withholding of refunds in violation of section five thousand two of this article with the intent to defraud ten or more persons, and so withholds tuition refunds in excess of one thousand dollars, shall be guilty of a class E felony punishable in accordance with the penal law.

d. Upon a determination that there exist reasonable grounds to believe that a violation of this article has been committed, or that any other crime has been committed in connection with the operation of a school required to be licensed pursuant to this article, the commissioner shall refer such determination, and the information upon which it is based, to the attorney general or to the appropriate district attorney. The attorney general or a district attorney may bring an action on his or her own initiative.

8. Private right of action. A student injured by a violation of this article may bring an action against the owner or operator of a licensed private career school for actual damages or one hundred dollars, whichever is greater. A court may, in its discretion, award reasonable attorney's fees to a prevailing plaintiff. No owner, operator, licensed personnel, or agent thereof of a licensed private career school shall discriminate, intimidate, or retaliate against any student who brings a private right of action against the owner or operator of a licensed private career school pursuant to this subdivision.

§ 5004. Private school agent's certificate. 1. a. No party may, for a consideration or remuneration procure, solicit or enroll any student for instruction in or given by any school within or without the state of New York, unless (i) the party is a salaried employee of the school and (ii) the party shall have secured a private school agent's certificate from the department pursuant to regulations of the commissioner.

b. Upon submission of a complete new application for licensure, an applicant may procure, solicit or enroll any student for instruction; provided, however, that such applicant be in possession at all times during the procurement, solicitation or enrollment processes of a temporary approval certificate which the commissioner shall issue within five days of receipt by mail or on the same day at designated offices. A school shall submit such application for licensure on or before the first day of employment of such individual.

c. No consideration or remuneration shall be paid in the form of a fee per student enrolled by a private school agent except pursuant to the following limitations:

(1) a school may pay twenty-five percent of the consideration or remuneration after the student has completed three weeks of the program;

(2) a school may pay the remainder of the consideration or remuneration after the student has completed eight weeks of the program;

(3) the total amount of the consideration or remuneration paid per student may not exceed one percent of the annual salary paid to the agent.

d. In promulgating regulations in relation to the issuance of such certificates and the conduct of the holders of such certificates, the commissioner shall give consideration to:

(1) good moral character of the candidate for such certificate;

(2) the use of ethical and fair practices in the presentation of the school's offerings; and

(3) whether the prospective agent has within five years of the date of the application violated any provision of this article or the regulations of the commissioner adopted pursuant to this article.

2. Instruction, as contemplated by this section, shall be any plan or method for teaching any subject or subjects in any form or manner, including correspondence or home study.

3. a. Exempted from the requirements of this section are persons acting solely for schools which are not required to be licensed or are specifically exempted from the licensing requirements of this article.

b. (i) Also exempted from the requirements of this section is an online education marketplace as defined in paragraph c of subdivision one of section five thousand one of this article, provided that the online education marketplace complies with each of the following:

(1) An online education marketplace shall not solicit, procure, or enroll any student for instruction in a licensed private career school or certified ESL school, as defined by the commissioner in regulations.

(2) Upon receipt of any monies collected by an online education marketplace from a prospective student for payment of tuition and/or fees, the prospective student and the licensed private career school or certified ESL school shall execute an enrollment agreement in accordance with regulations of the commissioner. If an enrollment agreement is not executed, the monies shall be promptly returned to the prospective student in a timeframe and manner prescribed by the commissioner in regulations.

(3) If an enrollment agreement is executed, the online education marketplace shall forward the monies received from the prospective student to the licensed private career school or certified ESL school in

a timeframe and manner prescribed by the commissioner in regulations.

(4) An online education marketplace shall not receive from a student an amount greater than the tuition or fees to be charged by the licensed private career school or certified ESL school to the student, and shall separately account for monies received from the prospective student to be thereafter transferred to a licensed private career school or certified ESL school in payment of tuition or fees, and any remuneration and/or compensation received by the online education marketplace from a licensed private career school or certified ESL school in payment for services rendered to such school by the online education marketplace. The licensed private career school or certified ESL school shall also separately account for tuition or fees transferred to the school by an online education marketplace on behalf of a student in payment of tuition or fees, and payments made by the school to an online education marketplace for services rendered to the school by the online education marketplace.

(5) The commissioner may take disciplinary action against an online education marketplace pursuant to section five thousand three of this article, to the extent such provisions are deemed applicable by the commissioner in regulations.

(6) An online education marketplace is prohibited from offering advertising/marketing services to an unlicensed private career school or uncertified ESL school.

(ii) Any licensed private career school or certified ESL school that contracts with an online education marketplace shall comply with the provisions of this subdivision and the regulations of the commissioner or they may be subject to disciplinary action pursuant to section five thousand three of this article.

c. Persons who are paid to procure, solicit or enroll students on the premises of schools required to be licensed shall not be exempt from the provisions of this section.

4. Application and renewal application for a private school agent's certificate shall be filed on forms to be prescribed and provided by the commissioner. Said certificate shall be valid for three years from the date of issuance. Certificates which have been renewed shall be valid

for a period of three years from the expiration date of the certificate which has been renewed. Every applicant and renewal applicant shall pay to the department a fee of two hundred dollars.

4-a. Notwithstanding the provisions of subdivision four of this section, the school director may apply for a private school agent's certificate on forms to be prescribed and provided by the commissioner without incurring the agent application fee.

5. No recovery shall be had against any student or enrollee and full recovery shall be made on any contract for or in connection with any instruction if the student or enrollee was procured, solicited or enrolled outside or on the school premises by a person paid to procure, solicit or enroll students but not having a valid private school agent's certificate pursuant to the provisions of this section at the time that the contract was negotiated or executed or the sale of the instruction was made, or by a person who holds such a certificate but has made fraudulent or improper claims. Each enrollment agreement shall include, where applicable the name of the agent responsible for procuring, soliciting or enrolling the student or enrollee.

6. The issuance of such a private school agent's certificate shall not be deemed to constitute approval of any course or of the person or institution offering, conducting or administering the same.

7. The commissioner, after giving to the certificate holder due notice and opportunity to be heard, may fine a private school agent, suspend or revoke a private school agent's certificate at any time for failure to comply with the provisions of the law or the regulations of the commissioner or for any other good cause.

8. No employer of a private school agent other than a school may indemnify, save harmless or otherwise reimburse any agent for the amount of any fines imposed pursuant to this section. If a person fined pursuant to this section can demonstrate to the satisfaction of the commissioner that the action for which the fine was imposed was undertaken pursuant to explicit instructions from the employer, the

employer shall idemnify, save harmless, and reimburse that person for the fine and shall pay to the commissioner an additional fine of an equal amount.

§ 5005. Disclosure to students. The school shall disseminate to all prospective and enrolled students through an enrollment contract or agreement or other appropriate publications or documents, and in appropriate languages as required by the commissioner in regulation:

a. information concerning the school, including but not limited to:

(1) a description of the courses offered;

(2) program objectives and the length of the program;

(3) a schedule of tuition payments, fees and all other charges and expenses necessary for completion of the course or program;

(4) the tuition refund and contract cancellation policies;

(5) a description of the faculty and other instructional personnel and their qualifications;

(6) the names of associates, agencies or governmental bodies which accredit, approve or license the school;

(7) a description of any special facilities and services available to handicapped students; and

(8) any other items identified by the commissioner in regulation following consultation with the advisory council;

b. if the school advertises job placement rates as means of attracting students to enroll in the school, the most recent available data on employment and graduation statistics for students who have attended that school;

c. information concerning any student financial assistance, including a description of the procedures and forms, student eligibility requirements and the rights and responsibilities of students receiving financial aid;

d. the pass rate of graduates of the program for the most recent calendar year on any licensure or certification examination required by

the state for employment in the particular vocational, trade, or career field;

e. the process for obtaining a tuition refund from the tuition reimbursement fund and the availability of loan forgiveness in the event the school closes while the student is in attendance;

f. a sample enrollment contract, a sample cancellation form developed by the department in consultation with the advisory council and a tuition reimbursement fund claim form; and

g. a description of the complaint procedures established pursuant to this article.

§ 5006. Teachout plans. 1. A school may submit a teachout plan to the commissioner for approval pursuant to regulations established by the commissioner. A teachout plan shall consist of a contract between a licensed private career school, with another school, hereinafter called the teachout school, so that in the event that the licensed private career school ceases instruction, the teachout school will provide the necessary instruction specified in a student's original enrollment agreement with the school ceasing instruction. A teachout plan may employ more than one teachout school to provide instruction to students in the school ceasing instruction. Schools under common ownership but having separate licenses may, subject to the approval of the commissioner, enter into teachout agreements. A teachout plan may be contracted between the commissioner and one or more teachout schools in the event that the closing school is unable or unwilling to do so.

2. A teachout plan shall include the following provisions: (a) the teachout school must offer courses of study that are substantially similar to those offered in the school ceasing instruction;

(b) teachout schools must be located in the geographic area in which the school ceasing instruction was located unless the school ceasing instruction provided distance learning or online training;

(c) all provisions for a teachout plan must be included in the

enrollment agreement signed by the student; and

(d) the teachout school shall agree to fulfill the enrollment agreement signed by the student at the school ceasing instruction.

3. The licensed school shall provide to the teachout school and to the department the following information prior to closure:

(a) Copies of the academic and financial records for all students in attendance at the school at the projected time of closure;

(b) A listing of all such students presently in attendance including their names, addresses, social security numbers, curriculum that each student is enrolled in and the number of hours the students will have completed at the time of the school closure.

4. The department will provide to the teachout school, immediately upon notification of a school closing, a copy of each approved curriculum that the closing school is presently offering.

5. The commissioner shall require all teachout schools to address the following issues:

(a) Integration of students into a curriculum which may be different from the curriculum in which they are currently receiving instruction;

(b) Assessments of students' progress so that they may be placed into an appropriate course;

(c) Provision of remedial instruction to students who are found to be deficient in one or more course areas upon their initial assessment;

(d) Provision by the teachout school to adhere to the required student/teacher ratios and room capacities; and

(e) Compliance with statutory and regulatory requirements during the teachout.

6. The student shall not be subject to any costs beyond the total costs identified in the original enrollment agreement.

7. A student may decline to pursue instruction at the teachout school and may instead seek a refund pursuant to section five thousand seven of this article.

§ 5007. Tuition reimbursement account. 1. Except as otherwise provided in subdivision six of this section, the portion of the annual assessment of schools licensed pursuant to section five thousand one of this article as prescribed in subdivision nine of such section and all fines, penalties and settlements received pursuant to this article shall be transferred upon receipt into the tuition reimbursement account.

3. a. The commissioner shall develop a complaint form and provide such form to students. In order to claim a refund, a student shall apply to the fund with a complaint form pursuant to the requirements of section five thousand three of this article. Except as otherwise provided in this article, the commissioner shall compute the refund, if any, using the refund formula established by subdivision three of section five thousand two of this article.

b. Claimants who had been enrolled in schools which have not closed or ceased operation shall be required to show in a manner determined by the commissioner that:

(1) the student is eligible for a refund;

(2) the student has made a request to the school for a refund; and

(3) the school has failed to make the refund within the time period required by this article.

c. The commissioner shall act on each refund request within thirty business days of such request.

4. Students may be eligible for refunds under this section as follows:

a. A student who is offered a teachout plan for the curriculum in which the student was enrolled at the time the school closed or ceased operation, which has been approved by the department, may elect to continue instruction pursuant to the teachout plan or may decline to continue instruction and may instead apply for a full refund under this section. The option to apply for a refund shall extend to the end of the first week of instruction at the teachout school.

b. A student who was enrolled in a school which has not closed or ceased operation is entitled to a refund computed in accordance with the refund policy established by subdivision three of section five thousand two of this article.

c. A student who was enrolled in a school at the time the school closes or ceases operation is entitled to a refund of the full amount of prepaid tuition. In addition, commencing September first, nineteen hundred ninety-three, a student who drops out of a school, where such school closes within thirty days of the student's termination and prior to completion of such student's program as specified in the enrollment agreement, shall be entitled to a full refund of all tuition, fees and book charges paid for by or on behalf of the student in cash or in loans, excluding funding provided by any government agencies.

d. A student who was enrolled in a school which has not closed or ceased operation, and who has dropped out, is entitled to a full refund of all tuition, fees and other required costs paid by the student if the student has submitted a complaint form to the commissioner and the commissioner has determined that a violation of this article has occurred which warrants a refund. The commissioner shall promulgate regulations identifying those violations that warrant a refund.

e. Commencing September first, nineteen hundred ninety-three, a student who drops out of a school, which subsequently closes, and who is owed a refund for the failure of such school to follow the provisions enumerated in subdivision three of section five thousand two of this article shall be eligible for a refund from the tuition reimbursement fund according to the provisions of subdivision three of section five thousand two of this article.

f. Commencing September first, nineteen hundred ninety-three, any student enrolled in a school based upon an ability to benefit examination shall be eligible for a full refund, regardless of whether the student is currently enrolled, graduated or dropped out, if the school enrolled the student contrary to the provisions of the approved entrance requirements and the student complies with the requirements of

subdivision one of section five thousand three of this article.

5. a. For a student who had been enrolled in a school that has not closed or ceased operation, the refund shall be paid as follows:

(1) guaranteed student loans, if any, in which case the commissioner shall notify the student of such payment and shall be paid directly to the lender or guarantee agency where appropriate;

(2) actual personal tuition expenditures, if any; and

(3) tuition assistance program awards and other governmental aid.

b. For schools that have closed or ceased operation, the commissioner shall refund actual personal tuition, fees and book expenditures to the student. The repayment of any loans incurred by the student as part of the actual personal tuition, fees and book expenditures shall be paid directly to the lender or the guarantee agency where appropriate.

6. a. Where a claim is paid to a student of an operating school, the commissioner shall immediately notify the school.

b. Within ten days of the receipt of the notice, the school shall either request a hearing to challenge the commissioner's determination that a refund was owed to the student or reimburse the fund the amount paid to the claimant plus a penalty up to two times such amount. This payment shall also incur interest for each day it remains unpaid at an annual interest rate of one percent above the prime rate. The commissioner may promulgate streamlined procedures for conducting hearings pursuant to this paragraph. Any penalty assessed under this paragraph shall be in addition to any other penalties assessed pursuant to this article. Notwithstanding any other provision of law, penalties and interest paid pursuant to this paragraph shall accrue to the credit of the proprietary vocational school supervision account to support the costs associated with the hearings authorized in this subdivision.

7. Notwithstanding the notice procedures described in subdivision three of this section, in the event of a school closing, the commissioner on his or her own initiative may take appropriate action in accordance with this section to process refund claims on behalf of all

of the students of the closed school.

8. Assignment of rights. Persons and entities receiving refunds under this section shall be deemed to have assigned or subrogated their tuition reimbursement rights to the commissioner on behalf of the tuition reimbursement fund only for the amount refunded by the tuition reimbursement fund. Within ninety days of any refund made pursuant to this section, the commissioner or the attorney general shall take appropriate action to recover the total amount of the refunds made, plus administrative costs, from the school.

9. a. A student whose loan liability is exempted pursuant to former section six hundred eighty-three of this chapter and is entitled to or owed a refund shall transfer to the higher education services corporation the right to claim the refund owed and due from the tuition reimbursement fund. In such event, the corporation shall be entitled to receive a refund for that portion of the claim not paid to the corporation by the United States Secretary of Education pursuant to the federal guaranteed loan program.

b. Any amounts remaining in the tuition reimbursement fund as of June first, nineteen hundred ninety-three and on every March thirty-first thereafter, shall be made available to the higher education services corporation for payment of student loans on which collection activity has ceased pursuant to the provisions of subdivision six of former section six hundred eighty-three of this chapter. No amounts shall be paid to the higher education services corporation for loans on which collection activity has ceased because of the operation of section 437 of the Higher Education Act of 1965, as amended.

10. Management of the tuition reimbursement account. a. As used in this subdivision, net balance is defined as the actual cash balance of the account as determined by the commissioner on June thirtieth, nineteen hundred ninety-three and every three months thereafter. For the purpose of calculating the net balance, the commissioner shall not take into consideration any refunds made from the account pursuant to paragraphs d and f of subdivision four of this section for the year

immediately preceding the date on which the calculation is made.

b. In the event that the account has accumulated a net balance in excess of one million eight hundred thousand dollars, the commissioner shall, with the approval of the director of the budget, waive an amount not to exceed the amount due for the next quarterly assessment pursuant to this section and subdivision nine of section five thousand one of this article for schools which have paid sixteen quarters or more of assessments only. In such event, payment of future quarterly assessments shall be suspended for schools which have paid sixteen quarters or more of assessments until the net balance of the account falls below one million three hundred thousand dollars.

c. In the event the net balance of the account falls below one million three hundred thousand dollars, if the quarterly assessment has been suspended for schools which have paid sixteen quarters or more of assessments pursuant to paragraph b of this subdivision, it shall be reinstated for the next quarterly assessment and all subsequent quarterly assessments until the account has accumulated a net balance in excess of one million eight hundred thousand dollars.

d. Notwithstanding the provisions of paragraph b of this subdivision, in the event that the balance of the account is in excess of one million three hundred thousand dollars, all schools licensed after June thirtieth, nineteen hundred ninety-nine shall be required to pay into the account the equivalence of three years of annual assessments over a five year period.

e. Notwithstanding the provisions of paragraph b of this subdivision all schools licensed after June thirtieth, nineteen hundred ninety-three and before July first, nineteen hundred ninety-nine will be required to pay into the account the equivalence of three years of annual assessments within four years of the effective date of this paragraph. This amount to be assessed shall be determined based upon the school's gross tuition in its first three years of licensure.

g. In the event that the balance of the tuition reimbursement account

is equal to or in excess of two million dollars, the amounts assessed the schools in accordance with the provisions of paragraphs d and e of this subdivision shall be deposited directly to the proprietary vocational school supervision account.

h. The commissioner may annually apportion from the account an amount up to two hundred thousand dollars for the purpose of securing, scanning and otherwise making student records from closed schools available to students who attended such schools. Provided, however, that in no case shall such apportionment cause the account to fall below the balance set forth in paragraph c of this subdivision, nor shall such apportionment cause schools whose quarterly assessments have been suspended to pay additional quarterly assessments.

11. Fund audit. The state comptroller shall audit or cause to be audited the tuition reimbursement fund once every two years and produce an audited financial statement according to generally accepted accounting principles.

12. New schools. Within the first year that a school begins licensed operation, the commissioner shall assess such school an amount to be deposited into the fund in an amount to be determined by the commissioner.

§ 5008. Trust accounts. 1. If the commissioner determines that a school has demonstrated a pattern or practice of failing to make tuition refunds in a timely manner consistent with this article and/or the school's financial condition may result in the interruption or cessation of instruction or jeopardize student tuition funds, the commissioner shall require a school to establish a trust account in a form or manner which the commissioner shall determine to be appropriate. The assets or funds contained in the trust account shall be maintained for the sole and exclusive benefit of the students.

2. In making this determination, the commissioner shall consider the following factors: the number of refunds not paid by the school in a

timely manner; the number of claims made to, or paid by, the tuition reimbursement account; a pattern of misconduct which substantially affects the financial interests of students or the state, potential liability to the tuition reimbursement account, current assets as opposed to current liabilities, and such other measures as may be appropriate.

§ 5009. Duties of the commissioner. In addition to all other duties assigned in this article, the duties of the commissioner shall include, but not be limited to:

1. ensuring that up-to-date, accurate information is available to the public, via the internet and other appropriate media, regarding every duly licensed proprietary school in this state, as well as disciplinary actions decided by the state.

2. developing and issuing to duly licensed proprietary schools a symbol to indicate such status; provided that such symbol shall be developed and made available to such schools no later than September thirtieth, nineteen hundred ninety-nine.

3. administering a public information campaign aimed at increasing awareness about the importance of attending licensed proprietary vocational schools. Such campaign shall be targeted to populations at risk of enrolling in unlicensed schools, and shall be conducted using means including, but not limited to, public service announcements on commercial radio and television stations, public access television, and print media.

4. providing for the orderly maintenance of any student records which may be transferred to the department pursuant to any school's plan developed pursuant to subdivision eight of section five thousand one of this article; including responding to student requests for transcripts and records within twenty days of receiving a request. The commissioner is hereby authorized to impose an appropriate fee for such transcripts pursuant to a schedule approved by the director of the budget.

§ 5010. Advisory council. 1. An advisory council for licensed private career schools is hereby created for the purpose of advising the board of regents and the commissioner as provided herein. The council shall be composed of eleven members appointed by the governor, two of whom shall be upon the recommendation of the temporary president of the senate, two of whom shall be upon the recommendation of the speaker of the assembly, one of whom shall be upon the recommendation of the minority leader of the senate and one of whom shall be upon the recommendation of the minority leader of the assembly. Of the five remaining members, one shall be an owner or director of a school regulated pursuant to this article, and one shall be a student advocate. The governor shall designate a chairperson from such members. The commissioner, the president of the higher education services corporation, the secretary of state, the comptroller, the director of the division of the budget, and the executive director of the job training partnership council, or their designees, shall serve as ex-officio, non-voting members of the council.

2. The council shall meet no less than four times a year. Members of the council shall receive no compensation for their services but shall be reimbursed for reasonable expenses actually and necessarily incurred by them in the performance of their duties. Council member terms of office shall be limited to three years, provided that members may be reappointed. All appointments to the council to fill vacancies in existence on the effective date of the chapter of the laws of two thousand twelve which amended this subdivision shall be made within ninety days of such effective date.

3. The council shall advise the commissioner on such matters as the council determines are appropriate.

ARTICLE 103

WORKPLACE LITERACY PROGRAMS

Section 5100. Definitions.
5101. Grants.

5102. Regulations.

§ 5100. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Eligible agency" means labor organizations, their federations or organizations of employers acting in consortium with labor organizations, that have been approved by the commissioner, upon application therefor, to conduct workplace literacy and basic skills education programs.

2. "Labor organization" means organizations of workers established to bargain collectively on behalf of their member workers.

3. "Workplace literacy and basic skills education" means those common branch skills and English-as-a-second-language skills that are directly related to the ability to perform occupational tasks.

§ 5101. Grants. 1. The commissioner is authorized to make grants to eligible agencies that conduct workplace literacy and basic skills education programs for employees of public or private employers or for members of unions whose present levels of literacy skills constitute a barrier to continued employment or to promotion.

2. No for-profit agency or institution may act as the fiscal agent of any grant receivable under the provisions of this section.

§ 5102. Regulations. The commissioner shall promulgate regulations to carry out the provisions of this article. Such regulations shall, among other things, specify the programs, services, or functions that are eligible for funding under this article, including, but not limited to, instruction, administration, counseling, support services, and curriculum development.

ARTICLE 105

RESEARCH INSTITUTE ON ADDICTIONS

Section 5200. Establishment of the research institute on addictions.
5201. Functions of institute.

§ 5200. Establishment of the research institute on addictions. There is hereby established at the university center at Buffalo of the state university of New York the research institute on addictions for research and teaching in the sciences related to addiction, including alcohol abuse and substance abuse, as such terms are defined in section 1.03 of the mental hygiene law, and chemical dependence, as defined in section 19.40 of the mental hygiene law.

§ 5201. Functions of institute. The research institute on addictions is designated as an institute for the conduct of research and education directed towards furthering knowledge of the etiology, diagnosis, treatment and prevention of addictions, including alcoholism, alcohol abuse, substance abuse, substance dependence and chemical dependence. The university shall foster support and obtain funds for research thereby, or under the direction thereof, or through contract or agreement, relating to primary biochemical and social causes of such addictions, the epidemiology of such addictions and the effectiveness of various types of prevention, treatment, and rehabilitation programs and approaches.

TITLE VII

STATE AND CITY COLLEGES AND INSTITUTIONS--CORNELL UNIVERSITY

Article 115 Cornell University (§§ 5701-5716).
119 New York State Legislative Institute (§§ 5901-5905).
121 State University of New York College of Environmental Science and Forestry (§§ 6001-6007).
123 The New York State College of Ceramics at Alfred University (§§ 6101-6103).

125 City University of New York (§§ 6201-6234).
125-A Board of Higher Education Optional Retirement Program (§§ 6250-6256).
125-B City University Construction Fund (§§ 6270-6283).
126 Community colleges and state-aided four-year colleges (§§ 6301-6310).
127 Military service (§§ 6350-6354).
129 State aid for certain independent institutions of higher education (§§ 6401-6405).
129-A Regulation by colleges of conduct on campuses and other college property used for educational purposes (§§ 6430-6438).
129-B Implementation by colleges and universities of sexual assault, dating violence, domestic violence and stalking prevention and response policies and procedures (§§ 6439-6449).
130 Arthur O. Eve opportunity for higher education (§§ 6451-6456).

ARTICLE 115

CORNELL UNIVERSITY

Section 5701. Cornell university continued.
5702. Objects and powers of the corporation.
5703. Trustees.
5704. Trustees shall make reports; university subject to visitation of regents; services for state agencies.
5705. Extent to which property may be held.
5706. Restrictions on alienation of property.
5707. Extent of farm and grounds.
5708. Powers to police grounds and regulate traffic thereon.
5709. Special deputy sheriffs; powers and duties.
5711. New York state college of veterinary medicine.
5712. New York state college of agriculture and life sciences.
5713. New York state agricultural experiment station.
5714. New York state college of human ecology.

5715. New York state school of industrial and labor relations.
5716. Acquisition by the state of land and interests in land of Cornell university upon which buildings have heretofore or may hereafter be erected by the state.

§ 5701. Cornell university continued. The corporation known as Cornell university, located at Ithaca, is continued with all the rights, and subject to all the liabilities contained in the act of incorporation, being chapter five hundred eighty-five of the laws of eighteen hundred sixty-five, as amended.

§ 5702. Objects and powers of the corporation. The leading object of said corporation shall be to teach such branches of learning as are related to agriculture and the mechanic arts, including military tactics, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life. But such other branches of science and knowledge may be embraced in the plan of instruction and investigation pertaining to the university as the trustees may deem useful and proper. Said university is authorized to establish faculties, departments and branches and carry on its work at any places in this state and to confer any and all literary, scientific, technical and professional degrees, and in testimony thereof award certificates and diplomas. Persons of every religious denomination, or of no religious denomination, shall be equally eligible to all offices and appointments.

§ 5703. Trustees. 1. Appointment and election. The board of trustees of Cornell university shall be constituted as follows:

a. Ex officio trustees. The governor, the temporary president of the senate, the speaker of the assembly and the president of the university shall be ex officio trustees during their respective terms of office.

b. One life trustee. The eldest lineal descendant of Ezra Cornell

shall be a trustee for his or her life.

c. Appointed trustees. The governor shall appoint, subject to confirmation by the senate, three trustees, one each year for a term of three years, commencing on the first day of July.

d. Board trustees. Fifty-six trustees shall be selected in such manner and for such terms as the board of trustees may determine. At all times, such board trustees shall include at least: two members from each of the fields of agriculture, business and labor in New York state; eight trustees to be elected from among and by the alumni of the university; two trustees to be elected from among and by the faculty of the university at Ithaca and Geneva; two trustees to be elected from among and by the membership of the university's student body at Ithaca; and one trustee to be elected from among and by the nonacademic staff and employees of the university at Ithaca and Geneva.

2. General provisions. a. Notwithstanding the provisions of any other general or specific statute the minimum age for membership on the board of trustees shall be eighteen years.

b. The presence of thirty trustees at a meeting duly called in accordance with said university's bylaws shall constitute a quorum for the transaction of business.

§ 5704. Trustees shall make reports; university subject to visitation of regents; services for state agencies. 1. The trustees of said university shall make all the reports and perform such other acts as may be necessary to conform to the act of congress, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, eighteen hundred sixty-two. The said university shall be subject to visitation of the regents of the university.

2. Notwithstanding any other provision of law to the contrary, and subject to the review and approval of the state comptroller, the state

may enter into an agreement with the university prescribing the general terms and conditions for providing services or technical assistance pursuant to article eleven of the state finance law or program activities pursuant to article eleven-B of the state finance law. Subject to such terms and conditions, state agencies may enter into agreements with said university for the provision of such services, assistance or activities related to the university's land grant mission, which agreements shall not be subject to the requirements of the state finance law.

§ 5705. Extent to which property may be held. The said corporation may take and hold real and personal property to such an amount as may be or become necessary for the proper conduct and support of the several departments of education heretofore established or hereafter to be established by its board of trustees, and such real and personal property as has been, or may hereafter be given to said corporation by gift, grant, devise or bequest in trust or otherwise, for the use and purposes permitted by its charter, and in cases of trusts so created, the several trust estates shall be kept distinct, and the interest or income shall be faithfully applied to the purposes of such respective trusts, in accordance with the provisions of the acts or instruments by which the respective trusts were created.

§ 5706. Restrictions on alienation of property. That portion of said university grounds, which was the original gift of about two hundred acres of land made by Ezra Cornell and at that time located in the town of Ithaca in the county of Tompkins, shall not be encumbered, aliened or otherwise disposed of by the said trustees, or by any other person, except on terms such as the legislature of the state of New York shall have approved, and any act of the said trustees, or that of any other person which shall have that effect, shall be void; except, that Cornell University is hereby authorized to mortgage, or convey such part of the aforesaid lands of said university as it may deem necessary to enable it to obtain needed loans, advances, or financing for the construction of a housing unit including all necessary and usual attendant and related

facilities and equipment erected for the use of students, an academic building, library, laboratory, classroom or other building or structure essential, necessary or useful for instruction in the academic program upon the following terms:

(1) Such loans, advances or financing shall be obtained from or through the dormitory authority of the state of New York, or from or through the housing and home finance agency or from such other New York state or federal agency or agencies as are now, or as may be, engaged in constructing or financing the construction, acquisition, alteration, or improvement of such educational or attendant facilities above described. Such construction may be conducted by the said university or by the governmental agency involved in such financing as may be agreed upon.

(2) Any conveyance of the title of any part of the aforesaid lands shall provide that the title to said lands shall revert to Cornell University upon payment of the principal and interest of such loan, advance, or financing secured by said conveyance and the satisfaction of all its obligations thereunder, and upon such payment and satisfaction the said lands, so conveyed shall revert to and again become the property of the university with such title as it had before such conveyance.

§ 5707. Extent of farm and grounds. The farm and grounds occupied by said corporation, whereupon its buildings are erected, or shall be erected in such manner and to such extent as the trustees may from time to time direct and provide for, shall consist of not less than two hundred acres.

§ 5708. Powers to police grounds and regulate traffic thereon. 1. For the purpose of providing for the safety of its students, faculty, employees and visitors, Cornell university is hereby authorized and empowered through its board of trustees: a. To adopt, make applicable and enforce, upon the streets, roads and highways owned, controlled or maintained by said university within the grounds of said university and constituting a part of the educational and research plant or plants owned or under the supervision, administration, and control of said

university, such provisions of the vehicle and traffic law, and such rules of the state department of transportation as control or regulate vehicular or pedestrian traffic, and parking.

b. To adopt and enforce such additional rules and regulations for the control of the use of the streets and roads described in the foregoing subdivision as local authorities are empowered to adopt and enforce pursuant to said vehicle and traffic law.

c. To adopt and enforce rules and regulations not inconsistent with law, controlling parking of vehicles and pedestrian traffic over, along and upon the lands and premises of said university or the streets and highways therein, and to control or prohibit thereon or therein vending, hawking, loitering and trespassing.

d. To erect, operate and maintain at the entrance or entrances to any such grounds and at other appropriate points thereon or therein control lights, signs and signals.

2. A violation of any section of the vehicle and traffic law or of any rule of the state department of transportation made applicable as provided in paragraph a of subdivision one hereof, shall be a misdemeanor or traffic infraction as designated in such law or rules as the case may be, and punishable as therein provided, and any violation of a rule or regulation adopted under paragraph b of subdivision one hereof shall be a traffic infraction and punishable as provided in the state vehicle and traffic law.

3. A violation of any rules or regulations of the university adopted pursuant to paragraph c of subdivision one of this section, shall constitute a misdemeanor punishable by fine not exceeding fifty dollars or by imprisonment not exceeding six months, or both.

4. Notice of any such laws or rules and regulations made applicable or adopted as hereinbefore provided shall be given either personally or by reasonable notice conspicuously posted on the said lands and premises, or by traffic sign, signal or device, and by filing a copy of all such

laws, rules and regulations, and amendments thereof from time to time, in the office of the clerk of the city, town, or village where they are to be enforced. Such laws, rules and regulations shall be enforced, and violations thereof shall be punishable in any court having jurisdiction in the territory in which such violations shall occur.

§ 5709. Special deputy sheriffs; powers and duties. 1. For the protection of the grounds, buildings and property of Cornell university and of the state institutions and property, or other lands and property under the supervision, administration and control of said university, and for the prevention of crime and the enforcement of law and order, and for the enforcement of such rules and regulations as the board of trustees of Cornell university shall from time to time make, as authorized in section fifty seven hundred eight of this chapter or otherwise, the sheriff of a county within which any part of the grounds of Cornell university or the grounds of any state institution constituting a part of the educational and research plants, owned or under the supervision, administration or control of said university, are located, shall appoint and remove at the request of Cornell university such number of special deputy sheriffs as shall be recommended by the president of Cornell university, such appointments to be made from persons nominated by the president of Cornell university, and such special deputy sheriffs shall act only within the county of the sheriff making the appointment. Such special deputy sheriffs so appointed shall be employees of the university and subject to its supervision and control and shall have the powers of peace officers as set forth in section 2.20 of the criminal procedure law within the said grounds or premises owned or administered by Cornell university including any public highway which crosses or adjoins such property. Nothing herein contained shall be construed to prohibit any special deputy sheriff appointed as herein provided from holding an appointment in more than one county at one and the same time.

2. Every special deputy sheriff so appointed shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed by article thirteen of the constitution of the state of New

York, which oath shall be filed in the office of the county clerk of the county in which the grounds, lands and premises in which he is to be employed is situate. Every special deputy sheriff appointed under this section when on regular duty shall wear conspicuously a metallic shield with a designating number and the words "Special Deputy Sheriff Cornell University" thereon. The compensation, if any, of such special deputy sheriff shall be paid by Cornell university or by the state of New York if so provided by law.

§ 5711. New York state college of veterinary medicine. 1. The state veterinary college, established by chapter one hundred fifty-three of the laws of eighteen hundred ninety-four, shall hereafter be known as the New York state college of veterinary medicine at Cornell university, and shall continue to be under the supervision of the state university trustees. The object of said college of veterinary medicine shall be: To give instruction in the normal structure and function of the animal body, in the pathology, prevention and treatment of animal diseases, and in all matters pertaining to biomedical science as applied to animals and correlatively to the human family; and to conduct investigations as to the nature, prevention and cure of all diseases of animals, including such as are communicable to man and such as cause epizootics among animals; and to investigate the economic questions which will contribute to the more profitable breeding, rearing and utilization of animals.

2. All buildings, furniture, apparatus and other property heretofore or hereafter erected or furnished by the state for such college of veterinary medicine shall be and remain the property of the state. The Cornell university shall have the custody and control of said property, and, as the representative of the state university trustees, shall, with whatever state moneys may be received for the purpose, administer the said college of veterinary medicine as to the establishment of courses of study, the creation of departments and positions, the determination of the number and salaries of members of the faculty and other employees thereof, the appointment and employment thereof, the maintenance of discipline and as to all matters, pertaining to its educational policies, activities and operations, including research work.

3. The state university trustees shall maintain general supervision over the requests for appropriations, budgets, estimates and expenditures of such college. Cornell university shall receive no income, profit or compensation for the exercise and performance of the powers and duties conferred and imposed by this section, but all moneys received from state appropriations for the said college of veterinary medicine or derived from other sources in the course of the administration thereof, shall be kept by said university in a separate fund from the moneys of the university, and shall be used exclusively for said New York state college of veterinary medicine. Such moneys as may be appropriated to be paid to the Cornell university by the state in any year, to be expended by said university in the administration of said college of veterinary medicine, shall be payable to the treasurer of Cornell university in three equal payments to be made on the first day of October, the first day of January, and the first day of April in such year, and shall be expended upon vouchers approved by the chancellor of the state university, as the chief administrative officer of the state university, or by such authority or authorities in the state university as shall be designated by the chancellor by a rule or written direction filed with the comptroller, when and in the manner authorized by the state university trustees.

4. The said university shall expend such moneys and use such property of the state in administering said college of veterinary medicine, and shall submit to the state university trustees during the month of September in each year, a detailed statement of such expenditures and of the general operations of the said college of veterinary medicine.

5. The tuition fees charged to students shall be regulated by Cornell university after consultation with the state university trustees and all other fees and charges in said college of veterinary medicine shall be fixed by Cornell university, and the moneys so received shall be expended for the current expenses of the said college of veterinary medicine.

§ 5712. New York state college of agriculture and life sciences. 1. The state college of agriculture, established by chapter six hundred fifty-five of the laws of nineteen hundred four, shall hereafter be known as the New York state college of agriculture and life sciences at Cornell university and shall continue to be under the supervision of the state university trustees. The object of said college of agriculture and life sciences shall be to improve the agricultural methods of the state, to develop the agricultural resources of the state in the production of crops of all kinds, in the rearing and breeding of livestock, in the manufacture of dairy and other products in determining better methods of handling and marketing such products, and in other ways; and to increase intelligence and elevate the standards of living in the rural districts. For the attainment of these objects the college is authorized to give instruction in the sciences, arts and practices relating thereto, in such courses and in such manner as shall best serve the interests of the state; to conduct extension work in disseminating agricultural knowledge throughout the state by means of experiments and demonstrations on farms and gardens, investigations of the economic and social status of agriculture, lectures, publication of bulletins and reports, and in such other ways as may be deemed advisable in the furtherance of the aforesaid objects; to make researches in the physical, chemical, biological and other problems of agriculture, the application of such investigations to the agriculture of New York, and the publication of the results thereof.

2. All buildings, furniture, apparatus and other property heretofore or hereafter erected or furnished by the state for such college of agriculture and life sciences shall be and remain the property of the state. The Cornell university shall have the custody and control of said property, and, as the representative of the state university trustees, shall, with whatever state moneys may be received for the purpose, administer the said college of agriculture and life sciences as to the establishment of courses of study, the creation of departments and positions, the determination of the number and salaries of members of the faculty and other employees thereof, the appointment and employment thereof, the maintenance of discipline and as to all other matters pertaining to its educational policies, activities and

operations, including research work.

3. The state university trustees shall maintain general supervision over the requests for appropriations, budgets, estimates and expenditures of such college. Cornell university shall receive no income, profit or compensation for the exercise and performance of the powers and duties conferred and imposed by this section, but all moneys received from state appropriations for the said college of agriculture and life sciences or derived from other sources in the course of the administration thereof, shall be credited by said university to a separate fund, and shall be used exclusively for said New York state college of agriculture and life sciences. Such moneys as may be appropriated to be paid to the Cornell university by the state in any year, to be expended by said university in the administration of said college of agriculture and life sciences, shall be payable to the treasurer of Cornell university in three equal payments to be made on the first day of October, the first day of January, and the first day of April in such year, and shall be expended upon vouchers approved by the chancellor of the state university, as the chief administrative officer of the state university, or by such authority or authorities in the state university as shall be designated by the chancellor by a rule or written direction filed with the comptroller, when and in the manner authorized by the state university trustees.

4. The said university shall expend such moneys and use such property of the state in administering said college of agriculture and life sciences as above provided, and shall submit to the state university trustees during the month of September in each year, a detailed statement of such expenditures and of the general operations of the said college of agriculture and life sciences.

5. The tuition fees charged to students shall be regulated by Cornell university after prior consultation with the state university trustees and all other fees and charges in said college of agriculture and life sciences shall be fixed by Cornell university, and the moneys received from these sources and from the sales of products shall be credited to a separate fund and shall be used for the current expenses of the said

college of agriculture and life sciences.

6. There shall be established in said college of agriculture and life sciences courses of instruction in the fundamentals, theory and practice of nursery work, including the propagation and growth of nursery stock, and in gardening and planting.

§ 5713. New York state agricultural experiment station. 1. The institution known as the New York agricultural experiment station, located in the city of Geneva, for the purposes of promoting agriculture in its various branches by scientific investigation and experiment, established by chapter five hundred ninety-two of the laws of eighteen hundred eighty, shall continue to be controlled and managed by Cornell university under the supervision of the state university trustees. Said station shall be managed, controlled and administered by Cornell university, as the representative of the state university trustees, in the manner and with the powers provided by section fifty-seven hundred twelve of this chapter. Cornell university shall have the power to appoint a director and such other scientific and expert workers and employees deemed necessary to accomplish the objects of such experiment station. In such station, said university shall, besides conducting experiments for the promotion of agricultural science, perform and report to the commissioner of agriculture and markets such analyses and other scientific work as such commissioner may request and consider to be necessary for the administration of the provisions of the agriculture and markets law. The salaries and other expenses incurred by reason of such analyses and other scientific service shall be paid from funds appropriated for such purposes.

2. Cornell university is hereby authorized and empowered to publish from time to time bulletins giving information of the results of analyses made at such station of any commodity or substance analyzed thereat and may in like manner publish bulletins containing the results of such analyses heretofore made and unpublished.

3. In addition to the number of copies otherwise required by law, the

commissioner of agriculture and markets may, with the approval of the governor, cause to be printed by the state printer such number of copies of any report of such station heretofore or hereafter made as he deems sufficient to meet the public demand therefor. The expense of printing such copies shall be paid out of the appropriation for legislative printing, as provided by law. Such copies shall be delivered to such commissioner and sold by him to the public at the actual cost thereof as determined by the comptroller.

4. The Cornell university is hereby designated as the institution within this state entitled to receive the benefits of the act of congress of the United States, approved March second, eighteen hundred eighty-seven, entitled "An act to establish agricultural experiment stations in connection with colleges established in the several states, under the provision of an act approved July second eighteen hundred and sixty-two, and of the acts supplementary thereto." Such benefits of such act which this state is authorized thereby to apply to any college, institution or agricultural experiment station within this state are applied to Cornell university and this state consents that such appropriation, money, or benefits to or for the use of this state, or of any institution within this state, payable under or in pursuance of such act of congress, shall be paid to the treasurer of Cornell university who is the officer designated to receive the same, to be used by Cornell university in such proportion that nine-tenths thereof shall be applied to the use of the New York state college of agriculture and life sciences and one-tenth thereof to the New York state agricultural experiment station at Geneva. Such moneys shall be expended as provided in such act of congress. The department of taxation and finance shall keep an account of all moneys received by it in pursuance of such act of congress in a separate fund to the credit of the Cornell university and shall pay all moneys immediately upon receipt thereof by it to the treasurer of such university, upon the warrant of the comptroller issued upon the order of the said university.

§ 5714. New York state college of human ecology. 1. The school of home economics heretofore administered and maintained in the New York

state college of agriculture at Cornell university shall hereafter be known as the New York state college of human ecology at Cornell university and shall continue to be under the management and control of said university, subject to the supervision of the state university trustees.

2. The object of said college of human ecology shall be the improvement of family well-being and human welfare by means of education, research, extension teaching, and related public service in the fields of human development and the use of human and environmental resources, including consumer economics, family relationships, human nutrition, household design, and allied subjects.

3. All buildings, furniture, apparatus, and other property heretofore erected or furnished by the state for the said college of human ecology, and all buildings, furniture, apparatus, and other property hereafter erected or furnished by the state for said college of human ecology shall be and remain the property of the state. The Cornell university shall have the custody and control of said property, and shall, as the representative of the state university trustees, with whatever state moneys may be received for the purpose, administer the said college of human ecology as to the establishment of courses of study, the creation of departments and positions, the determination of the number and salaries of members of the faculty and other employees thereof, the employment and appointment thereof, the maintenance of discipline and as to all matters pertaining to its educational policies, activities and operations, including research work.

4. The state university trustees shall maintain general supervision over the requests for appropriations, budgets, estimates and expenditures of such college. Cornell university shall receive no income, profit, or compensation for the exercise and performance of the powers and duties conferred and imposed by this section, but all moneys received from state appropriations for said college of human ecology or derived from other sources in the course of the administration thereof shall be credited by said university to a separate fund and shall be used exclusively for said New York state college of human ecology. Such

moneys as may be appropriated to be paid to the Cornell university by the state in any year to be expended by said university in the administration of said college of human ecology shall be payable to the comptroller of Cornell university in three equal payments to be made on the first day of July, the first day of November, and the first day of March, and shall be expended upon vouchers approved by the chancellor of the state university, as the chief administrative officer of the state university, or by such authority or authorities in the state university as shall be designated by the chancellor by a rule or written direction filed with the comptroller, when and in the manner authorized by the state university trustees.

5. The said university shall expend such moneys and use such property of the state in administering said college of human ecology as above provided, and shall report to the state university trustees during the month of September in each year.

6. The tuition fees charged to students shall be regulated by Cornell university after prior consultation with the state university trustees and all other fees and charges in said college of human ecology shall be fixed by Cornell university, and the moneys received from these sources and from the sales of products shall be credited to a separate fund and shall be used for the expenses of said college of human ecology in such ways as the trustees of said university may determine.

§ 5715. New York state school of industrial and labor relations. 1. Findings. It is necessary that understanding of industrial and labor relations be advanced; that more effective cooperation among employers and employees and more general recognition of their mutual rights, obligations and duties under the laws pertaining to industrial and labor relations in New York state be achieved; that means for encouraging the growth of mutual respect and greater responsibility on the part of both employers and employees be developed; and that industrial efficiency through the analysis of problems relating to employment be improved.

2. Policy. In the interpretation and application of this section, it

is hereby declared to be the policy of the state to provide facilities for instruction and research in the field of industrial and labor relations through the maintenance of a school of industrial and labor relations.

3. School continued. The New York state school of industrial and labor relations, heretofore established by chapter one hundred sixty-two of the laws of nineteen hundred forty-four, is hereby continued in the state university, at Cornell university in the city of Ithaca.

4. Object of school. The object of such school shall be to improve industrial and labor conditions in the state through the provision of instruction, the conduct of research, and the dissemination of information in all aspects of industrial, labor, and public relations, affecting employers and employees.

5. Property of school. All lands, buildings, furniture, apparatus, and other property heretofore or hereafter erected or furnished by the state for the said school of industrial and labor relations shall be and remain the property of the state, and shall be in the custody and under the control of Cornell university, as the representative of the state university trustees.

6. Control and operation. a. Subject to appropriations by the state therefor, Cornell university, as the representative of the state university trustees, shall administer the New York state school of industrial and labor relations as to the establishment of courses of study, the creation of departments and positions, the determination of the number and salaries of members of the faculty and other employees thereof, the appointment and employment thereof, the maintenance of discipline and as to all other matters pertaining to its educational policies, activities and operations, including research work and the dissemination of information in all aspects of industrial, labor, and public relations, affecting employers and employees. The state university trustees shall maintain general supervision over such school.

b. The tuition fees charged to students shall be regulated by Cornell

university after prior consultation with the state university trustees and all other fees and charges in such school shall be fixed by Cornell university.

c. Cornell university shall receive no income, profit or compensation for the exercise and performance of the powers and duties conferred and imposed by this section in connection with such school. All moneys received by such university in the course of the administration of such school from tuition, fees and other charges shall be used exclusively for such school. Money appropriated by the state for such school shall be payable from the state treasury upon the audit and warrant of the comptroller upon vouchers approved by the chancellor of the state university, as the chief administrative officer of the state university, or by such authority or authorities in the state university as shall be designated by the chancellor by a rule or written direction filed with the comptroller, when and in the manner authorized by the state university trustees.

§ 5716. Acquisition by the state of land and interests in land of Cornell university upon which buildings have heretofore or may hereafter be erected by the state. Notwithstanding the provisions of section fifty-seven hundred and six of this chapter, any lands owned by Cornell university upon which buildings have been heretofore or may hereafter be erected by the state for the purpose of any college, school or experiment station provided for in this article, together with such additional contiguous lands as may be deemed appropriate or needful to the purposes of any such college, school or experiment station, with such rights of way, for purposes of ingress and egress thereto and therefrom or for other purposes over other lands of Cornell university, as may be deemed necessary, may be conveyed by Cornell university to the people of the state, without consideration, pursuant to such agreement or agreements therefor as may be made between Cornell university and, with the approval of the director of the budget, the trustees of the state university of New York, acting for and on behalf of the people of the state. Any such conveyance may be made upon such terms and conditions, including conditions precedent or conditions subsequent with

provision of reverter and right of re-entry upon breach thereof, as may be provided for by any such agreement. All such agreements shall be in writing and shall be approved as to form and manner of execution by the attorney-general before they shall become binding on the state. No conveyance authorized herein shall be accepted on behalf of the state unless the title to the property conveyed shall be approved by the attorney-general and the deed of conveyance approved as to form and manner of execution by him.

ARTICLE 119

NEW YORK STATE LEGISLATIVE INSTITUTE

Section 5901. Statement of objectives and legislative findings.
5902. Establishment of legislative institute.
5903. Functions of institute.
5904. Advisory board; appointment; powers and duties.
5905. Chairs on legislative process.

§ 5901. Statement of objectives and legislative findings. The legislative process, involving determination of public needs and aspirations, the allocation of funds between private and public sectors, the order of priorities within the public sector, the maintenance of stability within our society, the invigoration of the productive forces of the state, is a dynamic system. As society becomes more specialized and scientific advances multiply and the legislature's role in decision making increases, it becomes more necessary than ever that the legislative process provide an avenue for responsible closing of the gap between technological know-how and our social institutions.

The legislature finds that in order to promote public interest and welfare, it is essential that there be provided a central institution where research, training and information on the legislative process be provided.

§ 5902. Establishment of legislative institute. There is hereby

established at the graduate school of public affairs of the state university in the city of Albany, the New York state legislative institute.

§ 5903. Functions of institute. The legislative institute shall provide a center for research, training and information on the legislative process. The institute is hereby empowered to conduct classes both credit and non-credit on the legislative process; to organize inter-disciplinary groups of scholars to study the legislative process; to convoke seminars involving the legislative scholars and legislators; to establish a central library on legislative systems; to publish such books and periodicals as it shall deem appropriate on the legislative process; to assist in orientation of new legislators; and to provide such assistance as may be requested by the legislature in improving its management and operations.

§ 5904. Advisory board; appointment; powers and duties. 1. A temporary advisory board is hereby created to consist of seven members, two of whom shall be members of the senate to be appointed by the temporary president of the senate, two shall be members of the assembly to be appointed by the speaker of the assembly, and three shall be appointed by the dean of such graduate school of public affairs. The members of the senate and of the assembly so appointed shall serve for terms of two years or until the expiration of their term of office as a member of the senate or assembly, respectively, whichever shall first occur. The members appointed by the dean of the graduate school of public affairs shall be appointed for terms of four years. Vacancies occurring in the board by reason of expiration of term or for any other reason shall be filled by the official authorized to make the original appointment.

2. The board may choose from among its members a chairman, vice-chairman and secretary.

3. The members of the board shall serve without compensation, but

shall be reimbursed their actual and necessary expenses.

4. The board shall meet at least four times a year for the purpose of adopting rules and regulations governing the operation of the institute and the establishment and effectuation of its goals.

5. The board after investigation and study shall, on or before January first, nineteen hundred sixty-eight, prepare plans and submit recommendations to the chancellor and board of trustees of the state university and to the legislature for the control, supervision, or organization, structure, administration, operation and activities of the institute.

§ 5905. Chairs on legislative process. Four chairs on the legislative process are hereby established in the legislative institute.

ARTICLE 121

STATE UNIVERSITY OF NEW YORK COLLEGE OF ENVIRONMENTAL SCIENCE AND FORESTRY

Section 6001. College continued.
6002. Objects and purposes.
6003. College board of trustees; organization.
6004. College board of trustees; powers and duties.
6005. Appropriations.
6006. Property to belong to state.
6007. Tuition; disposition of fees and income.

§ 6001. College continued. The New York State College of Forestry at Syracuse University shall hereafter be known as the State University of New York College of Environmental Science and Forestry. The college shall be subject to the supervision of the state university trustees.

§ 6002. Objects and purposes. The college shall have as its objects

and purposes: 1. Teaching in the science and practice of environmental science and forestry in its several branches including landscape architecture; environmental design; environmental and resource engineering; environmental and resource management; wildlife studies; biology, chemistry, ecology; the manufacture and marketing of forest products; and the technologies appropriate to these branches of environmental science and forestry.

2. The conduct of research, investigation, and experimentation relating to such studies wherever appropriate, including suburban or urban areas, and in commercial or industrial facilities.

3. The conduct of experiments in forest and related resource development and management for public, commercial, recreational and aesthetic purposes, and, generally the giving of popular instruction and information concerning the elements of environmental science and forestry.

4. The operation of demonstration and public service programs with a view to acquiring, transmitting, and applying knowledge concerning the scientific management and use of forest and related natural resources for human benefit.

§ 6003. College board of trustees; organization. There shall continue to be a board of trustees of the college consisting of fifteen members of which the lieutenant-governor, state commissioner of education, chancellor of the state university, the state commissioner of environmental conservation, and the chancellor of Syracuse university shall be ex officio members. Any ex officio member may act through a representative appointed in a writing filed with the secretary of the board. One member shall be elected by and from among the students of the college. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the college student association in accordance with guidelines established by the state university. Such student member shall be subject to every provision of any general, special, or local law, ordinance, charter, code, rule, or

regulation applying to the voting members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements, and prohibiting business and professional activities. The one member of such board elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the college student association in accordance with guidelines promulgated by state university trustees.

The board shall provide for the calling of regular and special meetings, designate a chairman, other than the student member, fix the number of voting members required to constitute a quorum for the transaction of business and the number of voting members required to exercise the powers vested in the board and otherwise make and amend rules for the conduct of its affairs.

The members of the board, other than ex officio and student members, shall continue to be appointed by the governor, by and with the advice and consent of the senate. The members appointed by the governor shall continue to be divided into three classes, so that the terms of one-third thereof shall expire every two years. The term of office of members shall be six years. A vacancy in the office of an appointive trustee, other than by expiration of term, shall be filled by appointment for the unexpired term. The term of office for the student member shall be one year commencing July first of the calendar year in which the election is conducted. In the event that the student member ceases to be a student at the institution, such member shall be required to resign. The members of the board of trustees shall serve without compensation, but shall be entitled to their actual necessary expenses incurred in the performance of their duties.

§ 6004. College board of trustees; powers and duties. The college shall continue to be administered and maintained at Syracuse university. Subject to the general management and supervision of and in accordance with rules established by the state university trustees, the college board of trustees shall exercise the following powers:

a. Recommend regarding the establishment of courses of study, the creation of departments, the general course of instruction, research, and experiments to be pursued in the college and the degrees to be conferred, number and salaries of faculty, staff and all other employees, their appointment and termination or removal, and the nature of their duties.

b. To submit for approval all contracts necessary or appropriate for carrying out any of the purposes or objects of the college, including such as shall involve cooperation with any person, corporation or association or any department of the government of the state of New York or of the United States in laboratory, experimental, investigative or research work, and the acceptance from such person, corporation, association or department of the state or federal government of gifts or contributions of money, expert service, labor, materials, apparatus, appliances or other property in connection therewith.

c. Recommend to the state university trustees candidates for appointment by the state university trustees as head of such institution.

d. Review all major plans of the head of such institution for its more effective operation and make such recommendations with respect thereto as it deems appropriate. Such plans shall be submitted for approval by the state university trustees, together with the recommendations of the college trustees with respect thereto. The state university trustees shall determine what constitutes such major plans, which are hereby generally defined to include, among others, plans for the appraisal or improvement of the faculty and other personnel, expansion or restriction of student admissions, appraisal or improvement of academic programs and of standards for the earning of degrees, expansion of institutional plants and appraisal or improvement of student activities and housing.

e. Make regulations governing the care, custody and management of lands, grounds, buildings and equipment.

f. Review the proposed budget requests for such institution prepared by the head thereof and recommend to the state university trustees a budget for such institution.

g. Foster the development of advisory citizens' committees to render such assistance as the college trustees may request, and to appoint the members of such citizens' committees. Members of such citizens' committees shall receive no compensation for their services but shall be reimbursed for the expenses actually and necessarily incurred by them in the performance of their duties.

h. Name buildings and grounds.

i. Make regulations governing the conduct and behavior of students.

j. Make an annual report to the state university trustees on or before September first of each year, and report to them from time to time on any matter it believes requires their attention.

k. Perform such other powers and duties as may be authorized or required by the state university trustees by general rules or special directives.

1. Make and establish, and from time to time alter and amend, such regulations pertaining to the affairs of its institution, not inconsistent with law or the rules of the state university trustees, as may be necessary or appropriate to carry out effectively the foregoing powers and duties.

§ 6005. Appropriations. The state university trustees shall maintain general supervision over the requests for appropriations, budget, estimates and expenditures of such college. All moneys received from state appropriations for such college shall be expended upon vouchers approved by the chancellor of the state university, as the chief administrative officer of the state university, or by such authority or authorities in the state university as shall be designated by the

chancellor by a rule or written direction filed with the comptroller, when and in the manner authorized by the state university trustees.

§ 6006. Property to belong to state. All lands purchased and other property acquired with money appropriated by the state for such college shall be and remain the property of the state. If real property is purchased, the title thereto shall be conveyed to the people of the state of New York and the sufficiency of such title and the form of conveyance shall be approved by the attorney-general.

§ 6007. Tuition; disposition of fees and income. The state university trustees shall regulate tuition fees and other fees and charges to be paid by students after prior consultation with the board of trustees of the college. All moneys received for tuition from students, those derived from the sale of the products of property belonging to the state administered by the college, and from fees and charges or any other sources in the course of the administration of the college, notwithstanding the provisions of section one hundred twenty-one of the state finance law, shall be credited to a separate fund and shall be expended as provided by subdivision four of section three hundred fifty-five of this chapter.

ARTICLE 123
THE NEW YORK STATE COLLEGE OF CERAMICS AT ALFRED UNIVERSITY

Section 6101. College continued; jurisdiction and control.
6102. Administration.
6103. Appropriations and expenditures.

§ 6101. College continued; jurisdiction and control. The New York State College of Ceramics at Alfred University, established as the state school of clay-working and ceramics at Alfred university by chapter three hundred eighty-three of the laws of nineteen hundred, is hereby

continued under the jurisdiction and control of the state university trustees, subject to the provisions of this article.

§ 6102. Administration. Such college shall continue to be administered, as to the establishment of courses of study, the creation of departments and positions, the determination of the number and salaries of members of the faculty and other employees, the apportionment and employment thereof, the maintenance of discipline and as to all matters pertaining to its educational policies, activities and operations, including research work, by Alfred university, as the representative of the state university trustees. All property and equipment acquired for the use of such college shall be the property of the state. Alfred university shall regulate tuition fees at such college after prior consultation with the state university trustees. As the representative of the state university trustees, Alfred university shall also fix the other fees and charges to be paid by the students of the college.

All moneys received for tuition from students, those derived from the sale of products of property belonging to the state administered by the college, and from fees and charges, or any other sources in the course of the administration of the college, notwithstanding the provisions of section one hundred twenty-one of the state finance law, shall be credited to a separate fund and shall be expended for the current expenses of such college and for its benefits in such way as Alfred university, as the representative of the state university trustees, may determine. The amounts so received and expended shall be reported annually to the state comptroller.

§ 6103. Appropriations and expenditures. The state university trustees shall maintain general supervision over the requests for appropriations, budgets, estimates and expenditures of such college. All moneys received from state appropriations or derived from other sources in the course of the administration of such college shall be expended upon vouchers approved by the chancellor of the state

university, as the chief administrative officer of the state university, or by such authority or authorities in the state university as shall be designated by the chancellor by a rule or written direction filed with the comptroller, when and in the manner authorized by the state university trustees.

ARTICLE 125

CITY UNIVERSITY OF NEW YORK

Section 6201. Legislative findings and intent.
6202. Definitions.
6203. City university of New York.
6204. Board of trustees.
6204-a. College opportunity to prepare for employment.
6205. Liability of board of trustees and liability of city university of New York.
6206. Powers and duties.
6207. Administration of civil service.
6208. Collective negotiation.
6209. Investments in designated obligations; indemnification.
6210. Non-Instructional positions.
6211. College presidents emeriti; appointments, duties, qualifications, salary.
6212. Tenure.
6213. Establishment of collegiate centers.
6214. Retirement systems.
6215. Fees.
6216. State aid.
6218. Contracts and purchases.
6219. Conveyance of property.
6220. Salary schedules in certain public institutions of higher learning.
6221. Financing of the city university of New York.
6222. Admission of non-residents of the city of New York to each community college of the city university.
6223. Deferred education payments.
6224. Claims against city university.

6225. Pending actions and proceedings.
6226. Community college severance provisions.
6227. Reference in provisions relating to retirement.
6228. Transitory provisions.
6229. City university of New York community college budget process.
6230. City university of New York senior college budget process.
6231. Certain payment by the state of New York to the city of New York.
6232. College of Staten Island, New York city technical college and Medgar Evers college programs.
6233. Reports of the city university trustees.
6233-a. Master capital plan.
6234. Perfection of security interests.

§ 6201. Legislative findings and intent. 1. The legislature finds that in order to meet the state's responsibility to provide post-secondary education in New York city beyond the associate degree level, as it does elsewhere in the state, there should be full state funding of senior college operating and debt service. The governance of the university must reflect increased state responsibility but should preserve the city's participation in the governance of the university it created and developed at city expense.

2. The legislature intends that the city university of New York should be maintained as an independent system of higher education governed by its own board of trustees responsible for the governance, maintenance and development of both senior and community college units of the city university. The university must remain responsive to the needs of its urban setting and maintain its close articulation between senior and community college units. Where possible, governance and operation of senior and community colleges should be jointly conducted or conducted by similar procedures to maintain the university as an integrated system and to facilitate articulation between units.

3. The legislature's intent is that the city university be supported as an independent and integrated system of higher education on the assumption that the university will continue to maintain and expand its commitment to academic excellence and to the provision of equal access and opportunity for students, faculty and staff from all ethnic and racial groups and from both sexes.

4. The city university is of vital importance as a vehicle for the upward mobility of the disadvantaged in the city of New York. The pioneering efforts of the SEEK and College Discovery programs must not be diminished as a result of greater state financial responsibility for the operation of the city and state of New York.

5. Only the strongest commitment to the special needs of an urban constituency justifies the legislature's support of an independent and unique structure for the university. Activities at the city university campuses must be undertaken in a spirit which recognizes and responds to the imperative need for affirmative action and the positive desire to have city university personnel reflect the diverse communities which comprise the people of the city and state of New York. In its urban environment this commitment should be evident in all the guidelines established by the board of trustees for the university's operation, from admissions and hiring to contracting for the provision of goods, services, new construction and facilities rehabilitation.

§ 6202. Definitions. As used in this article, the following terms shall have the following meanings unless the context shall otherwise require.

1. The term "board of trustees" means the board of trustees of the city university of New York.

2. The term "city university" shall mean the city university of New York, including each senior college and each community college.

3. The terms "center", "center of instruction", "college", "college

unit", "educational unit" and "unit" shall each mean either a senior college or a community college or both.

4. The term "community college" shall mean an institution of higher education in the city of New York, which is governed and administered as such, by the board of trustees on July first, nineteen hundred seventy-nine, whose primary purpose is providing certificate and associate degree post secondary programs in general and technical educational subjects, and is receiving financial assistance from the state as a community college. Article one hundred twenty-six of this chapter shall continue to apply to such institutions but they shall hereafter be governed by the board of trustees in accordance with the provisions of this article.

5. The term "senior college" shall mean an institution of higher education in the city of New York, which is governed and administered by the board of trustees, including, but not limited to, a professional or graduate institution, an institution for research, an administrative institution, and, except as otherwise provided, Medgar Evers college, New York city college of technology (formerly known as "New York city technical college" and "New York city community college"), and the college of Staten Island, but not including a community college.

6. The term "the mayor" shall mean the mayor of the city of New York.

7. The term "revised unfunded accrued liability payment" and the term "revised unfunded accrued liability contribution," when used in relation to the New York city employees' retirement system, shall mean a payment of contribution which is required by the provisions of item (iii) of subparagraph (a) of paragraph one of subdivision b of section 13-127 of the administrative code of the city of New York to be made to such retirement system with respect to any fiscal year of the city preceding July first, nineteen hundred ninety. Either such term, when used in relation to the New York city teachers' retirement system, shall mean a payment or contribution which is required by the provisions of subparagraph (c) of paragraph one of subdivision a of section 13-527 of such code to be made to such retirement system with respect to any

fiscal year of the city preceding July first, nineteen hundred ninety.

8. The term "nineteen hundred eighty unfunded accrued liability adjustment," when used in relation to the New York city employees' retirement system, shall mean the total amount which is determined pursuant to the provisions of items (i), (ii), (iii), (iv) and (v) of subparagraph (c) of paragraph (3) of subdivision b of section 13-127 of the administrative code of the city of New York to be the amount to be paid as a charge or applied as a credit, as the case may be, pursuant to the provisions of subparagraph (b) of paragraph (1) of such subdivision b, with respect to employer contributions to such retirement system for any fiscal year of the city preceding July first, nineteen hundred ninety. Such term, when used in relation to the New York city teachers' retirement system, shall mean the total amount which is determined pursuant to the provisions of paragraphs (1), (2), (3), (4), (5), (6), (7) and (8) of subdivision e of section 13-527 of such code to be the amount to be paid as a charge or applied as a credit, as the case may be, pursuant to the provisions of paragraph (2) of subdivision a of such section, with respect to employer contributions to such retirement system for any fiscal year of the city preceding July first, nineteen hundred ninety.

8-a. The term "nineteen hundred eighty-two unfunded accrued liability adjustment," when used in relation to the New York city employees' retirement system, shall mean the total amount which is determined pursuant to the provisions of item (vi) of subparagraph (c) of paragraph three of subdivision b of section 13-127 of the administrative code of the city of New York to be the amount to be applied as a credit pursuant to the provisions of subparagraph (b) of paragraph (1) of such subdivision b, with respect to employer contributions to such retirement system for any fiscal year of the city preceding July first, nineteen hundred ninety. Such term, when used in relation to the New York city teachers' retirement system, shall mean the total amount which is determined pursuant to the provisions of paragraph (9) of subdivision e of section 13-527 of such code to be the amount to be applied as a credit pursuant to the provisions of paragraph two of subdivision a of such section, with respect to employer contributions to such retirement

system for any fiscal year of the city preceding July first, nineteen hundred ninety.

8-b. The term "NYCERS nineteen hundred eighty-five unfunded accrued liability adjustment attributable to the senior colleges" shall mean the total amount which is determined pursuant to the provisions of sub-items (H), (I), (J) and (J-1) of item (vii) of subparagraph (c) of paragraph three of subdivision b of section 13-127 of the administrative code of the city of New York to be the amount to be applied as a credit in favor of the city of New York and the state of New York with respect to their required contributions to the contingent reserve fund of the New York city employees' retirement system for any fiscal year of the city preceding July first, nineteen hundred ninety.

8-c. The term "NYCTRS nineteen hundred eighty-five unfunded accrued liability adjustment" shall mean the total amount which is determined pursuant to the provisions of paragraph ten of subdivision e of section 13-527 of the administrative code of the city of New York to be the amount to be applied as a credit, pursuant to the provisions of subparagraph c-1 of paragraph two of subdivision a of such section 13-527, with respect to employer contributions to the New York city teachers' retirement system for fiscal years of the city preceding July first, nineteen hundred ninety.

8-d. The term "NYCTRS nineteen hundred eighty-six unfunded accrued liability adjustment" shall mean the total amount which is determined pursuant to the provisions of paragraph eleven of subdivision e of section 13-527 of the administrative code of the city of New York to be the amount to be applied as a credit, pursuant to the provisions of subparagraph c-2 of paragraph two of subdivision a of such section 13-527, with respect to employer contributions to the New York city teachers' retirement system for fiscal years of the city preceding July first, nineteen hundred ninety.

8-e. The term "New York city employees' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges" shall mean the amount which is determined

pursuant to the provision of subdivisions j, k, l and m of section 13-638.1 of the administrative code of the city of New York to be the amount to be paid as a charge by, or applied as credit in favor of (as the case may be), the city of New York and the state of New York, pursuant to the provisions of subdivisions r and s of such section, with respect to their required contributions to the contingent reserve fund of the New York city employees' retirement system for any fiscal year of the city preceding July first, nineteen hundred ninety.

8-f. The term "New York city teachers' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges" shall mean the amount which is determined pursuant to the provisions of subdivisions n, o, p and q of section 13-638.1 of the administrative code of the city of New York to be the amount to be paid as a charge by, or applied as a credit in favor of (as the case may be), the city of New York and the state of New York, pursuant to the provisions of subdivisions r and s of such section, with respect to their required contributions to the contingent reserve fund of the New York city teachers' retirement system for fiscal years of the city preceding July first, nineteen hundred ninety.

8-g. The term "NYCERS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges" shall mean any amount which, pursuant to subdivision k of section 13-638.2 of the administrative code of the city of New York, is required to be paid as a charge by, or applied as a credit in favor of (as the case may be) the city of New York and the state of New York with respect to their required contributions, for fiscal years of the city succeeding June thirtieth, nineteen hundred ninety, to the contingent reserve fund of the New York city employees' retirement system in relation to the senior colleges.

8-h. The term "NYCTRS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges" shall mean any amount which, pursuant to subdivision k of section 13-638.2 of the administrative code of the city of New York, is required to be paid as a charge by, or applied as a credit in favor of

(as the case may be) the city of New York and the state of New York with respect to their required contributions, for fiscal years of the city succeeding June thirtieth, nineteen hundred ninety, to the contingent reserve fund of the New York city teachers' retirement system in relation to the senior colleges.

8-i. The term "NYCERS phase-in installment of nineteen hundred ninety consolidated UAL contribution attributable to the senior colleges" shall mean any phase-in installment defined in paragraph thirty of subdivision a of section 13-638.2 of the administrative code of the city of New York.

8-j. The term "NYCERS regular installment of nineteen hundred ninety consolidated UAL contribution attributable to the senior colleges" shall mean any regular installment defined in paragraph forty of subdivision a of section 13-638.2 of the administrative code of the city of New York.

8-k. The term "NYCTRS phase-in installment of nineteen hundred ninety consolidated UAL contribution attributable to the senior colleges" shall mean any phase-in installment defined in paragraph thirty-two of subdivision a of section 13-638.2 of the administrative code of the city of New York.

8-l. The term "NYCTRS regular installment of nineteen hundred ninety consolidated UAL contribution attributable to the senior colleges" shall mean any regular installment defined in paragraph forty-one of subdivision a of section 13-638.2 of the administrative code of the city of New York.

8-m. The term "NYCERS installment of nineteen hundred ninety BSL contribution attributable to the senior colleges" shall mean any installment defined in paragraph forty-six of subdivision a of section 13-638.2 of the administrative code of the city of New York.

8-n. The term "NYCTRS installment of nineteen hundred ninety BSL contribution attributable to the senior colleges" shall mean any installment defined in paragraph forty-eight of subdivision a of section

13-638.2 of the administrative code of the city of New York.

8-o. The term "contributions for twenty-year amortization of nineteen hundred ninety senior college consolidated UAL and senior college remainder of BSL" shall mean all of the installments of contribution and contributions referred to in subdivisions 8-i to 8-n, inclusive, of this section which are required to be paid by the city and the state during the applicable twenty-year amortization period pursuant to section sixty-two hundred thirty-one of this article and the applicable provisions of subdivision bb of section 13-638.2 of the administrative code of the city of New York.

9. The term "balance sheet liability contribution", when used in relation to the New York city employees' retirement system, shall mean a payment of contribution which is required by the provisions of item (iv) of subparagraph (a) of paragraph one of subdivision b of section 13-127 of the administrative code of the city of New York to be made to such retirement system with respect to any fiscal year of the city preceding July first, nineteen hundred ninety. Such term, when used in relation to the New York city teachers' retirement system, shall mean a payment of contribution which is required by the provisions of subparagraph (d) of paragraph one of subdivision a of section 13-527 of such code to be made to such retirement system with respect to any fiscal year of such city preceding July first, nineteen hundred ninety.

§ 6203. City university of New York. The separate and distinct body corporate designated as the board of higher education in the city of New York shall be continued and shall hereinafter be known as the city university of New York. The city university shall have the powers and privileges of colleges and shall be subject to the visitation of the regents of the university of the state of New York. The city university shall have the care, custody, control, and management of the lands, grounds, buildings, facilities and equipment used for the purposes of the educational units of the city university and it shall have the power to protect, preserve and improve the same. Each existing unit of the city university shall be given an appropriate and distinctive

designation.

§ 6204. Board of trustees. 1. The board of trustees shall govern and administer the city university. The control of the educational work of the city university shall rest solely in the board of trustees which shall govern and administer all educational units of the city university.

2. Structure of the board of trustees:

(a) The board of trustees shall consist of seventeen trustees. Ten of the trustees shall be appointed by the governor with the advice and consent of the senate. Five of the trustees shall be appointed by the mayor of the city of New York with the advice and consent of the senate. One ex-officio trustee shall be the chairperson of the university student senate. One ex-officio non-voting trustee shall be the chairperson of the university faculty senate.

(b) The ex-officio trustees shall be afforded the same parliamentary privileges as are conferred upon the appointed trustees. The ex-officio trustees shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the appointed trustees of the board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The chair of the university faculty senate shall not participate as a voting trustee in any matter.

(c) Except as provided in subparagraphs (i), (ii) and (iii) of this paragraph, the term of office of each appointed trustee shall be seven years renewable solely for one additional term of seven years.

(i) The members of the board of higher education in the city of New York shall be and constitute the members of the board of trustees for the period beginning July first, nineteen hundred seventy-nine and ending December thirty-first, nineteen hundred seventy-nine.

(ii) Effective January first, nineteen hundred eighty, the governor shall appoint one trustee to a term which expires on June thirtieth, nineteen hundred eighty, two trustees to terms which expire on June thirtieth, nineteen hundred eighty-one, one trustee to a term which

expires on June thirtieth, nineteen hundred eighty-two, two trustees to terms which expire on June thirtieth, nineteen hundred eighty-three, one trustee to a term which expires on June thirtieth, nineteen hundred eighty-four, two trustees to terms which expire on June thirtieth, nineteen hundred eighty-five, and one trustee to a term which expires on June thirtieth, nineteen hundred eighty-six. Upon expirations of these terms, the governor shall appoint trustees to full seven year terms.

(iii) Effective January first, nineteen hundred eighty, the mayor shall appoint one trustee to a term which expires on June thirtieth, nineteen hundred eighty, one trustee to a term which expires on June thirtieth, nineteen hundred eighty-two, one trustee to a term which expires on June thirtieth, nineteen hundred eighty-three, one trustee to a term which expires on June thirtieth, nineteen hundred eighty-five, and one trustee to a term which expires on June thirtieth, nineteen hundred eighty-six. Upon expiration of the terms the mayor shall appoint trustees to full seven year terms.

(d) A chairperson and a vice chairperson of the board of trustees shall be appointed by and shall serve at the pleasure of the governor.

(e) At least four of the trustees initially appointed by the governor and two of the trustees initially appointed by the mayor pursuant to this subdivision shall be selected from among the persons serving on the board of higher education in the city of New York, on and after January first, nineteen hundred seventy-nine.

(f) The five trustees appointed by the mayor shall include at least one resident of each of the five boroughs of the city of New York.

(g) The trustees appointed by the governor shall include at least one resident of each of the five boroughs of the city of New York.

(h) The trustees appointed by the mayor shall include at least one alumnus of an educational unit in the city university. The trustees appointed by the governor shall include at least two alumnae of an educational unit in the city university including at least one other alumnus of a community college.

(i) In the event of a vacancy occurring in the office of trustee by death, resignation or otherwise, a successor shall be chosen in the same manner as was the trustee whose office became vacant, to serve for the balance of the term.

(j) Any trustee appointed by the governor may be removed by the

governor and any trustee appointed by the mayor may be removed by the mayor. Removal of a trustee by the governor or the mayor shall be upon proof of (i) official misconduct or neglect of official duties; or (ii) mental or physical inability to perform his duties. Before the removal of a trustee, the trustee shall receive due and timely written notice of the charges and a copy of the charges. The trustee shall be entitled to a hearing on the charges pursuant to due and timely notice before the governor or the mayor, as the case may be, and to the assistance of counsel on such hearing.

(k) Trustees shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred by them in the performance of their duties under this article.

3. Meetings of the board of trustees. (a) The by-laws of the board of trustees shall provide for regular meetings. At least seven days notice of every regular meeting and a copy of the agenda for that meeting shall be mailed to the usual address of each trustee. Resolutions for the consideration of the board of trustees must be mailed to the usual address of each trustee no less than seven days prior to a meeting, unless the chair shall make available in writing on the day of the meeting the facts which necessitate an immediate vote. The agendas for such meetings shall be available electronically on the city university of New York website three days prior to the meetings unless an executive committee meeting has been called in which an agenda must be available twenty-four hours in advance, and shall be considered public records. A summary of resolutions and board actions for any such meeting of the board of trustees shall be electronically available on the city university of New York website no later than seven days after the meeting and shall be considered public records. The approved minutes, attendance, voting record, and either transcripts or video record for any such meeting must be posted no later than seven days following their approval by the board. Information posted on the city university of New York website regarding board of trustee meetings shall remain on the site as archived data for a minimum of ten years. All meetings shall be held in accordance with article seven of the public officers law.

(b) The chairperson, the vice chairperson or any five trustees acting by petition, may at any time call a special meeting of the board of

trustees and fix the time and place therefor. Each trustee shall receive telephonic or written notice of a special meeting at least twenty-four hours prior to the special meeting. An agenda for such meeting, including meetings of any committees and subcommittees under the purview of the board of trustees, shall be available electronically on the city university of New York website twenty-four hours prior to the special meeting of the board and shall be considered a public record. A summary of resolutions and board actions for any such meeting of the board of trustees shall be electronically available on the city university of New York website no later than seven days after the meeting and shall be considered a public record. The approved minutes, attendance, voting record, and either transcripts or video record for any such meeting must be posted no later than seven days following their approval by the board. Information posted on the city university of New York website regarding board of trustee meetings shall remain on the site as archived data for a minimum of ten years. Any such meeting of the board of trustees shall be conducted in accordance with article seven of the public officers law.

(c) Nine trustees attending a meeting shall constitute a quorum for the transaction of business by the board of trustees.

(d) (i) The board of trustees shall hold at least one public hearing each year in each of the five boroughs of the city of New York. The purpose of such hearing shall be to receive testimony and statements from concerned individuals about university issues.

(ii) The board of trustees shall fix the time, place, duration and format of each hearing.

(iii) At least thirty days notice of the hearing shall be given by the chairperson of the board of trustees to all of the trustees, to all presidents of educational units, to the chair of faculty-senate bodies of educational units, to all student government presidents of educational units, to the borough president, the members of the city council, the members of the board of estimate, the local community boards of the borough where the hearing is to be held and to the media. The notice shall contain the time, place and date of the public hearing. Such information shall be made electronically available on the city university of New York website. Any such meeting of the board of trustees shall be conducted in accordance with article seven of the

public officers law.

(iv) At least three trustees shall attend each hearing.

§ 6204-a. College opportunity to prepare for employment. 1. The city university is authorized to enter into an agreement with the department of social services for the establishment of the college opportunity to prepare for employment (COPE) program for the development of a program of allowable activities and services for eligible participants in the federal job opportunity and basic skills (JOBS) program.

2. The city university shall identify such funds as necessary, including any private funds provided for the purpose of supporting employment and training services, to be used on a matching basis consistent with federal requirements.

3. Services may include, but are not limited to, high school equivalency, basic education, job skills training, English-as-a-second language, job readiness training, job placement services, case management, career counseling and assessment, employability planning, supportive services such as child care, and a youth demonstration activity providing an integrated program of high school equivalency, occupational training, work experience, and job placement.

4. The city university shall submit an annual evaluation and report on the college opportunity to prepare for employment program to the governor, the speaker of the assembly, the temporary president of the senate, the chairman of the assembly ways and means committee, the chairman of the senate finance committee, and the chair of the legislative commission on skills development and career education no later than October thirty-first following the program year ending June thirtieth. The evaluation and report shall include, at a minimum, a description of services provided, participant characteristics, data on measures of educational and job skills gains, job development and placement, and retention.

§ 6205. Liability of board of trustees and liability of city university of New York. 1. The state shall save harmless and indemnify members of the board of trustees and any duly appointed member of the teaching or supervising staff, officer or employee, and a student serving on a university or college body or committee which is composed of a majority of faculty, administration and trustees, of the senior colleges under the jurisdiction of such board pursuant to section seventeen of the public officers law against any claim, demand, suit or judgment arising by reason of any act or omission to act by such person occurring in the discharge of his duties and within the scope of his service on behalf of such university.

2. (a) As used in this subdivision, the term (i) "employee" shall mean any person holding a position by appointment or employment at a community college under the jurisdiction of the board of trustees, whether or not compensated, or a volunteer expressly authorized to participate in a sponsored volunteer program of such community colleges, and a student serving on a community college body or committee composed of a majority of faculty, administration and trustees, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative; (ii) "comptroller" shall mean the comptroller of the city of New York; and (iii) "corporation counsel" shall mean the corporation counsel of the city of New York.

(b) Upon compliance by the employee with the provisions of paragraph (i) of this subdivision, the city of New York shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties, or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the city of New York.

(c) Subject to the conditions set forth in paragraph (b) of this subdivision, the employee shall be entitled to be represented by the

city of New York provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the corporation counsel of the city of New York determines based upon his investigation and review of the facts and circumstances of the case that representation by the corporation counsel would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The corporation counsel shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The corporation counsel may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this subdivision, the corporation counsel shall so certify to the comptroller of the city of New York. Reasonable attorneys' fees and litigation expenses shall be paid by the city of New York to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this subdivision by the board of trustees of the city university and upon the audit and warrant of the comptroller. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the employee delivers process and a request for a defense to the corporation counsel as required by paragraph (i) of this subdivision, the corporation counsel shall take the necessary steps including the retention of private counsel under the terms and conditions provided in paragraph (c) of this subdivision, on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

(e) The city of New York shall indemnify and save harmless employees of the community colleges of the city university in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, provided that the act or

omission from which such judgment or settlement arose, occurred while the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(f) An employee represented by private counsel shall cause to be submitted to the board of trustees any proposed settlement which may be subject to indemnification by the city of New York and if not inconsistent with the provisions of this subdivision the board of trustees shall certify such settlement and submit such settlement and certification to the corporation counsel. The corporation counsel shall review such proposed settlement as to form and amount, and shall give his approval if in his judgment the settlement is in the best interest of the city of New York. Nothing in this subdivision shall be construed to authorize the city of New York to indemnify or save harmless an employee with respect to a settlement not so reviewed and approved by the board of trustees.

(g) Nothing in this subdivision shall authorize the city of New York to indemnify and save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to article seven-A of the state finance law.

(h) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the board of trustees; and if not inconsistent with the provisions of this subdivision, such judgment or settlement shall be certified for payment by the board of trustees of the city university. If the corporation counsel concurs in such certification, the judgment or settlement shall be paid upon audit and warrant of the comptroller.

(i) The duty to defend or indemnify and save harmless prescribed by this subdivision shall be conditioned upon (1) delivery to the corporation counsel at his main business office in the city of New York by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (2) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or

proceeding against the city university or city of New York based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the board of trustees provide for his defense pursuant to this subdivision.

(j) The benefits of this subdivision shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this subdivision be construed to affect, alter or repeal any provision of the workers' compensation law.

(k) This subdivision shall not in any way affect the obligation of any claimant to serve notice of the claim upon the city of New York pursuant to any other provision of law.

(l) The provisions of this subdivision shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

(m) The provisions of this subdivision shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

(n) Except as otherwise specifically provided in this subdivision, the provisions of this subdivision shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the city of New York or any other level of government, or any right to defense or indemnification provided for any governmental officer and/or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

(o) If any provision of this subdivision or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this subdivision or the application of any such provision to any other person or circumstance.

§ 6206. Powers and duties. 1. The board of trustees shall have the duties and powers of trustees of colleges as set forth in this chapter, unless otherwise specifically provided in this chapter.

2. On or before February first, nineteen hundred eighty or six months after their assuming their functions, whichever occurs later, the board of trustees shall transmit to the governor, to the mayor, to the temporary president of the senate and to the speaker of the assembly a status report concerning the functioning, the goals and the needs of the city university. Included in the status report shall be such recommendations as the board of trustees sees fit to make in regard to the following topics.

a. Description of curricula and plans for maintenance of and adjustments to curricula;

b. Description of the conditions, appropriateness and adequacy of facilities and plans to remedy deficiencies;

c. Description of policies with respect to student admissions; and

d. Desired and potential student enrollments, including the justification of the projections.

3. a. The board of trustees shall, once every four years, formulate a long-range city university plan or general revision thereof and make recommendations to the board of regents, for the organization, development and coordination of the city university. The plan and recommendations shall include but not be limited to the following:

(1) Plans for new curricula,

(2) Plans for new facilities,

(3) Plans for change in policies with respect to student admissions,

(4) Potential student enrollments,

(5) Comments upon its relationship to other colleges and universities, public and private, within the state, and

(6) For informational purposes only, projection standards and overall expenditure projections of capital and operating costs.

The plan shall be in such form as to provide a basis for the development of the regents statewide plan for higher education as defined in section two hundred thirty-seven of this chapter. Prior to

transmitting their long-range plan or general revisions thereof to the board of regents, to the temporary president of the senate, and to the speaker of the assembly, the board of trustees shall, after giving due notice, conduct one or more hearings on such plan.

b. During the calendar year nineteen hundred eighty and each fourth year thereafter the board of trustees shall transmit their proposed plan or general revisions thereof to the board of regents, on or before the first day of June in each such year. Such plan shall be reviewed by the board of regents and shall be subject to approval by such board. As approved by the board of regents and incorporated into the regents plan or general revision thereof for the development of higher education in the state and, upon approval thereafter by the governor, such plan shall guide and determine the development, organization and coordination of the city university.

c. By the first day of June in nineteen hundred eighty-two and each fourth year thereafter, the board of trustees shall report in writing to the board of regents, a copy of which report shall be furnished to the temporary president of the senate, and the speaker of the assembly, the mayor and the president of the city council for information and comment, on the progress made in carrying out its responsibilities under such plan and its general recommendations with respect to the city university or its component colleges or other institutions in the city of New York including recommendations as to modifications of such plan which the board of trustees deems essential to meet the then current demands upon public higher education in the city of New York. The board of trustees may also at any other time propose modifications which it deems essential or desirable with respect to such plan. The board of trustees may, after giving due notice, conduct one or more hearings on such modifications and shall transmit its recommendations therefor to the board of regents, to the temporary president of the senate, the speaker of the assembly, the mayor and the president of the city council for information and comment. Such modifications shall be subject to approval by the regents and thereafter by the governor in the same manner as such plan or general revisions thereof.

4. When a proposed plan or general revision thereof contains a proposal providing for the termination or merger of a senior college or community college so that such college ceases to exist as a separate educational institution that provision of a proposed plan or general revision shall also be subject to the approval of the legislature.

5. The board of trustees shall select and acquire or cause to be acquired all new sites hereafter to be designated for the purposes of the city university and procure and pass upon all plans for buildings on newly acquired sites, shall supervise their erection, shall organize their faculties, shall approve and administer their courses leading to academic, professional and technical certificates, diplomas and degrees, shall appoint their officers of administration and instruction, shall prepare all their budgets and shall generally control and administer all public education in the colleges and institutions of which the city university is composed in such city, except the teacher training courses which are now conducted by the board of education of such city. The board of trustees shall appoint the chancellor of the city university who shall be the chief educational and administrative officer of the city university and who shall serve at the pleasure of the board of trustees.

6. The board of trustees shall control and keep up the buildings and grounds occupied and used by institutions and units controlled by it; allow and regulate the use, gratuitously or otherwise, of such property for other than college or university purposes and prescribe the fees, if any, that persons, associations or corporations allowed to use it may charge; purchase materials, services, equipment and supplies. But the board of trustees shall not sell, transfer or otherwise dispose of land and buildings purchased by city funds used for the community colleges of the city university. It may, however, accept and administer for college or university purposes, gifts of land, bequests, trusts, devises, money and buildings from private sources and erect buildings on college or university land out of money not furnished by the city or the state; and gifts of money, endowments, fees, interest and other income not derived from public taxation or the public credit shall be administered by it for collegiate or university purposes in connection with the units under

its control.

7. * (a) The board of trustees shall establish positions, departments, divisions and faculties; appoint and in accordance with the provisions of law fix salaries of instructional and non-instructional employees therein; establish and conduct courses and curricula; prescribe conditions of student admission, attendance and discharge; and shall have the power to determine in its discretion whether tuition shall be charged and to regulate tuition charges, and other instructional and non-instructional fees and other fees and charges at the educational units of the city university. The trustees shall review any proposed community college tuition increase and the justification for such increase. The justification provided by the community college for such increase shall include a detailed analysis of ongoing operating costs, capital, debt service expenditures, and all revenues. The trustees shall not impose a differential tuition charge based upon need or income. All students enrolled in programs leading to like degrees at the senior colleges shall be charged a uniform rate of tuition, except for differential tuition rates based on state residency. Notwithstanding any other provision of this paragraph, the trustees may authorize the setting of a separate category of tuition rate, that shall be greater than the tuition rate for resident students and less than the tuition rate for non-resident students, only for students enrolled in distance learning courses who are not residents of the state; provided, however, that:

(i) Commencing with the two thousand eleven--two thousand twelve academic year and ending in the two thousand fifteen--two thousand sixteen academic year, the city university of New York board of trustees shall be empowered to increase the resident undergraduate rate of tuition by not more than three hundred dollars over the resident undergraduate rate of tuition adopted by the board of trustees in the prior academic year, provided however that commencing with the two thousand eleven--two thousand twelve academic year and ending with the two thousand sixteen--two thousand seventeen academic year if the annual resident undergraduate rate of tuition would exceed five thousand dollars, then a tuition credit for each eligible student, as determined and calculated by the New York state higher education services

corporation pursuant to section six hundred eighty-nine-a of this chapter, shall be applied toward the tuition charged for each semester, quarter or term of study. Tuition for each semester, quarter or term of study shall not be due for any student eligible to receive such tuition credit until the tuition credit is calculated and applied against the tuition charged for the corresponding semester, quarter or term.

(ii) Commencing with the two thousand seventeen--two thousand eighteen academic year and ending in the two thousand twenty--two thousand twenty-one academic year the city university of New York board of trustees shall be empowered to increase the resident undergraduate rate of tuition by not more than two hundred dollars over the resident undergraduate rate of tuition adopted by the board of trustees in the prior academic year, provided however that if the annual resident undergraduate rate of tuition would exceed five thousand dollars, then a tuition credit for each eligible student, as determined and calculated by the New York state higher education services corporation pursuant to section six hundred eighty-nine-a of this title, shall be applied toward the tuition charged for each semester, quarter or term of study. Tuition for each semester, quarter or term of study shall not be due for any student eligible to receive such tuition credit until the tuition credit is calculated and applied against the tuition charged for the corresponding semester, quarter or term. Provided, further that the revenue resulting from an increase in the rate of tuition shall be allocated to each campus pursuant to a plan approved by the board of trustees to support investments in new classroom faculty, instruction, initiatives to improve student success and on-time completion and a tuition credit for each eligible student.

(iii) On or before November thirtieth, two thousand seventeen, the trustees shall approve and submit to the chairs of the assembly ways and means committee and the senate finance committee and to the director of the budget a master tuition plan setting forth the tuition rates that the trustees propose for resident undergraduate students for the four year period commencing with the two thousand seventeen--two thousand eighteen academic year and ending in the two thousand twenty--two thousand twenty-one academic year, and shall submit any proposed amendments to such plan by November thirtieth of each subsequent year thereafter through November thirtieth, two thousand twenty.

(iv) Beginning in state fiscal year two thousand twelve--two thousand thirteen and ending in state fiscal year two thousand fifteen--two thousand sixteen, the state shall appropriate and make available state support for operating expenses, including fringe benefits, for the city university in an amount not less than the amount appropriated and made available in the prior state fiscal year; provided, however, that if the governor declares a fiscal emergency, and communicates such emergency to the temporary president of the senate and speaker of the assembly, state support for operating expenses of the state university and city university may be reduced in a manner proportionate to one another, and the aforementioned provisions shall not apply.

(v) Beginning in state fiscal year two thousand seventeen--two thousand eighteen and ending in state fiscal year two thousand twenty--two thousand twenty-one, the state shall appropriate and make available general fund operating support, including fringe benefits, for the city university in an amount not less than the amount appropriated and made available in the prior state fiscal year; provided, however, that if the governor declares a fiscal emergency, and communicates such emergency to the temporary president of the senate and speaker of the assembly, state support for operating expenses at the state university and city university may be reduced in a manner proportionate to one another, and the aforementioned provisions shall not apply; provided further, the state shall appropriate and make available general fund support to fully fund the tuition credit pursuant to subdivision two of section six hundred sixty-nine-h of this chapter.

(vi) Notwithstanding any law, rule, regulation or practice to the contrary, commencing with the two thousand twenty-three--two thousand twenty-four academic year and ending in the two thousand twenty-eight--two thousand twenty-nine academic year, following the review and approval of the chancellor of the city university or such chancellor's designee, the city university of New York board of trustees shall be empowered to annually impose differential tuition rates on non-resident undergraduate and graduate rates of tuition for senior colleges, provided that such rates are competitive with the rates of tuition charged by peer institutions and that the board of trustees annually provide the reason and methodology behind any rate increase to the governor, the temporary president of the senate, and the speaker of

the assembly prior to the approval of such increases.

* NB Effective until July 1, 2027

* (a) (i) The board of trustees shall establish positions, departments, divisions and faculties; appoint and in accordance with the provisions of law fix salaries of instructional and non-instructional employees therein; establish and conduct courses and curricula; prescribe conditions of student admission, attendance and discharge; and shall have the power to determine in its discretion whether tuition shall be charged and to regulate tuition charges, and other instructional and non-instructional fees and other fees and charges at the educational units of the city university. The trustees shall review any proposed community college tuition increase and the justification for such increase. The justification provided by the community college for such increase shall include a detailed analysis of ongoing operating costs, capital, debt service expenditures, and all revenues. The trustees shall not impose a differential tuition charge based upon need or income. All students enrolled in programs leading to like degrees at the senior colleges shall be charged a uniform rate of tuition, except for differential tuition rates based on state residency. Notwithstanding any other provision of this paragraph, the trustees may authorize the setting of a separate category of tuition rate, that shall be greater than the tuition rate for resident students and less than the tuition rate for non-resident students, only for students enrolled in distance learning courses who are not residents of the state. The trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state, other than a non-immigrant noncitizen within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code, shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student:

(1) attended an approved New York high school for two or more years, graduated from an approved New York high school and applied for attendance at an institution or educational unit of the city university within five years of receiving a New York state high school diploma; or

(2) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state and applied for attendance at an

institution or educational unit of the city university within five years of receiving a general equivalency diploma issued within New York state; or

(3) was enrolled in an institution or educational unit of the city university in the fall semester or quarter of the two thousand one--two thousand two academic year and was authorized by such institution or educational unit to pay tuition at the rate or charge imposed for students who are residents of the state.

A student without lawful immigration status shall also be required to file an affidavit with such institution or educational unit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so. The trustees shall not adopt changes in tuition charges prior to the enactment of the annual budget. The board of trustees may accept as partial reimbursement for the education of veterans of the armed forces of the United States who are otherwise qualified such sums as may be authorized by federal legislation to be paid for such education. The board of trustees may conduct on a fee basis extension courses and courses for adult education appropriate to the field of higher education. In all courses and courses of study it may, in its discretion, require students to pay library, laboratory, locker, breakage and other instructional and non-instructional fees and meet the cost of books and consumable supplies. In addition to the foregoing fees and charges, the board of trustees may impose and collect fees and charges for student government and other student activities and receive and expend them as agent or trustee.

(ii) Notwithstanding any law, rule, regulation or practice to the contrary, commencing with the two thousand twenty-three--two thousand twenty-four academic year and ending in the two thousand twenty-eight--two thousand twenty-nine academic year, following the review and approval of the chancellor of the city university or such chancellor's designee, the city university of New York board of trustees shall be empowered to annually impose differential tuition rates on non-resident undergraduate and graduate rates of tuition for senior colleges, provided that such rates are competitive with the rates of tuition charged by peer institutions and that the board of trustees

annually provide the reason and methodology behind any rate increase to the governor, the temporary president of the senate, and the speaker of the assembly prior to the approval of such increases.

* NB Effective July 1, 2027

* (a-1) The trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state, other than a non-immigrant noncitizen within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code, shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student:

(i) attended an approved New York high school for two or more years, graduated from an approved New York high school and applied for attendance at an institution or educational unit of the city university within five years of receiving a New York state high school diploma; or

(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state and applied for attendance at an institution or educational unit of the city university within five years of receiving a general equivalency diploma issued within New York state; or

(iii) was enrolled in an institution or educational unit of the city university in the fall semester or quarter of the two thousand one--two thousand two academic year and was authorized by such institution or educational unit to pay tuition at the rate or charge imposed for students who are residents of the state.

A student without lawful immigration status shall also be required to file an affidavit with such institution or educational unit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so. Except as otherwise authorized in paragraph (a) of this subdivision, the trustees shall not adopt changes in tuition charges prior to the enactment of the annual budget. The board of trustees may accept as partial reimbursement for the education of veterans of the armed forces of the United States who are otherwise qualified such sums as may be authorized by federal legislation to be paid for such education. The board of trustees may conduct on a fee

basis extension courses and courses for adult education appropriate to the field of higher education. In all courses and courses of study it may, in its discretion, require students to pay library, laboratory, locker, breakage and other instructional and non-instructional fees and meet the cost of books and consumable supplies. In addition to the foregoing fees and charges, the board of trustees may impose and collect fees and charges for student government and other student activities and receive and expend them as agent or trustee.

* NB Repealed July 1, 2027

(a-2) The trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student is enrolled in any college or educational unit of the city university of New York and is attending such college or educational unit in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof.

(a-3) The trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater than that imposed for students who are residents of the state if such student is enrolled in any college or educational unit of the city university of New York and is the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and not stationed in this state immediately following being stationed therein.

(b) Notwithstanding the provisions of any other general, special or local law, rule or regulation, the board of trustees may permit persons sixty years of age or over to audit courses given therein without tuition, examination, grading or credit therefor upon a space available basis, as determined by the president of each such institution, provided that such audit attendance does not deny course attendance at the city university of New York by an individual who is otherwise qualified under this section.

* (c) Notwithstanding the provisions of any other general, special or local law, rule or regulation, the board of trustees shall promulgate regulations to permit members of the New York city police department employed in the rank of police officer, who are enrolled in programs leading to baccalaureate or higher degrees at a senior college of the

city university to attend one course without tuition, provided that such course is related to their employment as police officers and that such tuition-waived attendance does not deny course attendance at a senior college of the city university by an individual who is otherwise qualified under this section.

* NB Repealed July 1, 2028

* (d) Notwithstanding the provisions of any other general, special or local law, rule or regulation, the board of trustees shall promulgate regulations to permit firefighters and fire officers employed by the New York city fire department, who are enrolled in programs leading to baccalaureate or higher degrees at a senior college of the city university to attend one course without tuition, provided that such course is related to their employment as firefighters and fire officers and that such tuition-waived attendance does not deny course attendance at a senior college of the city university by an individual who is otherwise qualified under this section.

* NB Repealed July 1, 2028

* (e) The trustees shall further provide that any student who is not a legal resident of New York state but is a United States citizen, a permanent lawful resident, an individual who is granted U or T non-immigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000, a person granted temporary protected status pursuant to the Federal Immigration Act of 1990, an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States, or an applicant without lawful immigration status may have the payment of tuition and other fees and charges reduced by state-aided programs, scholarships or other financial assistance awarded under the provisions of articles thirteen, thirteen-A, fourteen and fourteen-A of this chapter, provided that the student meets the requirements set forth in subparagraph (ii) of paragraph a or subparagraph (ii) of paragraph b of subdivision five of section six hundred sixty-one of this chapter, as applicable.

* NB There are 2 par (e)'s

* (e) Notwithstanding the provisions of any other general, special or local law, rule or regulation, the board of trustees shall be authorized to set a reduced rate of tuition and/or fees, or to waive tuition and/or

fees entirely, for students participating in any dual or concurrent enrollment program with no reduction in other state, local, or other support for such students earning college credit that such higher education partner would otherwise be eligible to receive; provided that, for purposes of this provision, a dual or concurrent enrollment program shall mean one or more college courses taken by a high school student through a community college or a senior college of the city university while such student is still enrolled in high school and for which the student may receive both high school and college credit.

* NB There are 2 par (e)'s

(f) In state fiscal year two thousand twenty-two--two thousand twenty-three and thereafter, the state shall appropriate and make available general fund operating support in the amount of the tuition credit calculated pursuant to section six hundred eighty-nine-a of this chapter annually.

(g) (i) For purposes of this paragraph, "Team USA athlete" means any student athlete who meets the eligibility standards defined and approved by the United States Olympic and Paralympic Committee and by the national governing body for the sport in which the athlete competes.

(ii) Notwithstanding the provisions of any other general, special or local law, rule or regulation and pursuant to an appropriation and funding being made for such purpose, the trustees shall further provide that the payment of tuition and fees by any student who is not a resident of New York state shall be paid at a rate or charge no greater than that imposed for students who are residents of this state if such student is enrolled in an institution or educational unit of the city university of New York, is a Team USA athlete, and is training in New York State in an elite level program approved by the United States Olympic and Paralympic Committee.

8. The board of trustees shall, on the recommendation of its faculty or faculties, grant the certificates, diplomas and degrees which were announced in the bulletins of the existing public institutions of higher learning published for the term beginning immediately prior to April sixteenth, nineteen hundred twenty-six, and also such other degrees and honors as the regents thereafter specifically authorized or may hereafter authorize it to grant.

9. When a center is first opened, the board of trustees shall submit an initial estimate of the sum needed for its support, maintenance and operation, based on an estimated original enrollment of students, for the fiscal year or portion thereof immediately following. Such estimate shall be acted upon as hereinbefore prescribed for current annual budgets; and in the event that an initial appropriation be for a part of the fiscal year only, then in making calculation for the succeeding annual appropriation, the initial appropriation shall be taken as the appropriate fractional base.

10. Money appropriated by the city to the board of trustees for college or university purposes, shall be placed in the custody of the comptroller of the city to the credit of such board of trustees and all disbursements from such funds shall be made by the comptroller acting for and in behalf of such board of trustees upon requisitions duly audited and signed by the board of trustees or by a person or persons appointed by such board of trustees, by resolution filed with the comptroller, to act for it. The comptroller shall audit such account of the board of trustees in the same manner as he audits the account of the board of education of the city of New York. Any balance of any annual appropriation made by the city to the board of trustees, which may be unallocated for college or university purposes by the board of trustees ninety days after the expiration of the calendar year for which the appropriation was made, shall revert to the city treasury and be credited to such uses as the city may direct.

11. The board of trustees may, in its discretion, compensate members of the instructional staff and non-instructional staff for loss of personal property. With respect to members of the instructional staff and other employees who are not covered by the workers' compensation law, the board of trustees may provide in its discretion for payment of reasonable medical and hospital expenses arising from injuries incurred in actual performance of duty on or after July first, nineteen hundred sixty-five.

12. The board of trustees, under such by-laws as it deems appropriate,

shall provide for the eligibility for sabbatical leaves of absence to members of its permanent instructional staff provided, however, that when such leaves are for one half year, they shall be at full pay, and when such leaves are for one year, they shall be at half pay.

13. The board of trustees shall provide standards for the granting of advanced standing to veterans applying for college admissions at schools in the city university who have successfully completed United States Armed Forces Institute or other comparable course work.

13-a. The board of trustees shall provide standards for admission of students who have completed an online high school program located within the United States consistent with the provisions of subparagraph eleven of paragraph h of subdivision two of section three hundred fifty-five of this chapter.

14. Notwithstanding the provisions of section forty-four, fifty or fifty-one of the state finance law or any other provision of law to the contrary, the city university trustees are authorized and empowered to increase or decrease appropriations by transfer or interchange as follows:

a. Amounts appropriated for the programs or purposes or for any item or items within such programs or purposes of any individual senior college of the city university and city university central administration within the schedules of such senior colleges or central administration from a particular fund or funds in a fiscal year may be interchanged between such programs or purposes of such senior college or central administration of city university, or between items within the same program or purpose, or with other items appropriated from such fund not in the same program or purpose, but which are contained in the state comptroller's classification of items as last promulgated pursuant to a certificate of allocation. Such certificate shall be submitted by such senior college or central administration to the board of trustees of the city university. Such certificate shall be submitted by the board of trustees to the state comptroller with copies to be sent to the chairs of the senate finance committee and the assembly ways and means

committee and the director of the budget for informational purposes only. The total amount appropriated for any program or purpose may be decreased by not more than the aggregate of five percent of such appropriation for a program or purpose with the approval of the senior college or central administration or such amounts may be decreased by more than the aggregate of five percent of such appropriation with the approval of the city university trustees.

b. Amounts appropriated to senior colleges of the city university from a particular fund or funds in a fiscal year for the programs or purposes of such senior colleges of the city university may be transferred between and among such senior colleges pursuant to a certificate of allocation, submitted directly by the city university to the state comptroller, with copies of such certificates to be sent to the chairmen of the senate finance committee and the assembly ways and means committee and the director of the budget for informational purposes only. The total amount appropriated for any senior college may not be decreased by more than the aggregate of three percent of an appropriation for a senior college.

c. Amounts appropriated for programs or purposes, or for any item within such programs or purposes, within the university-wide program schedule of city university from a particular fund or funds in a fiscal year shall not be decreased by means of transfer or interchange by more than the aggregate of four percent of an appropriation for a program or purpose within such schedule.

d. Amounts appropriated for the central administration of the city university within the central administration schedule from a particular fund or funds in a fiscal year for programs or purposes including, but not limited to, administration of senior colleges and university-wide programs of the city university shall not be increased by means of transfer or interchange by more than five percent of the aggregate appropriation within such schedule.

e. Notwithstanding the foregoing provisions of this subdivision, whenever the director of the budget, pursuant to section forty-nine of

the state finance law, shall establish an aggregate amount less than that contained in the local assistance appropriations act, the trustees may transfer or interchange any or all of such lesser amount among any of the programs or purposes or items without regard to the restrictions provided in this subdivision.

f. The allocation of lump sum appropriations from a fund or funds made to the city university for later distribution to senior colleges and/or the central administration of the city university or the allocation of lump sum appropriations made to all state departments and agencies for later allocation for specific programs or purposes or senior colleges and/or central administration of the city university shall not be deemed to be part of any total increase or decrease authorized by this section.

15. a. The board of trustees shall adopt rules requiring that each institution of the city university, on or before January first, two thousand, adopt and implement a plan providing for the investigation of any violent felony offense occurring at or on the grounds of each such institution, and providing for the investigation of a report of any missing student. Such plans shall provide for the coordination of the investigation of such crimes and reports with local law enforcement agencies. Such plans shall include, but not be limited to, written agreements with appropriate local law enforcement agencies providing for the prompt investigation of such crimes and reports and requirement that the institution shall notify the appropriate law enforcement agency as soon as practicable but in no case more than twenty-four hours after a report of a violent felony or that a student who resides in housing owned or operated by such institution is missing; provided that each institution shall: (1) inform each victim of a sexual offense of their options to notify proper law enforcement authorities, including on-campus and local police; (2) inform the victim of a sexual offense of the right to report or not to report such offense to local law enforcement agencies; and (3) offer the option to be assisted by campus authorities in notifying such authorities, if the victim of sexual assault so chooses, all in compliance with applicable federal law, including, but not limited to, the federal Campus Sexual Assault Victims' Bill of Rights under Title 20 U.S. Code Section 1092(f).

b. As used in this subdivision, the following terms shall have the following meanings:

(i) "Local law enforcement agencies" means any agency or agencies employing peace officers or police officers for the enforcement of the laws of the state, and which has or have jurisdiction under provisions of the criminal procedure law over offenses occurring at or on the grounds of any institution subject to the provisions of this subdivision.

(ii) "Missing student" means any student of an institution subject to the provisions of this subdivision, who resides in a facility owned or operated by such institution and who is reported to such institution as missing from his or her residence.

(iii) "Violent felony offense" means a violent felony offense as defined in subdivision one of section 70.02 of the penal law.

16. The board of trustees shall appoint for the city university campus officers who shall have the powers of peace officers as set forth in the criminal procedure law within the geographical area of the city of New York. A campus officer designated as a peace officer must have satisfactorily completed or complete, within one year of the date of such designation, a course of law enforcement training prescribed by the municipal police training council in consultation with the city university board of trustees.

18. Notwithstanding any law, rule or regulation to the contrary, the city university of New York board of trustees shall pass a resolution by June first, two thousand fifteen, to develop a plan to make available to students enrolled in an academic program of the city university of New York beginning in the two thousand sixteen--two thousand seventeen academic year, approved experiential or applied learning activities. Such experiential or applied learning activities may include completion of activities related to students' program of study, including, but not limited to, service-learning activities completed as part of a course, paid or unpaid internships, faculty-supervised undergraduate projects and activities leading to publication of research in journals or similar publications, production or performance of creative works, and iterative

"co-op" partnerships that explicitly link the curricula to a temporary, paid position in industry or the public sector. Such plan, to be completed by June first, two thousand sixteen, shall be developed in consultation with university faculty senate, the university student senate and other stakeholders. Such plan shall define approved experiential or applied learning activities, methods of faculty oversight and assessment, responsibilities of business, corporate, non-profit or other entities hosting students, and include a requirement for collecting and reporting data associated with such experiential or applied learning activities. Such plan shall have each college examine the feasibility of including such experiential or applied learning activities as a degree requirement. Such college shall examine its ability to administer and provide such opportunities to students; the local community's capacity to support such experiential or applied learning activities; the impact such requirement would have on the local workforce, if any; potential for such a requirement to enhance learning outcomes for students; and whether adding such a requirement would cause potential delays in graduation for students.

19. The city university trustees shall annually report on how the revenue generated has been invested in faculty, instruction, initiatives to improve student success and on-time completion and student financial assistance for the duration of the four year tuition plan. The trustees shall submit the report by September first of each subsequent year.

20. The board of trustees shall adopt rules requiring that each institution of the city university of New York adopt written policies requiring that all public single-occupancy bathroom facilities be designated as gender neutral for use by no more than one occupant at a time or for family or assisted use. Such gender neutral bathroom facilities shall be clearly designated by the posting of such on or near the entry door of each facility. For purposes of this section, "single-occupancy bathroom" shall have the same meaning as paragraph (d) of subdivision one of section one hundred forty-five of the public buildings law.

21. The board of trustees shall adopt a policy requiring that each

institution of the city university of New York collaborate with students, faculty and staff to encourage campuses to eliminate the use of certain plastic items generally recognized by the public as being designed for single use. Such plastic items may include, but shall not be limited to, tableware, straws, stirrers, cups and food service containers. In establishing such a policy, the trustees shall consider the following:

a. the availability of affordable alternatives;

b. the accessibility of alternatives to all students, faculty, and staff;

c. an evaluation of the effectiveness of reusable alternatives; and

d. benchmarks for assessing progress.

22. Notwithstanding any law, rule or regulation to the contrary, the board of trustees shall establish a policy authorizing senior colleges and community colleges within the city university of New York to grant posthumous degrees to enrolled matriculated students whose death occurs prior to graduation. Such policy shall provide that, upon terms set in the policy, any remaining credit requirements shall be waived for any student who dies and who otherwise would have been eligible for graduation had they been able to complete their academic career.

23. Notwithstanding any law, rule or regulation to the contrary, the city university of New York board of trustees shall, by June first, two thousand twenty-five, develop a plan to make available to students enrolled in an academic program of the city university of New York beginning in the two thousand twenty-five--two thousand twenty-six academic year, approved experiential or applied learning activities, as defined in subdivision eighteen of this section. Such plan shall be developed in consultation with university faculty senate, the university student senate and other stakeholders. Such plan shall define approved experiential or applied learning activities, methods of faculty oversight and assessment, responsibilities of business, corporate,

non-profit or other entities hosting students, and include a requirement for collecting and reporting data associated with such experiential or applied learning activities. Such plan shall have each college examine the feasibility of including such experiential or applied learning activities as a degree requirement. Such college shall examine its ability to administer and provide such opportunities to students; the local community's capacity to support such experiential or applied learning activities; the impact such requirement would have on the local workforce, if any; potential for such a requirement to enhance learning outcomes for students; and whether adding such a requirement would cause potential delays in graduation for students.

* 24. (a) The use of artificial intelligence systems, as defined by section one hundred three-e of the state technology law, shall not affect (i) the existing rights of employees pursuant to a collective bargaining agreement; or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing collective bargaining agreements; or

(ii) transfer of duties and functions currently performed by employees of the city university of New York to an artificial intelligence system.

(c) The use of an artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership status of all existing employees of the city university of New York shall be preserved and protected.

* NB Repealed July 1, 2028

§ 6207. Administration of civil service. The city university, for the purpose of administering the state civil service law, shall be deemed to be a municipal employer, provided, however, that the city university may elect to delegate the administration of any or all of the provisions of the civil service law, except article fourteen, to the department of

personnel of the city of New York. In that event, the city department of personnel shall enter into a contract with such university for the rendition of such services. The city university of New York shall compensate the city of New York for such services only with respect to such services rendered for or on behalf of the senior colleges of such university. If the city of New York and city university cannot agree on the amount of such compensation, the state comptroller shall determine the fair and reasonable value of such services and the city university shall pay such sum to the city of New York. Any person on an eligible list for a position with the city university of New York in effect on the effective date of this article shall continue to hold such position on such list and shall be entitled to the same civil service rights. With respect to all persons employed by the city university on the effective date of this article, the city university and the city of New York shall be deemed to be the same public employer only for purposes of transfer of employment under the civil service law. No civil service right of an employee of the city university of New York employed on the effective date of this article shall be lost, impaired or affected by reason of the enactment of this article into law.

§ 6208. Collective negotiation. For the purposes of article fourteen of the civil service law, the city university of New York shall be deemed to be the public employer and as such shall negotiate with and enter into written agreements with employee organizations representing the instructional staff and non-instructional staff of the senior colleges and community colleges of such university that have been certified or recognized under such article. For purposes of such article, the chancellor of the city university shall be deemed to be the chief executive officer, the chief legal officer of the city university shall be chief legal officer, and the legislature of the state of New York shall be deemed to be the legislative body of the government. In carrying on such negotiations, the city university of New York shall consult with and seek assistance from the state office of employee relations and the New York city office of municipal labor relations. The state public employment relations board shall have exclusive jurisdiction for the purpose of administering the provisions of such

article and the provisions of section two hundred twelve of such article shall not be applicable to any such negotiations.

§ 6209. Investments in designated obligations; indemnification. 1. It is hereby found and declared that obligations of the dormitory authority of the state of New York are reasonable, prudent, proper and legal investments in which all gifts, grants, bequests, devises, trusts, money, endowments, fees, and other income not derived from public taxation or the public credit, received and administered or to be received and administered by the board of trustees or any of its educational units for college or university purposes in connection with the units under the control of the board of trustees pursuant to subdivision six of section sixty-two hundred six of this article may be invested or may be pledged, hypothecated or delivered as collateral to secure in whole or in part the payment of principal or interest of any obligation of the dormitory authority of the state of New York by the board of trustees or any officer, employee or fiduciary thereof upon such terms and conditions as may be acceptable to the board of trustees. It is hereby found and declared that obligations of the dormitory authority of the state of New York are reasonable, prudent, proper and legal investments in which funds presently in existence or hereafter created or established or other moneys administered by any alumni corporation or college fund organized pursuant to the not-for-profit corporation law or this chapter to encourage the educational mission or assist any educational unit of the city university may be invested or may be pledged, hypothecated or delivered as collateral to secure in whole or in part the payment of principal or interest of any obligation of the dormitory authority of the state of New York by such corporation or fund or any officer, trustee, director, employee or fiduciary thereof upon such terms and conditions as may be acceptable to such corporation, person or persons. For the purpose of this section, such gifts, grants, bequests, devises, trusts, money, endowments, fees, funds, and other income shall be referred to as endowment funds.

2. Notwithstanding any inconsistent provision of law, the board of trustees or the directors or trustees of any such alumni corporation or

college fund may in its or their discretion purchase and retain obligations or may pledge, hypothecate, or deliver as collateral endowment funds to secure in whole or in part the payment of principal or interest on obligations of the dormitory authority of the state of New York without regard to the percentage of the assets of such endowment funds invested in such obligations or pledged, hypothecated, or delivered as collateral to secure in whole or in part the payment of principal or interest on such obligations, and without regard to the percentage of outstanding obligations of the issuer held or to be held by such funds or secured by pledge, hypothecation, or delivery as collateral of such funds. The board of trustees or such alumni corporation or college fund may consider, in addition to the appropriate factors recognized by law, the extent to which such investments, pledges, hypothecations, or deliveries as collateral, will maintain the credit worthiness of the state of New York and the dormitory authority of the state of New York so as to enable the state and such corporation to finance the construction of capital facilities heretofore or hereafter duly authorized for the city university.

3. Notwithstanding any other provision of law, the state shall, with respect to the board of trustees, save and hold harmless and indemnify each and every member, trustee, director, officer, employee or fiduciary with responsibility for the custody of funds or the assets thereof or for the approval of the sale, investment, pledge, hypothecation, or delivery as collateral of the assets of such funds, and any investment advisor, attorney or accountant who shall have been employed by or who has advised such member, trustee, director, officer, employee, or fiduciary, from any or all financial loss arising out of or in connection with any claim, demand, suit, action, proceeding or judgment for alleged negligence, waste, or breach of fiduciary duty by reason of any investment of any funds in, or the pledge, hypothecation, or delivery as collateral of any endowment funds to secure in whole or in part the payment of principal or interest of any obligation of the dormitory authority of the state of New York, or resulting from the sale of any assets of any funds to obtain sufficient revenues to make such investments, pledges, hypothecations, or deliveries as collateral, provided that such member, trustee, director, officer, employee,

fiduciary, investment advisor, attorney, or accountant within five days after the date on which he or she is personally served with, or receives actual notice of, any summons, complaint, process, notice, demand, claim or pleading, shall give notice thereof to the attorney general. Upon such notice, the attorney general shall assume control of the representation of such member, trustee, director, officer, employee, fiduciary, investment advisor, attorney or accountant in connection with such claim, demand, suit, action or proceeding. Each person so represented shall cooperate fully with the attorney general or any other person designated to assume such defense in respect to such representation or defense.

§ 6210. Non-Instructional positions. 1. All persons hereafter appointed to serve in non-instructional positions in the city university shall be appointed for the probationary period of one year during which the service of a person appointed to any such position may be discontinued by the board of trustees at any time. All persons employed in the non-instructional service of the board of trustees who have served the full probationary period shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for cause after a hearing by the affirmative vote of a majority of the board of trustees.

The board of trustees shall provide, by appropriate by-laws, for the presentation of charges, the reference thereof to a committee of the board of trustees or to others for hearings, the conduct of such hearings, and the report thereof on the basis of which the board of trustees shall take such action as it deems necessary or advisable.

A person who had acquired tenure in a position with the board of trustees and who is promoted therefrom to a higher position shall be fully restored to his lower position and tenure therein in the event his service is discontinued by the board of trustees during his probationary period in such higher position; upon restoration to such original position the time such person served in the higher position shall be credited for all purposes as if such service had been rendered in the

original position.

2. Vacancies in positions included in group II (college office assistant B and college secretarial assistant B) and group III (administrative assistant) of item number sixteen of section sixty-two hundred twenty, shall be filled, as far as practicable, by promotion from among persons holding positions in the lower grades listed in group I (college office assistant A and college secretarial assistant A) and group II of such item number sixteen of section sixty-two hundred twenty, respectively. Promotions shall be made by the board of trustees from group I and from group II of the aforesaid item number sixteen so that of the total regularly employed in such three groups, not more than forty per centum of the total in the three groups shall be employed in group I and not less than fifteen per centum of the said total shall be employed in group III.

3. The board of trustees shall, by appropriate by-laws, determine from time to time the qualification requirements for all positions.

§ 6211. College presidents emeriti; appointments, duties, qualifications, salary. The board of trustees shall be authorized to appoint, notwithstanding the provisions of any local law or charter to the contrary, as president emeritus any retired president of an existing college unit or a college unit hereafter to be created other than teachers' training schools, whose duty it shall be to consult and advise with educational officers as and when requested by the president, or head of such college unit. No person shall be eligible for such appointment unless he shall have been duly retired from such college unit. He shall receive for the duration of his life such annual salary as the board of trustees or like financial authority, shall determine. The salary is to be in lieu of the annual pension to which such retired president would be entitled during his lifetime but is not to be construed as depriving him at the time of his retirement of the right to choose an option or as depriving his estate or beneficiary of any death benefit accruing to such estate or beneficiary under the law.

§ 6212. Tenure. 1. The following words and phrases, for the purposes of this section, shall have the following meanings:

a. "Educational unit" shall mean a college, school, preparatory school, high school, or model school.

b. "Instructional staff" shall mean the persons employed by the board of trustees in the educational units governed and administered by it in the grades or positions of president, dean, director, professor, associate professor, assistant professor, instructor, fellow, lecturer, senior registrar, registrar, assistant registrar, associate registrar, college laboratory technicians; in the high school and model school: principal, first assistant, supervisor, instructor, assistant teacher, critic teacher, teacher; or in any grade or position which the board of trustees in its discretion may add thereto.

c. "Tenure" shall mean the right of a person to hold his position during good behavior and efficient and competent service, and not to be removed therefrom except for cause in the manner hereinafter provided.

2. All members of the permanent instructional staff of the educational units governed and administered by the board of trustees shall have tenure.

3. The permanent instructional staff shall consist of all persons employed by the city university on an annual salary basis at the educational units governed and administered by the board of trustees as follows: (a) in the grades of professor, associate professor, assistant professor, or in any grade or position which the board in its discretion may add thereto, who, after serving on an annual salary in any of the grades or positions enumerated or provided for in this paragraph for seven full years continuously, have been appointed or shall be appointed for an eighth full year, except as provided in subdivisions four and five of this section; and (b) in the grades of college laboratory technician, senior registrar, registrar, assistant registrar, associate registrar, assistant librarian and in the elementary and high schools:

instructor, assistant teacher, critic teacher, or teacher, or in any grade or position which the board in its discretion may add thereto, who, after serving on an annual salary in any of the grades or positions enumerated or provided for in this paragraph for five full years continuously, have been appointed or shall be appointed for a sixth full year, except as provided in subdivision four of this section; the membership of such persons on the permanent instructional staff as provided for in paragraph (a) of this subdivision shall become effective on the first day of September following their reappointment for the eighth full year, and the membership of such persons on the permanent instructional staff as provided for in this paragraph shall become effective on the first day of September following their reappointment for the sixth full year. Where the service of a member of the instructional staff, in one of the titles listed or provided for herein, is interrupted by reason of absence on a maternity or child care leave duly granted by the board of trustees, the period of creditable service immediately preceding such absence shall be counted in computing the full years of service required by this subdivision.

4. Nothing herein contained shall be construed as conferring or permitting tenure, or service credit toward the achievement of tenure, in the grades or positions of president, director, assistant director, dean, assistant dean, head of instructional department, chairman of instructional department, fellow, laboratory teaching assistant, principal, supervisor, or first assistant. Appointment to such grade or position, or removal therefrom, however, shall not deprive the person so appointed or removed of tenure in the highest position on the instructional staff held with tenure prior to his appointment to such office or conjointly with such office, nor shall the appointment to, holding of, or removal from such grade or position deprive any person of service credit toward the achievement of tenure under the provisions of this section.

5. Persons appointed to the rank of professor, associate professor or assistant professor may under the provisions of the board of trustee's by-laws be placed on the permanent instructional staff by the board of trustees in its discretion after not less than one nor more than seven

years of continuous full time service on an annual salary except that persons of proven record who have achieved tenure at another recognized institution of higher learning and whose appointment is to the rank of professor may be granted tenure immediately on appointment. Persons promoted to the rank of professor shall be granted tenure after not more than four years of continuous full time service on an annual salary in positions on the instructional staff.

6. For the purpose of appointments and promotions in the instructional staff which may be made after April twentieth, nineteen hundred forty, the board of trustees shall determine to what extent examinations are practicable to ascertain merit and fitness for each of the positions within the educational units covered and administered by it and, in so far as examinations are deemed practicable, shall determine to what extent it is practicable that such examinations be competitive. Any examination held in accordance with the provisions of this subdivision shall be set and administered through any agency which the board of trustees may from time to time create or designate.

7. Neither tenure as conferred through the operation of this section nor the period requisite for the achievement of tenure shall be affected by transfer within the educational units governed and administered by the board of trustees, or by promotion, or by change of title, except that a person upon whom tenure is conferred through the operation of this section and who may be transferred to any position within the educational units governed and administered by the board of trustees, or who may be promoted, or whose title may be changed, shall have tenure in his new position, provided such position is not one of those enumerated in subdivision four of this section. Nothing herein contained shall be construed to prevent the board of trustees from assigning any person having tenure to any appropriate position on the staff, but no such assignment shall carry with it a reduction in rank or a reduction in salary other than the elimination of any additional emolument provided for administrative positions. Any person in a position on the instructional staff just prior to the effective date of this article shall not be affected with respect to his tenure or the time credit earned towards such tenure, or the period requisite for the achievement

of tenure under the law as it existed just prior to the effective date of this article.

8. A position held by a person upon whom tenure is conferred through the operation of this section may be abolished or discontinued by the board of trustees for reasons which are not discriminatory against a particular person or persons. In the event that a position in a department is to be abolished or discontinued, such position shall be that of the person last appointed to such department, save that, for special educational reasons which are not discriminatory against a particular person or persons, the board of trustees may continue the services of a person or persons whose position or positions would otherwise be abolished or discontinued, and abolish or discontinue the position or positions of the person or persons next most recently appointed to such department; provided, however, that all persons of any grade in such department upon whom tenure is not conferred by the operation of this section shall be dismissed before the position of any other person in such department is abolished or discontinued. If the board of trustees abolishes or discontinues the position of a person upon whom tenure is conferred through the operation of this section and can find no position in the educational unit in which such person has been serving which can be efficiently and capably filled by such person, then his name shall be placed and shall remain for three years upon a preferred eligible list of candidates for reappointment to fill a vacancy that may thereafter occur in a position which can be efficiently and capably filled by such person or to fill a newly created position which can be efficiently and capably filled by such person. The board of trustees shall, through the adoption of appropriate by-laws, determine the number of such preferred eligible lists, the extent of applicability of each such list, and the order of reappointment therefrom to vacancies in positions under its jurisdiction or to newly created positions under its jurisdiction. No names shall be placed on such preferred eligible lists except as hereinbefore provided for persons upon whom tenure is conferred through the operation of this section. Any person reappointed from a preferred eligible list shall be reappointed at a salary not less than that which he was receiving when his position was abolished or discontinued. Any person whose name is placed on a preferred eligible

list as hereinbefore provided shall, for the purpose of maintaining his status in any retirement system of which he is a member, be deemed to be on leave of absence without pay.

9. Persons having tenure under the provisions of this section may be removed or suspended from the permanent instructional staff for one or more of the following reasons, provided, however, that, except as to a charge of misconduct constituting a crime when committed, no proceedings shall be commenced more than five years after the occurrence of the alleged incompetency or misconduct:

a. incompetent or inefficient service;

b. neglect of duty;

c. physical or mental incapacity;

d. conduct unbecoming a member of the staff. This provision shall not be so interpreted as to constitute interference with academic freedom.

Proceedings for the removal of such a person shall be conducted in accordance with the by-laws of the board of trustees, and shall be initiated by service by the board of trustees upon the person involved of a notice setting forth all the charges pending against him. Such a person so charged shall be entitled to a hearing with right of representation by any person or persons of his choice before any committee which the board of trustees may appoint to investigate such charges, or, in the event that such a committee is not appointed, before the board of trustees. In cases in which such a committee is appointed, such a person shall further be entitled to an appeal on the record with right of representation by any person or persons of his choice before the board of trustees prior to its final determination of the question of his removal. No such person shall be removed except at a regular or special meeting of the board of trustees, by an affirmative vote of the majority of all the members of the board of trustees. For the purposes of any such proceeding, the board by its chairman or the chairman of any such committee shall have power to subpoena witnesses, papers and

records, and to administer oaths.

10. If any clause, sentence, paragraph or part of this section, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment or order shall not invalidate the remainder of this section and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment or order shall have been rendered and to the person or circumstance involved.

§ 6213. Establishment of collegiate centers. 1. The board of trustees shall have the same powers to acquire sites, buildings, apparatus, and equipment for its community colleges' as the board of education has for school purposes, and it shall follow the procedure prescribed by law for the board of education in the acquisition of such sites, buildings, apparatus and equipment. When, in its discretion, the city university of New York resolves to establish new centers of instruction for community colleges, it shall follow the procedure of the board of education in establishing new schools.

2. The city university of New York shall have the power to acquire real property, as defined by the eminent domain procedure law, in the name of the people of the state of New York by purchase, lease or appropriation for senior college purposes in accordance with the provisions of section three hundred seven of this chapter, except that the powers and duties in said section mentioned to be performed by the commissioner of education, shall be performed by the board of trustees.

3. On the request of the city university construction fund, either the commissioner of general services of the state of New York, with respect to any property held by the city university in the name of the people of the state of New York, or the city university, with respect to any property held by it in its own name, may sell, convey, lease or exchange or otherwise make available to the dormitory authority, for nominal

consideration, any such property for the purposes of dormitory authority financing.

§ 6214. Retirement systems. 1. All members of teaching and administrative staffs in any educational unit established by the board of trustees, and in any other institution administered and controlled by such board, who are not members of any other retirement system supported in whole or in part by the city of New York and who hold appointment to service on annual salaries, shall, upon appointment, become members of the public school teachers' retirement system of such city if eligible therefor and if not eligible therefor shall become members of the employees' retirement system of such city and shall have all the obligations, rights, privileges and benefits of new entrants.

2. An employee of the board of trustees who is a member of the New York city employees' retirement system and who is also eligible for membership in the teachers' retirement system of the city of New York shall have the right to transfer his membership to such teachers' retirement system. In order to effect such a transfer, a member must give notice to the New York city employees' retirement system within one year of his last becoming eligible for membership in the said teachers' retirement system, of his intention to transfer to the said teachers' retirement system. Upon receipt of such notice, the New York city employees' retirement system shall transfer to such teachers' retirement system the reserve on such member's benefits in the manner provided by section forty-three of the retirement and social security law. The former system shall also transfer to the latter system the member's accumulated deductions which shall become such member's accumulated deductions in the latter system. A person so transferring shall be deemed to have been a member of the system to which he has transferred during the entire period of membership service credited to him in the system from which he has transferred. Such transferee shall be entitled to all the rights, privileges and benefits of the system to which he has transferred. Such transferee shall be entitled to the crediting of regular interest in such teachers' retirement system at the same rate as he would have received had he continued membership in the New York city

employees' retirement system. Upon his retirement, the mortality table in effect in the teachers' retirement system of the city of New York on the date when he last became a member of the New York city employees' retirement system shall apply.

3. Any member of the New York city employees' retirement system who is a member of the instructional staff of the city university shall have the right to transfer his membership to the teachers' retirement system of the city of New York. In order to effect such a transfer, a member must give notice to the New York city employees' retirement system, on or before June thirtieth, nineteen hundred eighty-seven or, within one year of his eligibility for membership in the said teachers' retirement system, of his intention to transfer to the said teachers' retirement system. Upon receipt of such notice, the New York city employees' retirement system shall transfer to such teachers' retirement system the reserve on such member's benefits in the manner provided by section forty-three of the retirement and social security law. The former system shall also transfer to the latter system the member's accumulated deductions which shall become such member's accumulated deductions in the latter system. A person so transferring shall be deemed to have been a member of the system to which he has transferred during the entire period of membership service credited to him in the system from which he has transferred. Such transferee shall be entitled to all the rights, privileges and benefits of the system to which he has transferred. Such transferee shall be entitled to the crediting of regular interest in such teachers' retirement system at the same rate as he or she would have received had he continued membership in the New York city employees' retirement system. Upon his retirement, the mortality table in effect in the teachers' retirement system of the city of New York on the date when he last became a member of the New York city employees' retirement system shall apply.

4. Notwithstanding any other provision of law, on or after July first, nineteen hundred eighty-six, any new member of the instructional staff at a senior or community college of the city university of New York shall be a member of the teachers' retirement system of the city of New York or, if he so elects under applicable provisions of law, a member of

the optional retirement program established under article one hundred twenty-five-A of this chapter.

§ 6215. Fees. 1. All instructional and non-instructional fees hereafter received from matriculated students by the city university shall be accounted for and paid to the city university construction fund; subject, however, in the case of any such fees received by graduate institutions, to any prior pledge thereof made by an agreement and lease both between the city university of New York and the dormitory authority dated as of January tenth, nineteen hundred sixty-six. The fund shall receive, accept, invest, administer, expend and disburse the instructional and non-instructional fees in accordance with the city university construction fund act.

2. All instructional and non-instructional fees hereafter received from non-matriculated students by the city university shall be accounted for and paid, as determined by the board of trustees, to the city university construction fund; subject, however, in the case of any such fees received by graduate institutions, to any prior pledge thereof made by an agreement and lease both between the city university and the dormitory authority dated as of January tenth, nineteen hundred sixty-six. The fund shall receive, accept, invest, administer, expend and disburse the instructional and non-instructional fees in accordance with the city university construction fund act.

3. For purposes of this article and article one hundred twenty-five-B of this chapter, and notwithstanding any other provision thereof, the instructional and non-instructional fees received from matriculated and non-matriculated students at New York city college of technology shall be treated as if they were fees from a community college, and the instructional and non-instructional fees received from matriculated and non-matriculated students at the college of Staten Island shall be treated as if they were senior college fees; provided, however, that instructional and non-instructional fees from students attending that portion of the program of the college of Staten Island whose primary purpose is providing certificate and associate degree post secondary

programs in general and technical educational subjects shall be treated as if they were fees from a community college; provided, however, that instructional and non-instructional fees received from all students attending the college of Staten Island, New York city college of technology and Medgar Evers college shall be used to offset the state share of operating expenses.

§ 6216. State aid. The board of trustees shall continue to pay salaries to the supervisors, teachers and all other employees of any preparatory high school or model school under its jurisdiction which shall be the same as those paid by the board of education of the same city to persons discharging like functions in similar schools under the jurisdiction of the said board of education. The city school district of such city shall be entitled to receive apportionments of public school moneys for the elementary and secondary schools maintained in and by such city and under the control of the board of trustees on the same basis as such city school district receives apportionments of public school moneys for the elementary and high school conducted by the board of education of such city. The board of trustees shall make all reports required by the commissioner of education as the basis for calculating such apportionment.

§ 6218. Contracts and purchases. a. Notwithstanding the provisions of subdivision two of section one hundred twelve and sections one hundred fifteen, one hundred sixty-one and one hundred sixty-three of the state finance law and section three of the New York state printing and public documents law or any other law to the contrary, the city university trustees are authorized and empowered to:

(i) purchase materials; proprietary electronic information resources, including, but not limited to, academic, professional and industry journals, reference handbooks and manuals, research tracking tools, indexes and abstracts; and equipment and supplies, including computer equipment and motor vehicles, where the amount for a single purchase does not exceed one hundred fifty thousand dollars, (ii) execute contracts for services and construction contracts to an amount not

exceeding one hundred fifty thousand dollars, and (iii) contract for printing to an amount not exceeding one hundred fifty thousand dollars, without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the city university board of trustees after consultation with the state comptroller. In addition, the trustees are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any articles, categories of articles, services, or commodities from these limits. Guidelines promulgated by the city university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price.

b. Except as hereinafter provided, no contract for work or labor or the purchase of supplies, material, or equipment or for the construction or the alteration of any building or facility involving an expenditure or liability of more than twenty thousand dollars shall be entered into by the board of trustees, unless said board of trustees shall have duly advertised for bids for the same for a period of not less than five days under regulations to be approved by the board of trustees and the contract in each case shall be awarded to the lowest responsible bidder furnishing the security as required by the board of trustees. If two or more bids are tied, and are the lowest bids submitted by responsible bidders furnishing the security as required by the board, the board of trustees may award the contract to any of said tied bidders.

c. If the several parts of the work or labor to be done and/or the supplies, materials or equipment to be furnished shall together involve an expenditure of not more than twenty thousand dollars, the same may be procured on an order awarded to the lowest responsible bidder upon bids submitted without public advertisement under such regulations as shall be made by the board of trustees. Purchases of five thousand dollars or less may be made without competition.

d. The board of trustees, if it shall deem it in the public interest, may reject all bids.

e. Upon the adoption of a resolution by a vote of at least two-thirds of the members of the board of trustees by vote at a meeting, stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, materials, or supplies of more than twenty thousand dollars may be awarded to the lowest responsible bidder furnishing the required security after advertisement for bids in the manner provided in this section. Such resolution shall contain a full explanation of the reasons for its adoption. Purchase contracts for a particular type or kind of equipment, materials or supplies of not more than twenty thousand dollars may be awarded to the lowest responsible bidder upon bids submitted without public advertisement under such regulations as shall be made by the board of trustees.

f. Surplus or second-hand supplies, materials or equipment may be purchased without competitive bidding from the federal government, the state of New York or from any political subdivision of the state.

g. The board of trustees is authorized to establish cash advance accounts for the purpose of purchasing materials, supplies, or services, for cash advances for travel expenses and per diem allowances, or for advance payment of wages and salary. The account may be used to purchase such materials, supplies, or services where the amount of a single purchase does not exceed two hundred fifty dollars in accordance with such guidelines as shall be prescribed by the city university trustees after consultation with the state comptroller.

h. Notwithstanding any of the provisions of this section, the board of trustees may make purchases, when available, through the state of New York, the city of New York, the federal government or the board of education of the city of New York, provided that the board of trustees shall accept sole responsibility for any payment due the vendor.

§ 6219. Conveyance of property. 1. a. The city of New York shall on or before January first, nineteen hundred eighty, by resolution or resolutions of the board of estimate of such city or by instruments authorized by such resolutions, convey to the state of New York all right, title and interest to all real property owned by the city and used by such university for senior college purposes notwithstanding the provisions of any general, special or local law, or code or charter.

b. All such conveyances shall contain a provision that if such real property ceases to be used for such purpose, title to such property shall revert to the city of New York, provided, however, that until such time as the city university delivers the notice referred to in paragraph c of this subdivision with respect to any parcel of such real property, such parcel shall be deemed to be used for senior college purposes notwithstanding any change in character, use or occupancy consistent with such purposes subsequent to the conveyance thereof pursuant to paragraph a of this subdivision. Notwithstanding the reverter contained in the foregoing sentence, on the request of the city university construction fund, the commissioner of general services of the state of New York may, for the purposes of dormitory authority financing of any facility conveyed by the city of New York pursuant to paragraph a of this subdivision, sell, convey, lease or exchange or otherwise make available to the dormitory authority, for a nominal consideration any such property, subject to the provision that if title shall be reconveyed to the state of New York by the dormitory authority subsequent to satisfaction of indebtedness incurred by the dormitory authority to finance improvements on such property, such property shall, subject to paragraph c of this subdivision, again become subject to the provisions of the first sentence of this paragraph. The conveyance to the dormitory authority shall be free of the reverter provided for in the first sentence of this paragraph.

c. If any property which is subject to the reverter contained in the first sentence of paragraph b of this subdivision ceases to be used for senior college purposes, the city university shall notify the commissioner of general services of the state of New York and the director of management and budget of the city of New York in writing of

such event within sixty days. Upon the giving of such notice the reverter contained in the first sentence of paragraph b of this subdivision shall become effective and the state shall provide the city with a duly executed deed in recordable form.

d. If the city shall (i) use property so deeded to it with improvements wholly paid for by the state or (ii) sell or otherwise dispose of property so deeded to it with improvements wholly paid for by the state, then, within thirty days after the beginning of the city fiscal year immediately following such conveyance, the city shall pay to the state an amount equal to the current appraised value of such improvements in such property.

e. The commissioner of general services of the state of New York may, on the request of the city university construction fund for the purposes of dormitory authority financing of the portion of the Staten Island Developmental Center which is to be used by city university for senior college purposes exclusively, sell, convey, lease or exchange or otherwise make available to the dormitory authority such state lands, situate within the county of Richmond, the city of New York, upon such terms and conditions including consideration as the commissioner may fix and determine with the approval of the director of the budget. However, in the event that all or any part of such property should not be utilized for senior college purposes exclusively, such property will revert back to the state of New York.

2. Real property being used on the effective date of this article or to be used by the city university for senior college purposes which is encumbered by bonds, mortgages or similar debt instruments and title to which is held by an agency of the state subject to the provision that such title shall be conveyed to the city of New York by such state agency when such outstanding indebtedness has been satisfied, shall upon being so conveyed to such city by such agency thereupon be re-conveyed by such city to the state of New York.

3. Notwithstanding any other provisions of law, the provisions of this section shall apply to Medgar Evers college.

§ 6220. Salary schedules in certain public institutions of higher learning. For the purposes of this section, "college" shall mean a senior college as defined in subdivision five of section sixty-two hundred two of this article. Any reference in this section to a "community college of the board of trustees" or to a "community college sponsored or administered by the board of higher education of the city of New York" shall be deemed a reference to a community college as defined in subdivision four of section sixty-two hundred two of this article and to a locally sponsored community college administered by the board pursuant to subdivision three of section sixty-three hundred six of this chapter.

In any public institution of higher learning under the jurisdiction of the board of trustees, including community colleges sponsored or administered by the board of trustees, the salaries, increments and annual salary schedules of the following positions shall continue to be no lower than those established by the board of higher education and approved by the mayor and in full force and effect the first day of January, nineteen hundred sixty-five:

1. President;

2. Dean;

3. Professor;

4. Registrar;

5. Lecturers;

6. Associate professors and librarians;

7. Assistant professors and associate librarians;

8. Instructors, assistant registrars and assistant librarians;

9. Library assistants;

10. Tutors;

11. Research assistants and clinical assistants;

12. Fellows and laboratory teaching assistants;

13. Services on an hourly basis of compensation: persons appointed to teaching positions in the evening and summer session with compensation on an hourly basis;

14. Temporary employees in teaching and supervising positions; and

15. College physician--doctor and/or dentist: on session service.

The annual increments provided through the operation of this subdivision shall be added on January first of each year.

16. Administrative employees of the non-instructional staff.

A. Group I. College office assistant A, college secretarial assistant A;

Group II. College office assistant B, college secretarial assistant B;

Group III. College administrative assistant;

Group IV. Such other administrative positions of the non-instructional staff now existing and such other administrative positions of the non-instructional staff as the board of trustees may establish from time to time and at such salary and salary schedules as the said board of trustees may establish with the approval of the mayor of the city of New York.

B. The annual increments provided through the operation of this

section in the foregoing salary schedules for groups I, II, and III hereof shall become effective on the first day of July or the first day of January in each year following the completion of a year of service.

C. Effective July first, nineteen hundred sixty-six, titles of administrative employees of the non-instructional staff of community colleges sponsored or administered by the board of trustees shall be changed as follows:

1. Group I. College office assistant A, college secretarial assistant A.

2. Group II. College office assistant B, college secretarial assistant B.

3. Group III. College administrative assistant.

4. Group IV. Such other administrative positions of the non-instructional staff now existing and such other administrative positions of the non-instructional staff as the board of trustees may establish from time to time and at such salary and salary schedules as said board of trustees may establish with the approval of the mayor of the city of New York.

5. The qualification requirements for these positions and the conditions of employment shall be as established by the board of trustees, and shall be the same as those established for comparable titles for four-year colleges of the board of trustees of the city university of New York.

6. Salaries and salary conditions for these positions shall be as established by the board of trustees, and shall be the same as those established for comparable titles for four-year colleges of the board of trustees.

7. All permanent administrative employees of the non-instructional staff of the community colleges sponsored or administered by the board

of trustees, who are high school graduates and who on June thirtieth, nineteen hundred sixty-six had permanent or probationary status in the titles listed in column one below shall without examination (except as otherwise specified) have their titles changed to the equated titles in column two:

Column 1 Title as of June 30, 1966	Column 2 Equated Title as of July 1, 1966
Account Clerk	College office assistant A
Administrative assistant	College administrative assistant
Clerk	College office assistant A
Department library aide	College office assistant A
Senior Clerk	College office assistant B
Senior stenographer	College secretarial assistant B
Stenographer	College secretarial assistant A
Supervising clerk	College administrative assistant (if incumbent passes a noncompetitive qualifying examination conducted by the New York city department of personnel; a probationary period of one year shall begin on appointment as a college administrative assistant) or College office assistant B (if incumbent fails to pass the above qualifying examination; in which case incumbent's salary shall continue to increase by increments until the maximum of supervising clerk schedule has been reached).
Supervising stenographer	College administrative assistant (if incumbent passes a non-competitive qualifying examination conducted by the New York city department of personnel; a probationary

period of one year shall begin on appointment as college administrative assistant)

or

College secretarial assistant B (if incumbent fails to pass the above qualifying examination; in which case incumbent's salary shall continue to increase by increments until the maximum of supervising stenographer schedule has been reached).

Typist College office assistant A

An employee who on July first, nineteen hundred sixty-six has not yet completed his probationary period shall, if he subsequently completes his probationary period, be reclassified to the appropriate equivalent title at the time of his permanent appointment. An employee who is not a high school graduate shall be reclassified within a year after July first, nineteen hundred sixty-six to the appropriate equivalent title on presentation of a high school diploma or its equivalent, failing to do which such employee shall remain in his career and salary plan title.

8. No person employed in the community colleges sponsored or administered by the board of trustees at the time this article goes into effect shall suffer any diminution of salary, status, tenure, and retirement rights, nor shall he receive in his new title a salary less than he would have received had he continued in his former title. Any such person shall retain his right to promotion on a city-wide basis from any civil service list in existence on July first, nineteen hundred sixty-six or established as the result of any examination for which the filing period began prior to that date.

9. All persons appointed on or after the date this article takes effect to serve in administrative positions of the non-instructional staff in the community colleges of the board of trustees shall be appointed for the probationary period of one year, during which the service of a person appointed to any such position may be discontinued by the board of trustees at any time. All persons employed in the administrative service of the non-instructional staff of the community colleges sponsored or administered by the board of trustees who have

served the full probationary period shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for cause after a hearing by the affirmative vote of a majority of the board of trustees.

The board of trustees shall provide by appropriate by-laws, for the presentation of charges, the reference thereof to a committee of the board of trustees or to others for hearings, the conduct of such hearings and the report thereof on the basis of which the board of trustees shall take such action as it deems necessary or advisable.

10. Laboratory staff.

Group I. College science assistant A; college science technician A; college engineering technician A;

Group II. College science assistant B; college science technician B; college engineering technician B;

Group III. College science assistant C; college science technician C; college engineering technician C;

11. Professor;

12. Associate professor;

13. Assistant professor;

14. Instructor;

15. Lecturer (nursing science);

16. Senior registrar;

17. Associate registrar;

18. Technical assistant.

In positions for which annual increments are specified through the operation of this section, the board of trustees nevertheless shall have the right to assign fixed salaries, not exceeding the maximum specified through the operation of this section, to appointees in special cases, to vote larger increments in special cases, when in its judgment the nature of the duties or the character of the services renders such action just, or to withhold an annual increment from any member of the staff whose services for the preceding year are unsatisfactory.

In any position for which no annual increment is provided through the operation of this section, the specified salary of an incumbent shall be fixed at the minimum rate, or the maximum rate, or between, by resolution of the board of trustees. Such action shall be taken with due consideration for the duties to be discharged, prevailing rates of compensation for one discharging such duties, and the qualifications, training and experience of the incumbent.

Nothing contained in this section shall be construed to prevent the establishing of salary schedules by the board of trustees with the consent of the director of the budget of the state of New York with respect to senior colleges, and with the consent of the mayor with respect to community colleges, with maxima higher than those contained in the minimum schedules provided through the operation of this section, and the payment by the state or the city, as appropriate, of compensations and salaries fixed in accordance with such new schedule.

§ 6221. Financing of the city university of New York. A. Senior college operating expenses. 1. Notwithstanding any other provision of law, all expenditures for the senior college programs and services of the city university of New York shall continue to be pre-financed from city of New York funds. The comptroller of the state of New York may establish a separate fund for the receipt and deposit of such pre-financing funds from the city of New York pursuant to this subdivision, and all other monies deemed appropriate by the state comptroller and the state director of the budget, except that all monies

presently required by law to be paid directly to the city university construction fund shall continue to be so paid. All monies appropriated for such senior college programs and services, or derived from other sources in the course of the administration thereof, shall be expended upon vouchers approved by the chancellor of the city university, as chief administrative officer of the city university, or by such authority or authorities in the city university as shall be designated by the chancellor by a rule or written direction filed with the comptroller, when and in the manner authorized by the board of trustees. No monies appropriated for such senior college programs and services, or derived from other sources in the course of the administration thereof, shall be expended until a certificate of the aggregate funds available for expenditure pursuant to section forty-nine of the state finance law has been approved by the director of the budget and copies thereof filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. In regard to the city university, the director of the budget shall exercise the authority granted under section forty-nine of the state finance law in accordance with the provisions of paragraph b of subdivision four of section three hundred fifty-five of this chapter.

2. a. Notwithstanding any other provision of law, the city of New York shall appropriate in its expense budget and pay to the account of the senior colleges of the city university of New York as operating aid amounts in accordance with the following schedule:

(i) For the twelve-month period commencing July first, nineteen hundred seventy-nine, an amount equal to the lesser of fifty-eight million, three hundred ninety-three thousand dollars ($58,393,000) or twenty-five per centum of the net operating expenses of such senior college programs and services, as certified by the comptroller of the state of New York to be properly chargeable to such twelve-month period;

(ii) For the twelve-month period commencing July first, nineteen hundred eighty, an amount equal to eighty per centum of the amount specified in (i) of subparagraph a of this paragraph.

(iii) For the twelve-month period commencing July first, nineteen hundred eighty-one, an amount equal to forty per centum of the amount specified in (i) of subparagraph a of this paragraph.

b. For the twelve-month period commencing July first, nineteen hundred eighty-two and thereafter, the city of New York shall not be required to make any appropriation in support of the net operating expenses of the programs and services of the senior colleges of the city university.

c. (i) Subject to the provisions of item (ii) of this subparagraph, the amounts specified in this subdivision shall be exclusive of monies payable by such city for campus schools and debt service on bonds attributable to such university pursuant to article one hundred twenty-five-B of this chapter.

(ii) (1) The amounts specified in this subdivision, in so far as such amounts consist of payments for the twelve-month period commencing on July first, nineteen hundred seventy-nine, shall not include any unfunded accrued liability payments required to be made in such period pursuant to chapters nine hundred seventy-five, nine hundred seventy-six and nine hundred seventy-seven of the laws of nineteen hundred seventy-seven with respect to pension contributions.

(2) The amounts specified in this subdivision, in so far as such amounts consist of payments for the twelve-month period commencing on July first, nineteen hundred eighty, shall not include:

(a) any revised unfunded accrued liability payments (as defined in subdivision seven of section sixty-two hundred two of this article) which are required to be made in such period with respect to pension contributions; or

(b) any installment of the nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of such section sixty-two hundred two), whether a charge or a credit, which installment is required to be paid or credited, as the case may be, in such period with respect to pension contributions.

(3) During the period beginning on July first, nineteen hundred eighty-one and ending on June thirtieth, nineteen hundred ninety, the net operating expenses of the programs and services of the senior colleges of the city university shall not include any of the payments or installments of charge or credit stated below in this sub-item (3), in so far as such payments or installments are attributable to employees of such senior colleges:

(a) any revised unfunded accrued liability payments (as defined in subdivision seven of section sixty-two hundred two of this article) required to be made in such period and thereafter with respect to pension contributions; and

(b) any installments of nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of such section sixty-two hundred two), whether a charge or a credit, which installments are required to be paid or credited, as the case may be, in such twelve-month period and thereafter; and

(c) any installments of the nineteen hundred eighty-two unfunded accrued liability adjustment (as defined in subdivision eight-a of such section sixty-two hundred two), which installments are required to be credited in such twelve-month period and thereafter; and

(d) any balance sheet liability contributions (as defined in subdivision nine of such section sixty-two hundred two) which contributions are required to be made in such period; and

(e) any installments of the NYCERS nineteen hundred eighty-five unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-b of such section sixty-two hundred two), regardless of the prescribed time of crediting of such installments; and

(f) any installments of the NYCTRS nineteen hundred eighty-five unfunded accrued liability adjustment (as defined in subdivision eight-c of such section sixty-two hundred two), regardless of the prescribed time of crediting of such installments; and

(g) any installments of the NYCTRS nineteen hundred eighty-six unfunded accrued liability adjustment (as defined in subdivision eight-d of such section sixty-two hundred two), regardless of the prescribed time of crediting of such installments; and

(h) any installments of the New York city employees' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-e of such section sixty-two hundred two), whether a charge or a credit, regardless of the prescribed time of payment or crediting of such installments; and

(i) any installments of the New York city teachers' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment

attributable to the senior colleges (as defined in subdivision eight-f of such section sixty-two hundred two), whether a charge or a credit, regardless of the prescribed time of payment or crediting of such installments; and

(4) Commencing with the twelve-month period beginning on July first, nineteen hundred ninety and thereafter, the net operating expenses of the programs and services of the senior colleges of the city university shall not include any of the payments or installments of charge or credit or contributions stated below in this sub-item (4):

(a) the contributions for twenty-year amortization of nineteen hundred ninety senior college consolidated UAL and senior college remainder of BSL (as defined in subdivision eight-o of section sixty-two hundred two of this article; and

(b) any payments or installments of any NYCERS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-g of section sixty-two hundred two of this article); and

(c) any payments or installments of NYCTRS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-h of section sixty-two hundred two of this article).

d. (i) Nothing contained in this paragraph shall be construed to remove the obligation of the city of New York, as prescribed by sections sixty-two hundred thirty and sixty-two hundred thirty-one of this article, for payment of its share of unfunded accrued pension liabilities attributable to employees of the senior colleges of the city university of New York required to be made in the city's nineteen hundred seventy-nine--nineteen hundred eighty fiscal year pursuant to chapters nine hundred seventy-five, nine hundred seventy-six and nine hundred seventy-seven of the laws of nineteen hundred seventy-seven.

(ii) Nothing contained in this paragraph shall be construed to remove the obligation of the city of New York, as prescribed by sections sixty-two hundred thirty and sixty-two hundred thirty-one of this article, for payment of its share of:

(1) the revised unfunded accrued liability contributions (as defined in subdivision seven of section sixty-two hundred two of this article)

which are required to be made in the city's nineteen hundred eighty--nineteen hundred eighty-one fiscal year; and

(2) any installment of nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of section sixty-two hundred two of this article) which, if such adjustment is a charge, is required to be paid in such fiscal year.

(iii) Subject to the provisions of subdivision m of section 13-638.2 of the administrative code of the city of New York, nothing contained in this paragraph shall be construed to remove the obligation of the city of New York, as prescribed by sections sixty-two hundred thirty and sixty-two hundred thirty-one of this article, for payment of its share of:

(1) the revised unfunded accrued liability contributions (as defined in subdivision seven of section sixty-two hundred two of this article) which are required to be made in the city's nineteen hundred eighty-one--nineteen hundred eighty-two fiscal year and thereafter; and

(2) any installment of nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of section sixty-two hundred two of this article) which, if such adjustment is a charge, is required to be made in such fiscal years; and

(3) any balance sheet liability contribution (as defined in subdivision nine of section sixty-two hundred two of this article) which is required to be made in such fiscal years.

e. In addition to the amounts specified in subparagraph a of this paragraph and notwithstanding the provisions of subparagraph b of this paragraph, the city of New York shall appropriate in its expense budget and pay to the account of the senior colleges of the city university of New York as the city's share of operating aid for the college of Staten Island and New York city college of technology amounts in accordance with the following schedule:

(i) For the twelve month period commencing July first, nineteen hundred eighty, an amount that shall equal four million, one hundred thousand dollars ($4,100,000).

(ii) For the twelve month period commencing July first, nineteen hundred eighty-one, an amount equal to one-half of the amount specified in clause (i) of this subparagraph.

(iii) For the twelve month period commencing July first, nineteen hundred eighty-two, and thereafter the city of New York shall not be required to make any appropriation for operating aid for the college of Staten Island and New York city college of technology.

3. The state shall annually appropriate and pay an amount equal to the net operating expenses of such senior college programs and services less that amount payable, if any, by the city of New York pursuant to paragraph two of this subdivision. Such state payment shall be made in four installments, on or before April twenty-fifth, June twenty-fifth, October twenty-fifth and February twenty-fifth.

4. Commencing with the twelve-month period beginning July first, nineteen hundred eighty-two and thereafter, the state shall reimburse to the city of New York one hundred per centum of the net operating expenses of the approved programs and services of the senior colleges.

4-a. Notwithstanding the provision of any law, rule or regulation to the contrary, the city university shall be entitled to annually receive an apportionment and payment of state assistance equal to all moneys derived as a result of the tuition increase, calculated as the difference in the amount generated using the tuition rates authorized by the trustees of the city university for the two thousand eight-two thousand nine academic year and the amount generated using the tuition rates authorized by the trustees of the city university for the two thousand nine-two thousand ten academic year, pursuant to the following schedule: for the two thousand nine-two thousand ten academic year, the city university shall receive an amount equal to twenty percent of such tuition increase; for the two thousand ten-two thousand eleven academic year, the city university shall receive an amount equal to thirty percent of such tuition increase; for the two thousand eleven-two thousand twelve academic year, the city university shall receive an amount equal to forty percent of such tuition increase; and for the two thousand twelve-two thousand thirteen academic year, the city university shall receive an amount equal to fifty percent of such tuition increase. Such apportionment shall be for the enhanced investment in the city university of the state of New York and shall be used to supplement, not

supplant, gross senior college operating budget support, unless the director of the budget determines that state fiscal conditions preclude such an outcome and, in which case, the director shall submit a report regarding the recommended funding levels and whether the tuition increase apportionment provisions of this subdivision have been complied with for the city university of the state of New York to the chairs of the senate finance committee and the assembly ways and means committee and the chairs of the senate higher education committee and the assembly higher education committee no later than fifteen days following the release of the executive budget.

5. The comptroller of the state of New York shall provide accounting, payroll, expenditure and revenue reporting and similar services for the senior colleges for the period commencing July first, nineteen hundred eighty-two and thereafter. Notwithstanding any other provision of law, he may, to the extent he deems it necessary and practicable, require senior colleges of the city university to conform to statutory requirements, rules, and administrative procedures applicable to state departments and agencies.

6. The director of the budget of the state of New York may, to the extent he deems it necessary and practicable, giving due consideration to the particular circumstances of the city university, require the senior colleges of the city university of New York to conform to the state statutory requirements, rules and administrative procedures such as are applicable to the state university of New York regarding budgetary and fiscal matters.

7. For the purposes of this subdivision, "net operating expenses" shall be defined as the total operating expenses of approved programs and services less: (a) all excess tuition and instructional and non-instructional fees attributable to the senior colleges and received from the city university construction fund pursuant to subdivision b of section sixty-two hundred seventy-eight of this chapter; (b) an amount to be deposited from overhead funds and miscellaneous earnings recovered in the administration of sponsored programs for which the research foundation of the city university of New York has been designated as

fiscal administrator; (c) the amount of all monies from any source other than those paid by the city, if any, and the state on a per centum basis of the net operating budget, which are expended through the operating budget; and (d) that portion of the operating costs of central administration and university-wide programs which the state budget director determines to be chargeable to the community colleges and which is to be paid by the city of New York pursuant to paragraph two of subdivision C of this section.

B. Senior college capital costs. Commencing with the twelve-month period beginning July first, nineteen hundred eighty-two and thereafter, the state shall pay one hundred per centum of capital costs exclusive of those financed pursuant to the provisions of article one hundred twenty-five-B of this chapter, of the senior colleges of the city university of New York, provided however that commencing with the twelve month period beginning July first, nineteen hundred eighty-two and thereafter, the state shall pay one hundred per centum of capital costs exclusive of those financed pursuant to the provisions of article one hundred twenty-five-B of this chapter, of the college of Staten Island, New York city college of technology and, commencing with the twelve month period beginning July first, two thousand nine and thereafter, Medgar Evers college, provided, however, that appropriations authorizing such costs have been approved by the legislature. The advancement of capital projects pursuant to this subdivision shall be undertaken only in accordance with the provisions of section ninety-three of the state finance law.

C. Community colleges. 1. The amount, methods and procedures for the payment of state aid to community colleges of the city university of New York shall continue to be governed pursuant to the provisions of section sixty-three hundred four of this chapter and any rule or regulation promulgated pursuant thereto. Notwithstanding any inconsistent provision of law, for the purposes of this paragraph, any reference contained in section sixty-three hundred four of this chapter to the approval of the state university trustees for such state aid purposes shall, in lieu thereof, be deemed to mean and refer to the approval of the board of trustees and any reference to a community college in such section shall

be deemed to mean and refer to a community college as defined in section sixty-two hundred two of this article; provided however, that any rule or regulation approved by the board of trustees, for such state aid purposes, shall be the same as any rule or regulation promulgated by the state university trustees, as approved by the state director of the budget.

2. Notwithstanding any other provision of law, the city of New York shall appropriate in its expense budget and pay to the account of the community colleges of the city university of New York as operating aid that portion of the operating costs of central administration and university-wide programs attributable to community colleges, as defined pursuant to subparagraph (d) of paragraph seven of subdivision A of this section.

D. College of Staten Island. Notwithstanding the designation of the college of Staten Island as a senior college:

(i) the city of New York shall annually appropriate in its expense budget and pay to the city university of New York, as operating aid in support of the programs and services of the college of Staten Island, an amount for each full-time equivalent student in the associate degree program of the college equal to the amount the city of New York is appropriating and paying for each full-time equivalent student in the community colleges;

(ii) and the state of New York shall annually appropriate and pay to the city university of New York an amount equal to the net operating expenses of the college of Staten Island less the amount payable by the city of New York pursuant to this subdivision. Such state of New York payment shall be made in four installments on or before April twenty-fifth, June twenty-fifth, October twenty-fifth and January twenty-fifth. The amount to be paid by the city of New York pursuant to this subdivision shall be determined by the state director of the budget, based upon information submitted by the mayor in such form and content and at such time as may be requred by the state director of the budget.

E. Medgar Evers college. Notwithstanding the designation of Medgar

Evers college as a senior college:

(i) in addition to the amounts specified in subparagraph e of paragraph two of subdivision A of this section, the city of New York shall annually appropriate in its expense budget and pay to the city university of New York as operating aid in support of the programs and services, an amount for each full-time equivalent student in the associate degree program of the college equal to the amount the city of New York is appropriating and paying for each full-time equivalent student in the community colleges; and

(ii) the state of New York shall annually appropriate and pay to the city of New York on behalf of the city university of New York an amount equal to the net operating expenses of Medgar Evers college less the amount payable by the city of New York pursuant to this subdivision. Such state of New York payment shall be made in four installments on or before April twenty-fifth, June twenty-fifth, October twenty-fifth and February twenty-fifth. The amount to be paid by the city of New York pursuant to this subdivision shall be determined by the state director of the budget, based upon information submitted by the mayor in such form and content and at such time as may be required by the state director of the budget.

§ 6222. Admission of non-residents of the city of New York to each community college of the city university. 1. In addition to admitting residents of the city of New York, each city university community college shall, in accordance with the provisions of this section, admit non-residents of New York city as students.

2. (a) The methods and procedures for the admission of such non-resident students to the city university of New York community colleges shall be in accordance with the provisions of section sixty-three hundred five of this title. Notwithstanding any inconsistent provision of law, any reference contained in such section sixty-three hundred five to the state university trustees or to the chancellor of the state university of New York shall, for the purposes of this section, be deemed to mean and refer to the board of trustees and the chancellor of the city university of New York, respectively.

(b) Provided, further, in accordance with section six thousand three hundred five of this title, the chief fiscal officer of each county, as defined in section 2.00 of the local finance law, shall, upon application and submission to him of satisfactory evidence, issue to any person desiring to enroll in a community college as a non-resident student, a certificate of residence form showing that said person is a resident of said county. If the chief fiscal officer of a county refuses to issue such a certificate on the ground that the person applying therefor is not a resident of such county, the person applying may appeal to the chancellor of the city university. The chancellor of the city university shall make a determination after a hearing, upon ten days' notice to such chief fiscal officer of the county, and such determination shall be final and binding on the county. Such person shall, upon his registration for each college year, file with the college such a certificate of residence form issued not earlier than two months prior thereto, and such certificate of residence form shall be valid for a period of one year from the date of issuance.

3. The city university board of trustees shall work in conjunction with the state university board of trustees for the purposes of examining the laws, regulations, and policies regarding community college charges for non-resident students and submitting a report to the legislature pursuant to subdivision eleven of section sixty-three hundred five of this title.

§ 6223. Deferred education payments. The board of trustees, by regulation, shall provide that upon request by a student attending any college of the city university who is an eligible veteran, the payment of tuition and other fees and charges, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article thirteen of this chapter, article one hundred thirty of this chapter or any other college, state or federal aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefit Act of 1966, as amended, are received by the veteran, provided that the veteran has filed a claim for such benefits

and presents to the city university proof of eligibility, extent of entitlement to benefits and the need for deferral until the receipt of such benefits.

§ 6224. Claims against city university. 1. The provisions of sections fifty-e and fifty-i of the general municipal law shall, notwithstanding any inconsistent provision of law, continue to apply to actions and proceedings based on a cause of action involving a community college of the city university of New York or an officer, agent, servant or employee of such community college acting in the course of his employment. The provisions of subdivisions four, five and six of this section shall not apply to such actions and proceedings.

2. No action or proceeding based on a cause of action involving a community college of the city university of New York or an officer, agent, servant or employee of such community college acting in the course of his employment may be prosecuted or maintained unless it shall appear by and as an allegation in the complaint or necessary moving papers that at least thirty days have elapsed since a demand setting forth the underlying basis for such matter was presented to the city university for adjustment, and that the officers or bodies having the power to adjust or pay such demand have neglected or refused to make an adjustment or payment thereof for thirty days, after such presentment.

3. The city university may require any person presenting to it for settlement an account or claim for any cause whatever against it to be sworn before it or a committee thereof, or before any person designated by such board of trustees touching such account or claim, and when so sworn, to answer orally as to any facts relative to the justness of such account or claim. A trustee or any person designated as hereinbefore stated shall have the power to administer an oath to any person who shall give testimony to the justness of such account or claim. Willful false swearing before the board of trustees, a committee thereof or any person designated as hereinbefore stated shall be perjury and punishable as such.

4. Exclusive jurisdiction is hereby conferred upon the court of claims to hear, audit and determine the claims of any person against the city university of New York (a) for wrongful death, (b) in connection with causes of action sounding in tort alleged to have been committed by a senior college of such university or any officer, agent, servant or employee of a senior college of such university in the course of his employment on behalf of such university, and (c) for the breach of a contract relating to construction, reconstruction, improvement, maintenance, operation, purchase or personal services entered into by such university in connection with a senior college of such university or any officer, agent, servant or employee of a senior college of such university in the course of his employment on behalf of such university in the same manner and to the extent provided by and subject to the provisions of the court of claims act, including time limitations, with respect to claims against the state, and to make awards and render judgments therefor. Such jurisdiction shall attach to all claims against the city university which arise on and after July first, nineteen hundred seventy-nine. Nothing contained in this section shall be construed as passing upon the merits of any such claims and no such award shall be made or judgment rendered unless supported by such evidence as would sustain a judgment against an individual or corporation in a court of law or equity.

5. (a) Notwithstanding any inconsistent provisions of law, the comptroller of the state of New York is authorized to examine, audit and certify for payment, in accordance with procedures applicable to and funding sources available for the payment by the state of any claim, settlement or judgment against the state, (1) any judgment of the court of claims, (2) any settlement approved by the court of claims pursuant to section twenty-a of the court of claims act and (3) any claim which would be otherwise subject to the provisions of subdivision four of this section, provided such claim shall have been approved for payment by the board of trustees of the city university of New York or its designee, by the director of the budget and by the attorney general.

(b) Notwithstanding any inconsistent provisions of law, and in addition to the procedures set forth above, the comptroller of the state of New York is authorized to examine, audit and certify for payment any

claim not in excess of the amount specified in subdivision twelve-a of section eight of the state finance law which is otherwise subject to the provisions of subdivision four of this section in accordance with the provisions of such subdivision twelve-a.

6. Notwithstanding any inconsistent provisions of law, with respect to claims against the city university which arise on and after July first, nineteen hundred seventy-nine, the comptroller of the state of New York is authorized to examine, audit, certify for payment and pay from funding sources available for payment of claims by the state any settlement, order or judgment in any federal or state court, other than the court of claims, or any administrative tribunal which pertains to a senior college of the city university of New York. No such order or judgment shall be paid except upon a certificate of the attorney general that it has been entered. No such settlement shall be paid unless it shall have been approved for payment by the board of trustees of the city university of New York, or its designee, by the director of the budget and by the attorney general. Nothing contained in this subdivision shall be deemed to affect or alter the jurisdiction of any court or administrative tribunal.

§ 6225. Pending actions and proceedings. No action or proceeding based upon a cause of action which arose prior to the effective date of this article or, with respect to Medgar Evers college, prior to July first, nineteen hundred ninety-four, brought by or against the city of New York, the city university of New York or its board of trustees, or the city university construction fund shall be affected by any provision of this article, but the same may be prosecuted or defended by the corporation counsel of the city of New York in the name of the body corporate of the city university of New York created by this article in the same court in which the action is pending. In all such actions and proceedings such body corporate, upon application to the court, shall be substituted as a party. Judgments or awards in any such action or proceeding shall be paid by the city of New York in the same manner as prior to the effective date of this article, provided, however, the state shall reimburse the city to the extent required by law in effect

at the time the cause of action arose.

§ 6226. Community college severence provisions. a. On July first, nineteen hundred seventy-five:

1. Any funds and copies of all books, papers and records of the trustees of the state university, pertaining to or connected with the community colleges, shall become the property of the board of trustees.

2. Any business or other matter undertaken or commenced by the trustees of the state university of New York pertaining to or connected with the community colleges may be conducted and completed by the board of trustees under the same terms and conditions and with the same effect as if conducted and completed by such board of trustees.

3. Inclusion in the master plan of the state university of New York of a facility or of a plan or recommendation with respect to a community college shall constitute inclusion of such facility, plan or recommendation in the master plan of the city university, and any approval by the board of regents of any facility, plan or recommendation included in the master plan of the state university with respect to a community college and the incorporation thereof in the regents plan for higher education, and any approval by the governor of the regents plan insofar as it relates to such facility, plan or recommendation, shall constitute the requisite approvals of the inclusion of such facility, plan or recommendation in the master plan of the city university for purposes of section two hundred thirty-seven of this article and article one hundred twenty-five-B of this chapter, and any other law.

4. Any person who, immediately prior to July first, nineteen hundred seventy-five, was appointed to a position on the instructional staff of a community college pursuant to former section sixty-two hundred six-b of this article shall be considered as of the effective date of this article to have been appointed to a comparable position under section sixty-two hundred ten of this chapter. Any person who, immediately prior to July first, nineteen hundred seventy-five, had achieved tenure under

former section sixty-two hundred six-b of this chapter shall be considered as of July first, nineteen hundred seventy-five as having achieved tenure and/or attained such other right under section sixty-two hundred ten of this chapter. The period of creditable service of any person who, prior to July first, nineteen hundred seventy-five, had at any time served in a position on the instructional staff of a community college pursuant to former section sixty-two hundred six-b of this chapter shall be counted in computing the years of service of such person required under section sixty-two hundred ten of this chapter in the achievement of tenure.

b. The board of trustees is hereby authorized to enter into any agreement to effectuate the purposes of chapter three hundred thirty-two of the laws of nineteen hundred seventy-five.

§ 6227. Reference in provisions relating to retirement. Whenever the term "board of higher education of the city of New York" or "board of higher education of a city having a population of one million or more" is referred to or designated in any charter or administrative code or any other general, special or local law relating to pension or retirement systems, including but not limited to the New York city employees' retirement system, the New York city teachers' retirement system, the board of education retirement system or board of higher education optional retirement program, such reference or designation shall be deemed to refer to the corporate body of the city university of New York continued by this article. Whenever the provisions of such law require the city of New York to make payments to such pension or retirement systems or program on behalf of instructional and non-instructional staff of senior colleges of the city university of New York, such payments shall be made, with respect to employment on and after the effective date of this article, by the city university of New York.

§ 6228. Transitory provisions. 1. Whenever the term "board of higher education of the city of New York" or "board of higher education of a

city having a population of one million or more" is referred to or designated in any law, general, special or local, contract, lease, judgment, decision or document pertaining to the functions, powers and duties hereby continued in, transferred and assigned to, or devolved upon, the corporate body of the city university of New York continued by this article, such reference or designation shall be deemed to refer to and include the corporate body of the city university of New York continued by this article, so far as such law, contract, lease, judgment, decision or document pertains to matters which are within its jurisdiction by reason of the redesignation, continuation, transfer, assignment and devolution of functions, powers and duties made by this article.

2. All contracts, leases and other agreements entered into by the board of higher education of the city of New York on behalf of the city university of New York before the effective date of this article shall be conducted and completed by the body corporate of the city university of New York continued by this article in the same manner and under the same terms and conditions and with the same effect as if the same had been conducted and completed by the board of higher education of the city of New York. In addition, any contracts, leases and other agreements entered into by the city university of New York prior to the effective date of this article shall remain in full force and effect and shall be conducted and completed by the body corporate of the city university of New York continued by this article.

3. All rights, title and interest in personal property used for educational or administrative purposes of the senior colleges of the city university of New York vested in the city of New York on the effective date of this article are hereby transferred, assigned and devolved upon the city university of New York.

4. No existing right or remedy of any character shall be lost, impaired or affected, nor shall any new right or remedy of any character accrue to or for the benefit of any person by reason of the continuation of the corporate body of the city university of New York pursuant to the provisions of this article.

5. Any lease entered into by the city of New York for the purposes of the senior colleges of the city university of New York before the effective date of this article is hereby transferred, assigned and devolved upon the city university of New York, notwithstanding any provision that may be contained therein providing for the nonassignability of such lease and any such provision shall be deemed to be void as against the public policy of the state and of no force and effect; provided however, that the city of New York shall guarantee the performance by the city university of the obligation of the lessee under such lease.

§ 6229. City university of New York community college budget process. 1. For the purposes of this section and section sixty-two hundred twenty-one of this article, the term "approved programs and services" shall mean and include all programs and services provided by the community colleges, except for campus schools or other elementary or secondary schools which receive state aid under other provisions of law, provided that all such programs have been approved as a part of the master plan of the city university and as a part of the regents plan for higher education or general revision thereof pursuant to section two hundred thirty-seven of this chapter.

2. For each city fiscal year, the chancellor of the city university shall prepare a proposed operating and capital budget for all approved programs and services. The form and content of such proposed operating and capital budget shall be the same as that approved by the state director of the budget for the community colleges of the state university of New York. The proposed operating budget shall be submitted in accordance with subdivision one-b of section sixty-three hundred four of this chapter and shall also set forth the separate operating budgets of each community college.

3. Such proposed operating and capital budget, after approval by the board of trustees, shall be submitted to the mayor of the city of New York for his review and approval. Not later than October first of the

calendar year preceding the city fiscal year, the mayor shall submit to the state budget director, in the form and content required by subdivision two hereof, the amount of expenditures that he will recommend in his executive budget for the following fiscal year for such approved programs and services.

§ 6230. City university of New York senior college budget process. 1. For the purposes of this section and section sixty-two hundred twenty-one of this article, the term "approved programs and services" shall mean and include all programs and services provided by the senior colleges excluding campus schools or other elementary or secondary schools which receive state aid under other provisions of law and also excluding all unfunded accrued liability payments, revised unfunded accrued liability payments (as defined in subdivision seven of section sixty-two hundred two of this article), installments of nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of such section sixty-two hundred two), installments of nineteen hundred eighty-two unfunded accrued liability adjustment (as defined in subdivision eight-a of such section sixty-two hundred two), installments of NYCERS nineteen hundred eighty-five unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-b of such section sixty-two hundred two), installments of NYCTRS nineteen hundred eighty-five unfunded accrued liability adjustment (as defined in subdivision eight-c of such section sixty-two hundred two), installments of NYCTRS nineteen hundred eighty-six unfunded accrued liability adjustment (as defined in subdivision eight-d of such section sixty-two hundred two), installments of New York city employees' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-e of such section sixty-two hundred two), installments of New York city teachers' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-f of such section sixty-two hundred two), installments of any NYCERS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-g

of such section sixty-two hundred two), installments of any NYCTRS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-h of such section sixty-two hundred two), contributions for twenty-year amortization of nineteen hundred ninety senior college consolidated UAL and senior college remainder of BSL (as defined in subdivision eight-o of section sixty-two hundred two of this article) and balance sheet liability contributions (as defined in subdivision nine of such section sixty-two hundred two) required to be made pursuant to chapters nine hundred seventy-five, nine hundred seventy-six and nine hundred seventy-seven of the laws of nineteen hundred seventy-seven or the provisions of law referred to in such subdivisions with respect to pension contributions, provided that all such programs have been approved as a part of the master plan of the city university and as a part of the regents plan for higher education or general revision thereof pursuant to section two hundred thirty-seven of this chapter.

2. For each city fiscal year, the chancellor of the city university shall prepare a proposed operating and capital budget for all approved programs and services of the senior colleges in such form and contents as shall be required by the state director of the budget. Such proposed operating and capital budget, after approval by the board of trustees, shall be submitted to the governor by the first day of October of each year, with copies at such time to the state director of the budget, senate finance committee and the assembly ways and means committee, for information purposes, the director of the office of management and budget of the city of New York.

3. The governor shall submit his recommendations with respect to such city university of New York senior college operating and capital budget to the legislature as part of the local assistance and capital construction portions of the executive budget, as appropriate.

§ 6231. Certain payment by the state of New York to the city of New York. 1. a. (i) Notwithstanding any inconsistent provision of law, but

subject to the provisions of paragraph d of this subdivision, the state and the city of New York shall each contribute fifty per centum of:

(A) all unfunded accrued liability payments required to be made during the twelve-month period commencing on July first, nineteen hundred seventy-nine pursuant to chapters nine hundred seventy-five, nine hundred seventy-six, and nine hundred seventy-seven of the laws of nineteen hundred seventy-seven with respect to required employer contributions to the New York city employees' retirement system and to the New York city teachers' retirement system on account of employees of the senior colleges of the city university of New York; and

(B) all revised unfunded accrued liability payments (as defined in subdivision seven of section sixty-two hundred two of this article) which are required to be made during the twelve-month period commencing on July first, nineteen hundred eighty with respect to required employer contributions to such retirement systems on account of employees of such senior colleges; and

(C) all installments of the nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of such section sixty-two hundred two), which installments (if such adjustment is a charge) are required to be paid in the twelve-month period beginning on July first, nineteen hundred eighty with respect to required employer contributions to such retirement systems on account of employees of such senior colleges.

(ii) Notwithstanding any inconsistent provision of law to the contrary, but subject to the provisions of paragraph d of this subdivision, the city of New York shall contribute twenty per centum of the amount of one year's interest required to be paid in the twelve-month period beginning July first, nineteen hundred eighty on the amount of the balance sheet liability (as such liability is determined as of June thirtieth, nineteen hundred eighty) with respect to required employer contributions to such retirement systems on account of employees of such senior colleges plus thirty per centum of that portion of the amount of one year's interest required to be paid in the twelve-month period beginning July first, nineteen hundred eighty on the amount of the balance sheet liability which would represent the amount of one year's interest which would be required on the amount of a hypothetical balance sheet liability had such hypothetical balance sheet

liability been determined on June thirtieth, nineteen hundred seventy-five, with respect to required employer contributions to such retirement systems on account of employees of such senior colleges.

(iii) Notwithstanding any inconsistent provision of law to the contrary, but subject to the provisions of paragraph d of this subdivision, the state of New York shall contribute that portion of the amount of one year's interest required to be paid in the twelve-month period beginning July first, nineteen hundred eighty on the amount of the balance sheet liability (as such liability is determined as of June thirtieth, nineteen hundred eighty) with respect to required employer contributions to such retirement systems on account of employees of such senior colleges, which portion shall be the remainder computed by subtracting from the amount of such one year's interest required to be paid in such twelve-month period in relation to such employees, the amount of interest required by subparagraph (ii) of this paragraph to be contributed by the city of New York.

b. (i) Notwithstanding any inconsistent provision of law, but subject to the provisions of paragraph d of this subdivision, commencing with the twelve-month period beginning July first, nineteen hundred eighty-one and ending with the twelve-month period terminating on June thirtieth, nineteen hundred ninety, the state and the city of New York shall each contribute fifty percentum of:

(A) all revised unfunded accrued liability payments (as defined in subdivision seven of section sixty-two hundred two of this article) which are required to be made with respect to required employer contributions to such retirement systems on account of employees of such senior colleges; and

(B) all installments of the nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of such section sixty-two hundred two) which installments (if such adjustment is a charge) are required to be paid with respect to employer contributions to such retirement systems on account of employees of such senior colleges.

(ii) Notwithstanding any inconsistent provision of law to the contrary, but subject to the provisions of paragraph d of this subdivision and subparagraph (iv) of this paragraph, commencing with the

twelve-month period beginning July first, nineteen hundred eighty-one and thereafter, the city of New York shall contribute twenty per centum of that portion of the yearly installment of the balance sheet liability contribution (as defined in subdivision nine of such section sixty-two hundred two) payable with respect to each such retirement system for each such twelve-month period with respect to required employer contributions to such retirement system on account of employees of such senior colleges, plus thirty per centum of that portion of the balance sheet liability contribution (as defined in subdivision nine of such section sixty-two hundred two) which would represent the hypothetical balance sheet liability contribution which would have been required to be made with respect to employer contributions on account of employees of such senior colleges if the balance sheet liability had been determined on June thirtieth, nineteen hundred seventy-five.

(iii) Notwithstanding any inconsistent provision of law to the contrary, but subject to the provisions of paragraph d of this subdivision and subparagraph (iv) of this paragraph, commencing with the twelve-month period beginning July first, nineteen hundred eighty-one and thereafter, the state shall contribute that portion of the yearly installment of the balance sheet liability contribution (as defined in subdivision nine of such section sixty-two hundred two) payable with respect to each such retirement system for each such twelve-month period with respect to required employer contributions to such retirement system on account of employees of such senior colleges, which portion shall be the remainder computed by subtracting from such yearly installment with respect to such retirement system on account of such employees, the amount which the provisions of subparagraph (ii) of this paragraph require the city of New York to contribute for the same twelve-month period with respect to such retirement system.

(iv) (A) Notwithstanding any provision of law to the contrary, but subject to the provisions of paragraph d of this subdivision, the city of New York shall contribute, in each applicable twelve-month period of the twenty-year amortization schedule set forth in subdivision bb of section 13-638.2 of the administrative code of the city of New York, a portion of each of the following installments, which portion shall be determined pursuant to the method of computation set forth in subparagraph (ii) of this paragraph with respect to determination of the

portion of the balance sheet liability contribution required to be paid by the city:

(1) all NYCERS installments of nineteen hundred ninety BSL contribution attributable to the senior colleges (as defined in subdivision eight-m of section sixty-two hundred two of this article); and

(2) all NYCTRS installments of nineteen hundred ninety BSL contribution attributable to the senior colleges (as defined in subdivision eight-n of section sixty-two hundred two of this article).

(B) Notwithstanding any provision of law to the contrary, but subject to the provisions of paragraph d of this subdivision, the state shall contribute, in each applicable twelve-month period of the twenty-year amortization schedule set forth in subdivision bb of section 13-638.2 of the administrative code of the city of New York, a portion of each of the installments referred to in item (A) of this subparagraph, which portion shall be determined pursuant to the method of computation set forth in subparagraph (iii) of this paragraph with respect to determination of the portion of the balance sheet liability contribution required to be paid by the state.

c. (i) If the nineteen hundred eighty unfunded accrued liability adjustment (as defined in subdivision eight of such section sixty-two hundred two) is a credit with respect to either of such retirement systems, there shall be determined the portion of the creditable installments of such adjustment attributable to the New York city employees' retirement system and the portion of such creditable installments attributable to the New York city teachers' retirement system. With respect to the twelve-month period beginning on July first, nineteen hundred eighty and each succeeding twelve-month period to and including the twelve-month period ending on June thirtieth, nineteen hundred ninety, one-half of the installment, for such period, of the credit attributable to the New York city employees' retirement system shall be credited in favor of the city with respect to its obligations to make contributions to such retirement system for such period and one-half of such installment shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system for such period. With respect to the twelve-month period

beginning on July first, nineteen hundred eighty and each succeeding twelve-month period to and including the twelve-month period ending on June thirtieth, nineteen hundred ninety, one-half of the installment, for such period, of the credit attributable to the New York city teachers' retirement system shall be credited in favor of the city with respect to its obligations to make contributions to such retirement system for such period and one-half of such installment shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system for such period.

(ii) There shall be determined with respect to each such retirement system the portion of each installment of the nineteen hundred eighty-two unfunded accrued liability adjustment (as defined in subdivision eight-a of such section sixty-two hundred two) creditable in the twelve-month periods beginning on July first, nineteen hundred eighty-two and ending on June thirtieth, nineteen hundred ninety, which portion is attributable to the employees of such senior colleges. One-half of such portion shall be credited in favor of the city with respect to its obligations to make contributions to the New York city employees' retirement system in each such twelve-month period and one-half of such portion shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system in such twelve-month period. With respect to the twelve-month period beginning on July first, nineteen hundred eighty-two and each succeeding twelve-month period to and including the twelve-month period ending on June thirtieth, nineteen hundred ninety, one-half of such portion applicable to the New York city teachers' retirement system shall be credited in favor of the city with respect to its obligations to make contributions to such retirement system in each such twelve-month period and one-half of such portion shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system in such twelve-month period.

c-1. (i) Notwithstanding any other provisions of law to the contrary, commencing with the twelve-month period beginning on July first, nineteen hundred eighty-five and in each twelve-month period thereafter to and including the twelve-month period ending on June thirtieth, nineteen hundred ninety:

(A) one-half of one annual installment of the NYCERS nineteen hundred eighty-five unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-b of section sixty-two hundred two of this article) shall be credited in favor of the city with respect to its obligations to make contributions of the New York city employees' retirement system in each such twelve-month period; and

(B) one-half of one such annual installment above referred to in this subparagraph shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system in each such twelve-month period.

(ii) Notwithstanding any other provision of law to the contrary, there shall be determined the portion of each installment of the NYCTRS nineteen hundred eighty-five unfunded accrued liability adjustment (as defined in subdivision eight-c of such section sixty-two hundred two) creditable in the twelve-month periods beginning on July first, nineteen hundred eighty-five and ending on June thirtieth, nineteen hundred ninety, which portion is attributable to the employees of such senior colleges. One-half of such portion shall be credited in favor of the city with respect to its obligations to make contributions to the New York city teachers' retirement system in each such twelve-month period and one-half of such portion shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system in such twelve-month period.

(iii) Notwithstanding any other provision of law to the contrary, there shall be determined the portion of each installment of the NYCTRS nineteen hundred eighty-six unfunded accrued liability adjustment (as defined in subdivision eight-d of such section sixty-two hundred two) creditable in the twelve-month periods beginning on July first, nineteen hundred eighty-six and ending on June thirtieth, nineteen hundred ninety, which portion is attributable to the employees of such senior colleges. One-half of such portion shall be credited in favor of the city with respect to its obligations to make contributions to the New York city teachers' retirement system in each such twelve-month period and one-half of such portion shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system in such twelve-month period.

c-2. Notwithstanding any other provisions of law to the contrary:

(i) commencing with the twelve-month period beginning on July first, nineteen hundred eighty-eight and in each twelve-month period thereafter to and including the twelve-month period ending on June thirtieth, nineteen hundred ninety:

(A) if the New York city employees' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-e of section sixty-two hundred two of this article) is a charge, the state and the city of New York shall each contribute to the New York city employees' retirement system one-half of each of the installments of such charge for such twelve-month periods; and

(B) if the New York city employees' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges is a credit, one-half of each installment of such credit for such twelve-month periods shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system for the twelve-month period to which such installment applies; and one-half of each such installment shall be credited in favor of the city of New York with respect to its obligations to make contributions to such retirement system for the twelve-month period to which such installment applies; and

(ii) commencing with the twelve-month period beginning on July first, nineteen hundred eighty-eight and in each twelve-month period thereafter to and including the twelve-month period ending on June thirtieth, nineteen hundred ninety:

(A) if the New York city teachers' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-f of section sixty-two hundred two of this article) is a charge, the state and the city of New York shall each contribute to the New York city teachers' retirement system one-half of each of the installments of such charge; and

(B) if the New York city teachers' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges is a credit, one-half of each installment of such credit shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system for the twelve-month

period to which such installment applies and one-half of each such installment shall be credited in favor of the city of New York with respect to its obligations to make contributions to such retirement system for the twelve-month period to which such installment applies.

c-3. Notwithstanding any other provision of law to the contrary, commencing with the twelve-month period constituting the first fiscal year of the applicable designated amortization period prescribed pursuant to subdivision k of section 13-638.2 of the administrative code of the city of New York with respect to any NYCERS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-g of such section sixty-two hundred two), and commencing with the twelve-month period constituting the first fiscal year of the applicable designated amortization period prescribed pursuant to such subdivision k with respect to any NYCTRS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (as defined in subdivision eight-h of such section sixty-two hundred two), and in each of the next succeeding twelve-month periods of such applicable designated period of amortization:

(i) if such adjustment is a charge, the state and the city of New York shall each contribute to the retirement system in relation to which such adjustment is established one-half of the installment of such adjustment due in such twelve-month period; and

(ii) if such adjustment is a credit, one-half of the installment of such credit attributable to such twelve-month period shall be credited in favor of the city with respect to its obligations to make contributions to such retirement system in such twelve-month period and one-half of the installment of such credit attributable to such twelve-month period shall be credited in favor of the state with respect to its obligations to make contributions to such retirement system in such twelve-month period.

c-4. Notwithstanding any other provision of law to the contrary, but subject to the provisions of paragraph d of this subdivision, in each applicable twelve-month period of the twenty-year amortization schedule set forth in subdivision bb of section 13-638.2 of the administrative

code of the city of New York, the state and the city of New York shall each contribute one-half of the following installments:

(i) all NYCERS phase-in installments of nineteen hundred ninety UAL contribution attributable to the senior colleges (as defined in subdivision eight-i of section sixty-two hundred two of this article);

(ii) all NYCERS regular installments of nineteen hundred ninety UAL contribution attributable to the senior colleges (as defined in subdivision eight-j of section sixty-two hundred two of this article);

(iii) all NYCTRS phase-in installments of nineteen hundred ninety UAL contribution attributable to the senior colleges (as defined in subdivision eight-k of section sixty-two hundred two of this article); and

(iv) all NYCTRS regular installments of nineteen hundred ninety UAL contribution attributable to the senior colleges (as defined in subdivision eight-l of section sixty-two hundred two of this article).

d. The costs of such unfunded accrued liability contributions, revised unfunded accrued liability contributions, contributions on account of installments of nineteen hundred eighty unfunded accrued liability adjustment (if such adjustment is a charge), contributions on account of New York city employees' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges (if such adjustment is a charge) and New York city teachers' retirement system nineteen hundred eighty-eight unfunded accrued liability adjustment attributable to the senior colleges (if such adjustment is a charge), contributions on account of any NYCERS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (if such adjustment is a charge), contributions on account of any NYCTRS post-June thirtieth, nineteen hundred ninety unfunded accrued liability adjustment attributable to the senior colleges (if such adjustment is a charge), balance sheet liability contributions and contribution on account of interest on balance sheet liability and contributions for twenty-year amortization of nineteen hundred ninety senior college consolidated UAL and senior college remainder of BSL (as defined in subdivision eight-o of section sixty-two hundred two of this article) referred to in paragraphs a, b, c-1, c-2, c-3 and c-4 of this subdivision shall be

pre-financed from city of New York funds. The state shall reimburse the city of New York for the state's share of such costs in relation to such employees resulting from such contributions payable to such retirement systems during the periods beginning on July first, nineteen hundred seventy-nine and thereafter according to the repayment schedule set forth for the senior colleges in subparagraph three of subdivision A of section sixty-two hundred twenty-one of this article.

2. For each city fiscal year, the board of trustees of the city university shall submit a proposed budget request for such employer contribution as defined in subdivision one above in such form and content as shall be required by the state director of the budget. Such proposed budget request shall be submitted to the governor by the first day of October of each year, with copies at such time to the state director of the budget, the senate finance committee, the assembly ways and means committee and, for information purposes, the director of the office of management and budget of the city of New York. The governor shall submit his recommendations with respect to such budget to the legislature as part of the local assistance portion of the executive budget.

3. The state comptroller shall annually audit the amounts paid pursuant to this section and shall make a report as soon as practicable thereon to the governor, the temporary president of the senate, the speaker of the assembly and the mayor of the city of New York.

§ 6232. College of Staten Island, New York city college of technology and Medgar Evers college programs. A. Notwithstanding the designation of the college of Staten Island, New York city college of technology and Medgar Evers college as senior colleges, the associate degree programs of these colleges shall be conducted administratively and academically in a manner consistent with the policies of the city university of New York applicable to such programs.

B. New York city college of technology (formerly known as "New York city technical college" and "New York city community college") shall

offer two year programs in the business, health and engineering related technologies. For the academic year commencing September first, nineteen hundred eighty-three and thereafter, no more than ten percent of the freshmen shall be enrolled in programs leading to associate in arts or associate in science degrees.

§ 6233. Reports of the city university trustees. 1. The trustees of the city university shall make, on or before January first of each year, an annual report of its activities and such recommendations as it may deem appropriate to the board of regents, the governor, the state comptroller and the legislature. This annual report shall include a summary of city university's (1) operations and accomplishments; and (2) revenues and expenditures, in accordance with the categories or classifications established by the trustees of the city university for operating and capital outlay purposes.

2. a. On the fifteenth day of each month, from September through July of each year, the trustees of the city university shall submit to the chairs of the senate finance committee, the assembly ways and means committee, the director of the budget and the state comptroller for informational purposes, reports developed in consultation with the aforementioned chairs and director of all disbursements of the city university. These reports shall include but not be limited to:

(i) a comparison of actual disbursements with the state fiscal year expenditure plan;

(ii) the reallocation between campuses of full-time positions and filled full-time positions compared to annual targets;

(iii) campus and lump sum transfers and interchanges; and

(iv) identification of any revenue shortfalls, deficiencies, surpluses, or budgetary actions by the governor.

b. In addition to the items listed in paragraph a of this subdivision, the reports submitted on the fifteenth of October through July of each year will include all receipts of the city university and a comparison of actual receipts with the state fiscal year revenue plan.

c. In addition to the items listed in paragraphs a and b of this subdivision, the reports submitted on the fifteenth day of November and April of each year will include:

(i) comparison of actual enrollment to enrollment targets;

(ii) summary of target and actual full-time equivalent positions; and

(iii) breakdown by major purpose of target and filled full-time positions.

3. The trustees of the city university shall submit to the governor, the state comptroller, the legislature and the mayor of the city of New York, within one hundred twenty days after the close of each city university fiscal year, an annual financial statement for the senior colleges which has been audited by an independent certified public accountant and prepared in accordance with generally accepted accounting principles as prescribed by the state comptroller.

§ 6233-a. Master capital plan. On or before November fifteenth of each year, the trustees of the city university shall approve and submit to the chairmen of the assembly ways and means committee and the senate finance committee and to the director of the budget a master capital plan setting forth the projects proposed to be constructed, reconstructed, rehabilitated or otherwise substantially altered pursuant to appropriations enacted or to be enacted during the succeeding five years. During the selection of projects for such plan, the trustees shall, where applicable, give due consideration to projects that support improvements in environmental protection, energy and resource management, solar energy and conservation with particular consideration given to a project's potential to generate cost savings over time. Such plan shall specify the name, location, estimated total cost at the time the project is to be bid, the anticipated date or dates on which the design of such project is to commence, the proposed method of financing and the estimated economic life of each project. Such plan shall further specify whether proposed projects constitute new construction, substantial rehabilitation, moderate rehabilitation or minor rehabilitation and shall indicate how projects support improvements in environmental protection, energy and resource management, solar energy

and conservation. Such criteria for each method of financing shall include, but not be limited to: (i) an analysis of private enterprise, federal and any other appropriate financing standards, (ii) the consideration of the period of economic life of projects as related to the method of financing, and (iii) project cost ranges for the methods of financing. Such plan specifications, categories or construction and criteria for methods of financing shall be defined by the trustees, in consultation with the city university construction fund.

§ 6234. Perfection of security interests. If made in connection with the design, construction, acquisition, reconstruction, rehabilitation, lease, improvement, operation, maintenance, furnishing or equipping of community or senior college facilities, any pledge of or other security interest in moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property, or any other resources held, made or created by the city university or on its behalf by any duly authorized officer, employee or agent thereof, or by any other person to secure such person's obligations to the city university, shall be valid, binding and perfected from the time when such pledge or other security interest attaches, without any physical delivery of the collateral or further act. The lien of any such pledge or other security interest shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the city university irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed. This section shall apply notwithstanding the provisions of the uniform commercial code.

ARTICLE 125-A

BOARD OF HIGHER EDUCATION OPTIONAL RETIREMENT PROGRAM

Section 6250. Definitions.
6251. Optional retirement program established.
6252. Rates of contribution.
6253. Election.

6254. Social security.
6255. City not liable for payment of benefits.
6256. Inconsistent provisions of other acts superseded.
6257. Deductions from benefits of certain retired members.

§ 6250. Definitions. Wherever used in this article:

1. The term "city university" means the city university of New York under the jurisdiction of the board of higher education of the city of New York.

2. The term "board" means the board of higher education of the city of New York.

3. The term "eligible employees" means members of the instructional staffs of the colleges administered by the board of higher education in the city of New York pursuant to the provisions of article one hundred twenty-five of the education law, who are employed in the following titles: president, dean, director, professor, associate professor, assistant professor, instructor, tutor, fellow, lecturer, librarian, associate librarian, assistant librarian, library assistant, registrar, assistant registrar, registrar's assistant, principal, first assistant, supervisor, assistant teacher, critic teacher, teacher, college science assistant, college science technician, college engineering technician, and any other members of the instructional staffs of such colleges as defined in section sixty-two hundred six, subdivision 1b of the education law, and such other titles as the board in its discretion may add thereto, by reason of their close relationship to the educational purposes required to carry on the functions of the city university. No person receiving a benefit by reason of his retirement from any retirement or pension system of New York state or any political subdivision thereof shall be eligible to elect the optional retirement program.

4. The term "optional retirement program" means the retirement program established pursuant to this article.

5. The term "electing employee" shall mean any eligible employee who exercises his election pursuant to this article to come under the optional retirement program.

6. The term "salary" means all amounts paid by or for the city of New York as compensation for services rendered by an eligible employee.

7. The term "insurer" shall mean a life insurance corporation, or other corporation subject to supervision by the department of financial services of the state of New York.

8. The term "city" shall mean the city of New York.

9. The term "comptroller" shall mean the comptroller of the city of New York.

§ 6251. Optional retirement program established. 1. There is hereby established an optional retirement program which shall provide for the purchase of contracts providing retirement and death benefits for or on behalf of electing employees. Under such program the city and such employee shall contribute, to the extent authorized or required, towards the purchase of such contracts, which shall be issued to, and become the property of, such employees. The board may elect to offer the optional retirement program to eligible employees by resolution, which shall become effective upon approval by the mayor of the city of New York.

2. The board shall designate the insurer or insurers to which payment of such contributions may be made and shall approve the form and content of such contracts. In making such designation and giving such approval the board shall give due consideration to (i) the nature and extent of the rights and benefits to be provided by such contracts for electing employees and their beneficiaries, (ii) the relation of such rights and benefits to the amount of contributions to be made under this article, (iii) the suitability of such rights and benefits to the needs and interests of electing employees and to the interests of the city

university in the employment and retention of eligible employees and (iv) the authority and ability of the designated insurer or insurers to provide rights and benefits under such contracts.

3. The board is hereby authorized to provide for the administration of such optional retirement program and to perform or authorize the performance of such functions as may be necessary for such purposes in accordance with this article.

§ 6252. Rates of contribution. 1. Employer contributions. In the case of any electing employee initially appointed on or before June thirtieth, nineteen hundred ninety-two, the city shall, during continuance of their employment, makes contributions at the rate of nine percentum of that portion of their city salary upon which contributions are or may hereafter be paid to the secretary of the treasury of the United States pursuant to article three of the retirement and social security law and at the rate of twelve percentum of that portion of their city salary above said amount, out of monies which shall be appropriated to the city university for such purposes. In the case of any electing employee initially appointed on or after July first, nineteen hundred ninety-two, the city shall, during continuance of their employment, make contributions at the rate of eight percentum of their city salary during the first seven years of such employment and at the rate of ten percentum of their city salary, thereafter, out of monies which shall be appropriated to the city university for such purpose, provided however, that effective October first, two thousand twenty-six, in the case of any electing employee initially appointed on or after April first, two thousand twelve, the city shall, during continuance of their employment, make contributions at the rate of nine percentum of their salary during the first seven years of such employment and at the rate of eleven percentum of their salary thereafter, out of monies which shall be appropriated to the city university for such purpose. For purposes of this subdivision, that portion of the employee's salary upon which contributions are or may thereafter be paid to the secretary of the treasury of the United States pursuant to article three of the retirement and social security law shall be deemed not to exceed sixteen

thousand five hundred dollars.

2. Employee contributions. (a) In the case of any electing employee, contributions at the rate of three percentum of his city salary shall be deducted as the employee contribution by the comptroller, provided however that such employee contribution shall be made by the city in accordance with subdivision one of this section during such period as either section seventy-a of the retirement and social security law or section B3-36.1 or section B20-41.1 of the administrative code of the city of New York provides that the contribution of any member of the New York city employees' retirement system or the New York city teachers' retirement system in the employ of the city shall be reduced by at least eight percentum of his compensation; and provided further, however, that such employee contribution with respect to the fiscal year of the city beginning on July first, nineteen hundred seventy-two and ending on June thirtieth, nineteen hundred seventy-three shall be made by the city, notwithstanding any of the foregoing provisions of this subdivision to the contrary.

(b) Notwithstanding any provision of paragraph (a) of this subdivision or any other provision of law to the contrary, but subject to the provisions of subdivision d of section six hundred thirteen of the retirement and social security law in the case of any electing employee initially appointed on or after July first, nineteen hundred ninety-two, contributions at the rate of three percentum of his or her city salary shall be deducted as the employee contribution by the comptroller.

(c) Notwithstanding any other provision of this section or any other law to the contrary, (1) on and after April first, two thousand eight for a member who joined the optional retirement program established pursuant to this article before April first, two thousand twelve and who has ten or more years of membership in such optional retirement program, the city shall contribute one-third of the three percent employee contribution required pursuant to the provisions of this section on behalf of such employee; and (2) on and after April first, two thousand nine for a member who joined the optional retirement program established pursuant to this article before April first, two thousand twelve and who has ten or more years of membership in such optional retirement program, the city shall contribute two-thirds of the three percent employee

contribution required pursuant to the provisions of this section on behalf of such employee; and (3) on and after April first, two thousand ten for a member who joined the optional retirement program established pursuant to this article before April first, two thousand twelve and who has ten or more years of membership in such optional retirement program, the city shall contribute the three percent employee contribution required pursuant to the provisions of this section on behalf of such employee. The provisions of this paragraph shall not apply to any electing employee who becomes a member of the optional retirement program on or after April first, two thousand twelve.

(d) Notwithstanding any other law to the contrary, beginning April first, two thousand thirteen any electing employee appointed on or after April first, two thousand twelve, the rate at which each such employee shall contribute in any current plan year (January first to December thirty-first) shall be determined by reference to the wages of such member in the second plan year (January first to December thirty-first) preceding such current plan year as follows:

(1) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(2) members with wages greater than forty-five thousand dollars per annum, but not more than fifty-five thousand dollars per annum shall contribute three and one-half per centum of annual wages;

(3) members with wages greater than fifty-five thousand dollars per annum, but not more than seventy-five thousand dollars per annum shall contribute four and one-half per centum of annual wages;

(4) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute five and three-quarters per centum of annual wages; and

(5) members with wages greater than one hundred thousand dollars per annum shall contribute six per centum of annual wages.

Notwithstanding the foregoing, during each of the first three plan years (January first to December thirty-first) in which such member has established membership in the Board of Higher Education Optional Retirement Program, such employee shall contribute a percent of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer, provided, however, that

notwithstanding any other law to the contrary, on and after October first, two thousand twenty-six, the rate at which any electing employee who is subject to this paragraph shall contribute in any current plan year (January first to December thirty-first) shall be determined by reference to the wages of such member in the second plan year (January first to December thirty-first) preceding such current plan year as follows:

(i) members with wages of seventy-five thousand dollars per annum or less shall contribute three per centum of annual wages;

(ii) members with wages greater than seventy-five thousand dollars per annum but not more than one hundred thousand dollars per annum shall contribute four per centum of annual wages;

(iii) members with wages greater than one hundred thousand dollars per annum but not more than one hundred twenty-five thousand dollars per annum shall contribute five and one-quarter per centum of annual wages; and

(iv) members with wages greater than one hundred twenty-five thousand dollars per annum shall contribute five and three-quarters per centum of annual wages.

3. Payment of contributions pursuant to subdivisions one and two of this section shall be made to the designated insurer or insurers upon audit and warrant of the comptroller.

4. In the case of an electing employee initially appointed on or after the effective date of the election to offer such programs established by the board, no contributions pursuant to subdivisions one and two of this section shall be made by the city until his completion of one year of service and continuance in service thereafter. Employee contributions, if any, required during this initial year of service shall be deducted and held by the comptroller. At the end of his initial year of service, a single contribution in an amount determined pursuant to subdivisions one and two of this section, with interest at the rate of four percentum per annum, shall be made, upon audit and warrant of the comptroller, to the designated insurer or insurers, on behalf of such employee continued in service. In the case of an electing employee who does not continue in service with the board beyond his initial year of service, the amount of

employee contribution, if any, deducted from his salary shall be refunded to him, with interest at the rate of four percentum per annum.

5. The provisions of subdivision four of this section shall not apply to any electing employee who, at the time of initial appointment, owns a contract determined by the board to be similar to those contracts to be purchased under the optional retirement program and issued by the designated insurer or insurers.

§ 6253. Election. 1. Election of the optional retirement program. (a) Each eligible employee initially appointed on or after the effective date of the election to offer such program established by the board shall, within thirty days of his entry into service, elect (i) to join the New York city teachers' retirement system in accordance with the provisions of law applicable thereto, or (ii) to elect the optional retirement program established pursuant to this article; provided however, that such persons initially appointed on or after the effective date of the election to offer such program may defer such election until the ninetieth day following such effective date of the election to offer such program established by the board. Any such deferred election shall be effective as of the date of entry into service.

(b) In the event an eligible employee fails to make an election as provided in paragraph (a) of this subdivision, he shall be deemed to have elected membership in the New York City teachers' retirement system. Such membership shall be effective as of the date of entry into service.

(c) The amount, if any, required to have been contributed by any employee in accordance with an election, a deferred election or failure to elect pursuant to paragraph (a) or (b) of this subdivision shall be collected by payroll deductions in such manner as may be provided by the comptroller for those persons electing the optional retirement program, or in the case of membership in the New York city teachers' retirement system, by the retirement system.

(d) Eligible employees appointed before the effective date of the election to offer such program may elect the optional retirement program established pursuant to this article. Such election shall be made on or

before the ninetieth day following the effective date of such offer, and shall become effective on or as of the first day of January next following the effective date of such offer.

(e) Any employee who becomes eligible to elect the optional retirement program by reason of his appointment, promotion, transfer or reclassification to an eligible position may elect the optional retirement program established pursuant to this article. Such election shall be made within thirty days after notice in writing to such employee of his eligibility, and shall become effective on the date of such election, except that in no case shall such election become effective prior to the first day of January next following the effective date of the offer of such program.

(f) No election by an eligible employee of the optional retirement program shall be effective unless it shall be accompanied by an appropriate application, where required, for the issuance of a contract or contracts under the program.

2. Ineligibility for retirement system membership. Any employee who elects the optional retirement program shall be ineligible for membership in the New York city teachers' or New York city employees' retirement system so long as he shall remain continuously employed in any position by the board and shall continue in the optional retirement program.

3. (a) Any eligible employee of the board who is a member or transferred contributor of either the New York city employees' retirement system or the New York city teachers' retirement system at the time he elects the optional retirement program offered by the board pursuant to this article shall be deemed to be a person who terminates membership on the effective date of such election, for the purpose of determining his eligibility for rights and benefits in either such system; provided, however, that if he does not withdraw his accumulated contributions, (i) his continued service at the city university shall be deemed to be member service in either the New York city employees' retirement system or the New York city teachers' retirement system for the purpose of determining his eligibility for any retirement allowance or ordinary death benefit under either such system dependent upon a

specified period of total service or upon attainment of a specified age while in service or upon death while in service; and (ii) the amount of any such benefit to which he or his estate or person designated by him may become entitled under either such system shall be computed only on the basis of service otherwise creditable to him therein and his compensation during such service.

(b) Electing employees and their beneficiaries shall not be entitled to any right or benefit under either the New York city employees' retirement system or the New York city teachers' retirement system other than a retirement allowance or ordinary death benefit to the extent expressly provided for in this section. Such employee shall not be eligible for any benefit pursuant to section B3-36.0, subdivision two or section B3-36.0, subdivision three of the administrative code of the city of New York or section two hundred forty-five of the military law.

§ 6254. Social security. Every electing employee shall have old-age, survivors, and disability insurance coverage provided by the federal social security act in accordance with the provisions of article three of the retirement and social security law.

§ 6255. City not liable for payment of benefits. Neither the city nor the board shall be a party to any contract purchased in whole or in part with contributions made under the optional retirement program established and administered pursuant to this article. No retirement, death, or other benefits shall be payable by the city or by the board under such optional retirement program. Such benefits shall be paid to electing employees or their beneficiaries by the designated insurer or insurers in accordance with the terms of their contracts.

§ 6256. Inconsistent provisions of other acts superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other act, general or special, the provisions of this article shall be controlling.

§ 6257. Deductions from benefits of certain retired members. 1. Notwithstanding any other provision of law, a member who is retired from the board of higher education optional retirement program shall have the right, at any time after such member's retirement, to execute and file a deduction authorization card with the designated insurer or insurers upon audit and warrant of the comptroller authorizing the deduction from such member's retirement allowance of membership dues and such member's share of the cost for employee organization-sponsored benefit plans and the payment thereof to a retiree organization of which the member is then a member and which is then affiliated with either an employee organization certified or recognized as the collective bargaining representative of all employees in the negotiating unit of which the member was a part prior to his or her retirement or with an employee organization with which such employee organization is then affiliated. The designated insurer or insurers upon audit and warrant of the comptroller shall thereafter deduct from the retirement allowance of such member the amount of membership dues and such amounts required to be paid by such member for such authorized employee organization-sponsored benefit plans, and shall transmit the sum so deducted to said retiree organization. Such authorization shall continue in effect until revoked in writing by such member. For purposes of this section, the term "employee organization-sponsored benefit plans" shall include any and all insurance plans and/or other benefit plans sponsored by such retiree organization whether provided by (a) a not-for-profit corporation licensed under article forty-three of the insurance law; (b) any insurance company authorized to do business in this state; (c) a health maintenance organization issued a certificate of authority pursuant to article forty-four of the public health law; or (d) a self-insurance arrangement, welfare fund or benefit fund.

2. Notwithstanding any other provision of law, a retired member shall have the right, at any time after his or her retirement, to execute and file a deduction authorization card with the designated insurer or insurers upon audit and warrant of the comptroller authorizing the payment of voluntary contributions to the political committee, as defined in subdivision one of section 14-100 of the election law, of

such member's employee organization, provided such organization is certified or recognized pursuant to article fourteen of the civil service law as the representative of all employees in the negotiating unit in which such retired member was then employed. Such authorization shall continue in effect until revoked in writing by such member. The designated insurer or insurers upon audit and warrant of the comptroller shall determine the cost of administering deductions for voluntary contributions to the political committee and the cost incurred for administering such contributions shall be paid from the funds of the political committee.

ARTICLE 125-B
CITY UNIVERSITY CONSTRUCTION FUND

Section 6270. Short title.
6271. Definitions.
6272. Fund continued.
6273. Purposes of fund.
6274. Administration of fund.
6275. General powers.
6276. Agreements with dormitory authority.
6277. Authority of city to convey real property and grant consents to dormitory authority.
6278. Resources of fund.
6279. Payments to fund.
6280. Actions against fund.
6281. Municipal regulations.
6282. Exemption from taxation.

§ 6270. Short title. This article may be cited as the "city university construction fund act."

§ 6271. Definitions. For the purposes of this article:

1. "Dormitory authority" means the dormitory authority of the state of

New York as established by the dormitory authority act.

2. "City" means the city of New York.

3. "City university" means the city university of New York, including the senior colleges and the community colleges governed and administered by the board of higher education pursuant to article one hundred twenty-five of this chapter.

4. "Facility" means a housing unit for the use of students, married students, faculty, staff and the families of such married students, faculty and staff, an academic building, administration building, library, laboratory, classroom or other building or structure essential, necessary or useful in the academic program of the city university, including all necessary and usual attendant and related facilities and equipment.

5. "Fund" means the city university construction fund as established by this article.

6. "Senior college" shall have the same meaning as in subdivision five of section six thousand two hundred two of this chapter.

7. "Community college" shall have the same meaning as in subdivision four of section six thousand two hundred two of this chapter.

§ 6272. Fund continued. The city university construction fund created by chapter seven hundred eighty-two of the laws of nineteen hundred sixty-six is hereby continued. The fund is a corporate governmental agency constituting a public benefit corporation. It has the powers and privileges of a corporation and all of its business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other personal property held under its corporate name. For all purposes of this article and the dormitory authority act, the fund shall be deemed to be an "educational institution."

§ 6273. Purposes of fund. The purposes of the fund shall be (i) to provide facilities for the city university, and (ii) to support the educational purposes of the city university.

§ 6274. Administration of fund. (1) For the period beginning July first, nineteen hundred seventy-nine and ending December thirty-first, nineteen hundred seventy-nine, the fund shall continue to be administered by the trustees of the city university construction fund in office as of June thirtieth, nineteen hundred seventy-nine. Effective January first, nineteen hundred eighty the fund shall be administered by seven trustees, among whom shall be two ex-officio trustees, one of whom shall be the director of the division of the budget of the state of New York, or his or her designee and the other of whom shall be the chairperson of the board of trustees of the city university. The five other trustees shall be appointed as follows:

(a) The governor shall appoint two trustees, one of whom shall be a trustee of the city university, the other of whom shall be subject to the advice and consent of the senate.

(b) The mayor shall appoint one trustee, who shall be subject to the advice and consent of the senate.

(c) The temporary president of the senate shall appoint one trustee.

(d) The speaker of the assembly shall appoint one trustee.

Each trustee, except ex officio trustees, shall serve for a term expiring at the end of the term of the officer making the appointment. In the event of a vacancy occurring in the office of a trustee by death, resignation, termination of membership on the board of trustees of the city university of New York, or otherwise, a successor shall be chosen in the same manner as was the trustee whose office became vacant, to serve for the balance of the unexpired term.

(2) The chairperson and the vice-chairperson of the trustees of the fund shall be appointed by and shall serve at the pleasure of the governor. The chairperson shall preside over all meetings of the trustees and shall have such other duties as the trustees of the fund

may direct. The vice-chairperson shall preside over all meetings of the trustees of the fund in the absence of the chairperson and shall have such other duties as the trustees of the fund may direct.

(3) The trustees of the fund shall serve without salary, but each trustee shall be reimbursed for his, or her actual and necessary expenses incurred in the performance of his or her official duties as a trustee of the fund. The trustees of the fund may engage in private employment or in a profession or business (if not otherwise prohibited from so doing by virtue of any other public office), subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The fund shall, for the purposes of such sections, be a "state agency", and the trustees thereof shall be "officers" of the agency for the purposes of said sections.

(4) Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state of New York, any city, county, town or village, any other political or civil division of the state, and municipality, any governmental entity operating any public school or college, any school district or any other public special district, any public authority, commission or board or any other public agency or instrumentality or unit of government which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a trustee, officer or agent of the fund.

(5) The fund may delegate to one or more of its trustees, or officers, agents or employees, such powers and duties as the trustees may deem proper, but all contracts involving an estimated expense of ten thousand dollars or more and all leases, subleases or other agreements to be entered into pursuant to this article shall be approved prior to execution by no less than four trustees of the fund.

(6) The fund may appoint officers, employees and agents as it may require and it will prescribe their duties and fix their compensation.

(7) On or before November fifteenth of each year, the fund shall submit, and thereafter may resubmit, to the comptroller of the state of New York, the state director of the budget, the city director of management and budget, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee, a financial statement for the preceding city fiscal year, a report of its activities

during that year, and a report on its program for both the current and next succeeding city fiscal years including but not limited to: (i) the total amount of instructional and non-instructional fees the fund estimates it will receive in the succeeding city fiscal year; (ii) the estimated cost of the administration of the fund in the succeeding city fiscal year; (iii) the amounts, if any, of all rentals and such other payments estimated to become due in the succeeding city fiscal year to the dormitory authority from the fund pursuant to any leases, subleases or other agreements entered or to be entered into between the fund and the dormitory authority prior to July first, nineteen hundred eighty-five, to provide for senior college facilities and community college facilities, or pursuant to any agreement supplemental thereto; (iv) the amounts, if any, of all rentals and such other payments estimated to become due in the succeeding city fiscal year to the dormitory authority from the fund pursuant to any leases, subleases or other agreements between the fund and the dormitory authority entered or to be entered into on or after July first, nineteen hundred eighty-five or pursuant to any agreement supplemental thereto, to provide facilities for senior colleges and community colleges; and (v) the amount of all moneys anticipated to be transferred to the city university in the succeeding city fiscal year pursuant to the provisions of subdivision (b) of section sixty-two hundred seventy-eight of this article. Such report shall separately state the amounts of all rentals and such other payments estimated to become due in the succeeding city fiscal year pursuant to any leases, subleases or other agreements between the fund and the dormitory authority which are allocable to senior college facilities and community college facilities.

§ 6275. General powers. The fund shall have the following powers in addition to those specially conferred elsewhere in this article:

(1) to sue and to be sued;

(2) to have a seal and alter the same at its pleasure;

(3) to make and alter by-laws for its organization and internal management;

(4) to prescribe a system of accounts, with the approval of the state comptroller;

(5) to accept jurisdiction over and to hold, use and improve, in accordance with such terms and conditions as the fund and the city university shall determine any or all real property acquired by, under the jurisdiction of, or assigned to the use of the board of higher education for purposes of the city university, together with such rights and privileges as may be incidental and appurtenant thereto;

(6) to purchase real property necessary or convenient for its corporate purposes in its own name and to execute and deliver deeds for real property held in its own name;

(7) to purchase, receive, lease or otherwise acquire personal property necessary and convenient for its corporate purposes and to transfer, sublease or otherwise make such personal property available to the board of higher education or the dormitory authority or to sell or otherwise to dispose of such personal property that, in the judgment of the fund, is no longer necessary for its corporate purposes;

(8) subject to other provisions of law, to give, donate, transfer, grant or lend to the city university upon such terms and conditions as is deemed appropriate such sums of money as are not required for other purposes;

(9) to make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of its corporate powers and purposes to an amount not exceeding one hundred fifty thousand dollars without prior approval by any other state officer or agency; notwithstanding the foregoing, all contracts, leases, subleases, and all other instruments or agreements exceeding one hundred fifty thousand dollars in amount shall be subject to section one hundred twelve of the state finance law;

(10) with the consent of the board of higher education, to use the agents, employees and facilities of the city university;

(11) to engage the services of construction, engineering, architectural, legal and financial consultants, surveyors and appraisers, on a contract basis or as employees, for professional service and technical assistance and advice;

(12) to cause facilities to be designed, constructed, acquired, reconstructed, rehabilitated, improved, operated, maintained, furnished and equipped and made secure in accordance with the provisions of this article;

(13) to procure insurance against loss in connection with any facility in such amounts and from such insurers as it deems desirable;

(14) to accept, administer and disburse federal, state, and city aid; and

(15) to do any and all things necessary or convenient to carry out its corporate powers and purposes.

§ 6276. Agreements with dormitory authority. (a) To fulfill the purposes contained in subdivision a of section sixty-two hundred seventy-three of this article, the fund may enter into leases, subleases or other agreements with the dormitory authority to which the board of higher education may be a party under which the authority may provide facilities for the use of the city university. The fund may enter into an agreement with the dormitory authority to which the board of higher education and the city of New York shall be parties under which the authority may acquire, design, construct or otherwise provide and furnish and equip facilities for the use of Hunter College which may include therein a police and fire station upon a site set forth in and in accordance with the terms of such agreement, as authorized in paragraph f of subdivision two of section sixteen hundred eighty of the public authorities law. The provisions of the dormitory authority act shall govern the relationships of the dormitory authority, the fund, and the board of higher education in the city of New York with respect to all such leases, subleases or other agreements and actions thereunder, and the fund may apply to the payment of rentals and other payments required from the fund by any such leases, subleases or other agreements and may pledge as security for such payments to the dormitory authority with respect to such leases, subleases or other agreements all or part of the resources of the fund. The dormitory authority shall not issue obligations for the provision of a senior or community college facility unless a certificate of availability of funds has been approved by the director of the budget and an appropriation for such facility has been enacted.

(b) Neither the state, nor the city or the city university of New York, shall be liable for any rentals payable by the fund pursuant to the terms of any lease, sublease or other agreement entered into by the

fund under this article. Any such lease, sublease or other agreement shall contain among its terms a statement to that effect.

(c) Housing units provided under this article for faculty, staff and married students and the families thereof shall be used and occupied pursuant to leases or other agreements between the faculty, staff and married students and the city university, the provisions of which have been approved by the dormitory authority and the city university construction fund. There shall be paid to the city university, pursuant to such leases or other agreements by such faculty, staff and married students, except the chancellor of the city university and the presidents of any of the senior colleges or graduate institutions thereof and their families, rentals, the total amount of receipts from which rentals in each city fiscal year is to be at least equal to (i) the portion of the rentals to be paid to the dormitory authority by the fund in that city fiscal year which is allocable to such housing units and (ii) the expense of all direct and indirect costs of operation of such housing units. From such receipts the city university shall account for and pay to the fund an amount equal to the portion of the rentals to be paid to the dormitory authority by the fund in that city fiscal year which is allocable to such housing units, and the fund shall pay such amount to the dormitory authority in accordance with its agreements therewith. The estimated amount of rentals allocable to such housing units shall be separately stated from the amount required to be included in the city university construction fund's report submitted pursuant to clause three of subdivision seven of section sixty-two hundred seventy-four of this article and shall not be included in the amount equal to the aggregate of all rentals and such other payments due to the dormitory authority from the fund of which the state and city are each obligated to pay to the fund one-half pursuant to section sixty-two hundred seventy-nine of this article.

(d) Any pledge of or other security interest in moneys, earnings, income, revenues, accounts, contract rights, general intangibles or other personal property, or any other resources held, made or created by the fund or on its behalf by any duly authorized officer, employee or agent thereof including the comptroller of the city of New York when acting as agent pursuant to this article or by any other person to secure such person's obligations to the fund, shall be valid, binding

and perfected from the time when such pledge or other security interest attaches, without any physical delivery of the collateral or further act. The lien of any such pledge or other security interest shall be valid, binding and perfected as against all parties having claims of any kind in tort, contract or otherwise against the fund irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or other security interest is created nor any financing statement need be recorded or filed. This subdivision shall apply notwithstanding the provisions of the uniform commercial code.

§ 6277. Authority of city to convey real property and grant consents to dormitory authority. (a) Notwithstanding the provisions of any general, special or local law, charter or ordinance to the contrary, on request of the fund and with the approval of the city board of estimate, the city of New York may sell, convey, lease, exchange or otherwise make available to the dormitory authority, for a nominal consideration, any interest in real property of the city designated by the board of higher education as suitable for a facility. Such sale, conveyance, lease, exchange, or other disposition may be made at nominal cost and without the requirement of public auction or sealed bids, or restriction as to the term of any such lease or arrangement, and the provisions of subdivision b of section three hundred eighty-four of the New York city charter shall not apply in such cases. Conveyances made pursuant to this section shall include but shall not be limited to real property on which are situated facilities of, or are under the jurisdiction of, or assigned to, the board of higher education.

(b) Notwithstanding the provisions of any general, special or local law, charter or ordinance to the contrary, on request of the fund, the city board of estimate in behalf of the City of New York may grant revocable or irrevocable consents or rights of any kind or nature whatsoever, providing for or involving or relating to the occupation or use of any of the streets of the city, whether on, under or over the surface thereof, to the dormitory authority, on such terms and conditions and for such period of time or duration as may be determined by the board of estimate to be in the public interest.

§ 6278. Resources of fund. (a) Subject to the provisions of this article, the trustees of the fund shall receive, accept, invest, administer, expend and disburse for its corporate purposes all monies for the city university construction fund from whatever sources derived including (1) payments by the state pursuant to the provisions of subdivision one of section sixty-two hundred seventy-nine of this article; (2) payments by the city of New York or by the state comptroller pursuant to the provisions of subdivision two of section sixty-two hundred seventy-nine of this article; (3) all instructional and non-instructional fees received by the fund under section sixty-two hundred fifteen of this chapter; (4) payments by the state pursuant to the provisions of subdivision four of section sixty-two hundred seventy-nine of this article; (5) payments by the city pursuant to the provisions of subdivision five of section sixty-two hundred seventy-nine of this article; and (6) any other payments, gifts, or appropriations to the fund from any other source exclusive of any other monies appropriated by the state for the benefit of the city university.

(b) The monies of the fund shall be paid to the comptroller of the city of New York as agent of the fund, who shall not commingle such monies with any other monies. All city university instructional and noninstructional fees received by the fund which, together with other moneys of the fund available for payment of rentals and other payments due to the dormitory authority from the fund pursuant to any lease, sublease, or other agreement entered into between the dormitory authority and the fund, exceed the amount required by the terms of any lease, sub-lease or other agreement with the dormitory authority to be retained for the payment of such rentals and such other payments and the costs of administration of such fund shall be transferred to the city university for the support, maintenance and operation of such university.

(c) The monies in any of the fund's accounts shall be paid out on checks signed by the comptroller of the city of New York on requisitions of the chairman of the trustees of the fund or of such other officer or employee as the trustees shall authorize to make such requisition.

(d) Subject to the terms of any lease, sublease, or agreement undertaken by the fund, any such monies of the fund not required for

immediate use may, at the discretion of the fund, be invested in obligations of the United States, of an agency, corporation or other instrumentality thereof, of the state or of the city; in obligations the principal and interest of which are guaranteed by the United States, by an agency, corporation or other instrumentality thereof or by the state; or in interest-bearing certificates of deposit of a bank or trust company located in and authorized to do business in the state of New York, each such certificate to be secured in amounts equal to the amount of each such certificate by pledges of obligations of the United States, of an agency, corporation or other instrumentality thereof, of the state, of the city or of obligations the principal and interest of which are guaranteed by the United States, by an agency, corporation or other instrumentality thereof or by the state. The comptroller of the city of New York, as agent of the fund, shall make the investments when so requested by the fund.

(e) The comptroller of the city of New York or his legally authorized representative from time to time may examine the books and accounts of the fund, including its receipts, disbursements, contracts, reserves, investments, and any other matters relating to its financial standing. Such an examination shall be conducted by the comptroller of the city of New York at least once every five years; in lieu of such an examination, the comptroller of the city of New York may accept from the fund an external examination of the fund's books and accounts made at the request of the trustees of the fund.

(f) In addition to the provisions of subdivision (e) of this section, the comptroller of the state of New York or his legally authorized representative may also from time to time examine the books and accounts of the fund, including its receipts, disbursements, contracts, reserves, investments, and any other matters relating to its financial standing.

(g) To the extent practicable, the trustees of the fund shall ensure that all monies received during a fiscal year are expended prior to the end of such fiscal year.

(h) On or before the first of February each year, the comptroller shall certify to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee and the chair of the assembly ways and means committee, the amount of money deposited in the fund during the preceding calendar year as the

result of revenue derived pursuant to section six hundred thirty-f of the tax law.

(i) On or before the first of February each year, the trustees of the fund shall provide a written report to the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate committee on higher education, the chair of the assembly committee on higher education, and the public. Such report shall include how the monies of the fund were utilized during the preceding calendar year and shall include:

(1) the amount of money dispersed from the fund;

(2) recipients of awards from the fund;

(3) the amount awarded to each recipient;

(4) the purposes for which such awards were granted; and

(5) a summary financial plan for such monies which shall include estimates of all receipts and all disbursements for the current and succeeding fiscal years, along with the actual results from the prior fiscal year.

§ 6279. Payments to fund. To enable the fund to realize its corporate purposes, as provided in section sixty-two hundred seventy-three of this article, the following monies shall be made available to the fund as hereinafter provided:

(1) The state shall, in addition to any other state financial assistance, annually appropriate and pay to the fund an amount equal to the aggregate of all rentals and such other payments due to the dormitory authority from the fund pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the fund prior to July first, nineteen hundred eighty-five or pursuant to any agreement supplemental thereto, pursuant to which the fund and the dormitory authority provide senior college facilities, for the city fiscal year commencing July first succeeding the filing of the report required to be submitted by the fund pursuant to subdivision seven of section sixty-two hundred seventy-four of this article. Such amount shall be paid to the fund as follows: (i) on or before the fifteenth day of July of the fiscal year of the city, the amount required to be paid

by the fund under any such lease, sublease or other agreement on or before the first day of August of such city fiscal year; (ii) on or before the fifteenth day of November of the fiscal year of the city, the amount required to be paid by the fund under any such lease, sublease or other agreement on or before the tenth day of December of such city fiscal year; (iii) on or before the fifteenth day of May of the fiscal year of the city, the amount required to be paid by the fund under any such lease, sublease or other agreement on or before the tenth day of June of such city fiscal year; and (iv) on such day or days as shall be prescribed under any such lease, sublease or other agreements, the amount required to be paid by the fund under any such lease, sublease or other agreements entered into on or after April first, nineteen hundred ninety-nine.

The state shall, in addition to any other state financial assistance, annually appropriate and pay to the fund an amount equal to one-half the aggregate of all rentals and such other payments due to the dormitory authority from the fund pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the fund prior to July first, nineteen hundred eighty-five or pursuant to any agreement supplemental thereto, pursuant to which the fund and the dormitory authority provide community college facilities, for the city fiscal year commencing July first succeeding the filing of the report required to be submitted by the fund pursuant to subdivision seven of section sixty-two hundred seventy-four of this article, which amount shall be payable as follows: (a) fifty per centum of such amount shall be payable, (i) with respect to any portion thereof required to be paid by the fund under any such lease, sublease or other agreement on or before the first day of August of such city fiscal year, on or before the fifteenth day of July, and (ii) with respect to any portion thereof so required to be paid by the fund on or before the tenth day of December of such city fiscal year, on or before the fifteenth day of November; (b) fifty per centum of such amount shall be payable on or before the fifteenth day of May of such city fiscal year; and (c) fifty per centum of such amount shall be payable on such day or days as shall be prescribed under any such lease, sublease or other agreements, the amount required to be paid by the fund under any such lease, sublease or

other agreements entered into on or after April first, nineteen hundred ninety-nine.

(2) The city shall, in addition to any other city financial assistance, annually pay to the fund an amount equal to one-half of the aggregate of all rentals and such other payments due to the dormitory authority from the fund pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the fund prior to July first, nineteen hundred eighty-five or pursuant to any agreement supplemental thereto, for the city fiscal year commencing July first succeeding the filing of the report required to be submitted by the fund pursuant to subdivision seven of section sixty-two hundred seventy-four of this article, which amount shall be payable as follows: (a) fifty per centum of such amount shall be payable, (i) with respect to any portion thereof required to be paid by the fund under any such lease, sublease or other agreement on or before the first day of August of such city fiscal year, on or before the fifteenth day of July, and (ii) with respect to any portion thereof so required to be paid by the fund on or before the tenth day of December of such city fiscal year, on or before the fifteenth day of November; and (b) fifty per centum of such amount shall be payable on or before the fifteenth day of May of such city fiscal year; provided, however, that such amount shall have been first appropriated by the city to the fund or shall otherwise have been made lawfully available to the fund for such purposes; provided, further, that the amount required to be paid to the fund by the city at any time on account of the rentals and such other payments due to the dormitory authority from the fund pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the fund prior to July first, nineteen hundred eighty-five or pursuant to any agreement supplemental thereto, pursuant to which the fund and the dormitory authority provide senior college facilities, shall be reduced by an amount equal to the amount by which the payment made by the state pursuant to the first paragraph of subdivision one of this section on account of such lease, sublease or other agreement exceeds one-half of the amount then required to be paid by the state on account of such lease, sublease or other agreement. In the event of the failure of the city to pay the fund, pursuant to the schedule of payments established by this subdivision, all or part of such amounts, the fund shall

forthwith make and deliver to the comptroller of the state of New York a certificate stating such amount and the sum, if any, paid by the city to the fund with respect to such amount, and further stating the difference between such amount and such sum, and, after the state comptroller shall have given written notice to the city director of management and budget, such difference, but not to exceed sixty-five million dollars in any one city fiscal year, shall be paid to the fund by the state comptroller out of the next succeeding payment of state aid apportioned to the city of New York as per capita aid for the support of local government pursuant to section fifty-four of the state finance law during such city fiscal year. The amount so paid over to the fund shall be deducted from the corresponding apportionment of such per capita state aid otherwise payable to the city of New York, and shall not obligate the state to make or entitle the city of New York to receive any additional apportionment or payment of per capita state aid. Notwithstanding any other provision of law, the city shall have the power to contract indebtedness and to issue its obligations pursuant to the local finance law for the purpose of financing any payment authorized or required to be made by the city by this subdivision. Any such payment shall constitute an object or purpose for which the period of probable usefulness is hereby determined to be five years.

(3) (a) The state shall, in addition to any other state assistance, annually appropriate and pay to the city of New York for the twelve-month period commencing July first, nineteen hundred eighty-two and thereafter, an amount equal to the amount paid by the city pursuant to subdivision two of this section attributable to senior college facilities.

(b) For the purposes of this section and subdivision seven of section sixty-two hundred seventy-four of this article, the term "senior college facilities" shall be deemed to mean and refer to any facility of the city university which is or has been financed by bonds, notes or other obligations of the dormitory authority pursuant to any lease, sublease or other agreement between the dormitory authority and the fund which relates to an educational unit of the city university which was, or is, included as a senior college on the date as of which such lease, sublease or other agreement is dated.

(c) In addition to the amounts specified in paragraph (a) of this

subdivision, the state shall, in addition to any other state assistance, annually appropriate and pay to the city of New York for the twelve month period commencing July first, nineteen hundred eighty-two and thereafter an amount equal to the amount paid by the city pursuant to subdivision two of this section attributable to facilities of New York city college of technology and to that educational unit of the college of Staten Island whose primary purpose is providing associate and certificate programs in general and technical educational subjects.

(4) The state shall, in addition to any other state financial assistance, annually appropriate and pay to the fund for the benefit of the city university an amount equal to the aggregate of all rentals and other payments due to the dormitory authority from the fund on account of senior college facilities and one-half of all rentals and other payments due to the dormitory authority from the fund on account of community college facilities, which rentals and other payments are payable by the fund pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the fund on or after July first, nineteen hundred eighty-five, other than pursuant to an agreement supplemental to any lease, sublease or other agreement entered into between the dormitory authority and the fund prior to July first, nineteen hundred eighty-five, for the city fiscal year commencing July first succeeding the filing of the report required to be submitted by the fund pursuant to subdivision seven of section sixty-two hundred seventy-four of this article. Such amount shall be paid to the fund as follows: (i) on or before the fifteenth day of July of the fiscal year of the city, the amount required to be paid by the fund on account of senior college facilities and fifty per centum of the amount required to be paid by the fund on account of community college facilities under any such lease, sublease or other agreement on or before the first day of August of such city fiscal year; (ii) on or before the fifteenth day of November of the fiscal year of the city, the amount required to be paid by the fund on account of senior college facilities and fifty per centum of the amount required to be paid by the fund on account of community college facilities under any such lease, sublease or other agreement on or before the tenth day of December of such city fiscal year; and (iii) on or before the fifteenth day of May of the fiscal year of the city, the amount required to be paid by the fund on account of senior college

facilities and fifty per centum of the amount required to be paid by the fund on account of community college facilities under any such lease, sublease or other agreement on or before the tenth day of June of such city fiscal year. In the event of the failure of the state to pay the fund when due pursuant to this subdivision all or part of such amounts, the fund shall forthwith make and deliver to the comptroller of the state of New York a certificate stating the amount of the payment required to have been made by the state, the amount paid by the state and the amount remaining unpaid by the state. The comptroller of the state of New York, after giving written notice to the state director of the budget, shall pay to the fund the amount set forth in such certificate as remaining unpaid, which amount shall be paid from any moneys appropriated by the state pursuant to section sixty-two hundred twenty-one of this chapter or any successor provisions of law for or on account of the net operating costs of senior colleges and not yet paid during such city fiscal year and from any moneys appropriated by the state pursuant to subdivision one of section sixty-three hundred four of this chapter or any successor provisions of law for or on account of operating costs of community colleges and not yet paid during such city fiscal year or from any other moneys appropriated by the state for or on account of the operating costs of senior or community colleges and not yet paid during such city fiscal years, which moneys are appropriated in lieu of or in addition to moneys appropriated pursuant to such provisions of law. The amount required to be paid by the comptroller of the state of New York pursuant to this subdivision shall be paid to the fund as soon as practicable after receipt of the certificate of the fund and notice to the state director of the budget is given whether or not the moneys from which such payment is to be made are then payable to the city or the city university; provided, however, that any amounts described in clause (i), (ii) or (iii) of this subdivision that are payable other than semi-annually, including for variable rate bonds, interest rate exchange or similar agreements, or other financing arrangements permitted by law, may be paid at such other times as the state may elect, but in no event later than the fifteenth day of the month preceding the month during which the fund is required by such lease, sublease or agreement to pay such amounts.

(5) The city shall, in addition to any other city financial

assistance, annually appropriate and pay to the fund for the benefit of the city university an amount equal to: (i) one-half of the aggregate of all rentals and such other payments where the dormitory authority has financed the entire capital cost of constructing community college facilities, and (ii) all of the aggregate rentals and such other payments where the dormitory authority has financed only the local sponsor's portion of the capital cost of constructing community college facilities pursuant to any lease, sublease or other agreement entered into between the dormitory authority and the fund on or after July first, nineteen hundred eighty-five, other than pursuant to an agreement supplemental to any lease, sublease or other agreement entered into between the dormitory authority and the fund prior to July first, nineteen hundred eighty-five, for the city fiscal year commencing July first succeeding the filing of the report required to be submitted by the fund pursuant to subdivision seven of section sixty-two hundred seventy-four of this article. Such amount shall be paid to the fund as follows: (i) on or before the fifteenth day of July of the fiscal year of the city, fifty per centum of the amount required to be paid by the fund on account of community college facilities under any such lease, sublease or other agreement on or before the first day of August of such city fiscal year; (ii) on or before the fifteenth day of November of the fiscal year of the city, fifty per centum of the amount required to be paid by the fund on account of community college facilities under any such lease, sublease or other agreement on or before the tenth day of December of such city fiscal year; and (iii) on or before the fifteenth day of May of the fiscal year of the city, fifty per centum of the amount required to be paid by the fund on account of community college facilities under any such lease, sublease or other agreement on or before the tenth day of June of such city fiscal year. In the event of the failure of the city to pay the fund when due pursuant to this subdivision all or part of such amounts, the fund shall forthwith make and deliver to the comptroller of the state of New York a certificate stating the amount of the payment required to have been made by the city, the amount paid by the city and the amount remaining unpaid by the city. The comptroller of the state of New York, after giving written notice to the city director of management and budget, shall pay to the fund the amount set forth in such certificate as remaining unpaid, which

amount shall be paid, first, from the next succeeding payments of state aid apportioned to the city as per capita aid for the support of local government pursuant to section fifty-four of the state finance law during such city fiscal year, provided that the amount the comptroller of the state of New York may pay pursuant to this subdivision from such next succeeding payment of state aid shall be limited to an amount which, together with (i) the amount of such state aid theretofore paid and then to be paid by the comptroller of the state of New York pursuant to subdivision two of this section, (ii) the amount of such state aid theretofore paid pursuant to this subdivision and (iii) the maximum amount which may thereafter be required to be paid pursuant to subdivision two of this section, in each such case during the city fiscal year in which the payment is to be made pursuant to this subdivision, does not exceed sixty-five million dollars; and, if the amount of such state aid so paid by the comptroller of the state of New York is less than the amount set forth in the certificate of the fund as remaining unpaid, then from any moneys appropriated by the state pursuant to section sixty-two hundred twenty-one of this chapter or any successor provisions of law for or on account of the net operating costs of senior colleges and not yet paid during such city fiscal year and from any moneys appropriated by the state pursuant to subdivision one of section sixty-three hundred four of this chapter or any successor provisions of law for or on account of operating costs of community colleges and not yet paid during such city fiscal year or from any moneys appropriated by the state for or on account of the operating costs of senior or community colleges and not yet paid during such city fiscal year, which moneys are appropriated in lieu of or in addition to moneys appropriated pursuant to such provisions of law. The amount required to be paid by the comptroller of the state of New York pursuant to this subdivision shall be paid to the fund as soon as practicable after receipt of the certificate of the fund and notice to the city director of management and budget is given, whether or not the state aid or other moneys from which such payment is to be made is then payable to the city or the city university. The amount of the state aid or other moneys payable to the city or the city university from which the comptroller of the state of New York has made a payment pursuant to this subdivision shall be reduced by the amount so paid to the fund

notwithstanding the amount appropriated and apportioned by the state to the city or the city university, and the state shall not be obligated to make and the city or the city university shall not be entitled to receive any additional apportionment or payment of such state aid or other moneys; provided, however, that any amounts described in clause (i), (ii) or (iii) of this subdivision that are payable other than semi-annually, including for variable rate bonds, interest rate exchange or similar agreements, or other financing arrangements permitted by law, may be paid at such other times as the city may elect, but in no event later than the fifteenth day of the month preceding the month during which the fund is required by such lease, sublease or agreement to pay such amounts.

(6) The amounts of money required to be paid pursuant to this section shall be determined from the report required to be submitted by the fund pursuant to subdivision seven of section sixty-two hundred seventy-four of this article. Nothing contained in subdivision four or five of this section shall be construed to create an obligation upon the state to appropriate moneys for or on account of the operating costs of senior or community colleges, to preclude the state from reducing the amount of moneys appropriated or level of assistance provided for the operating costs of senior or community colleges from the amount appropriated or level of assistance provided in any prior city fiscal year, or to preclude the state from altering or modifying the manner in which it provides for or provides assistance for the operating costs of senior or community colleges.

(7) Notwithstanding the designation of Medgar Evers college as a senior college, for the period commencing July first, nineteen hundred ninety-four and thereafter, the city of New York shall include Medgar Evers college facilities in its calculation of amounts due the fund pursuant to subdivision five of this section and for purposes of paragraph c of subdivision one of section sixty-three hundred four of this chapter.

§ 6280. Actions against fund. (a) Except in an action for wrongful death, an action against the fund for personal injury or property damage or founded on tort shall not be commenced more than one year and ninety

days after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on a trustee of the fund or officer or employee thereof designated by the fund for such purpose, within the time limited by, and in compliance with the requirements of, section fifty-e of the general municipal law. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

(b) The venue of every action, suit or special proceeding brought against the fund shall be laid in the county in which the cause of action arose for all claims which arise within the city of New York, or in the county of New York.

(c) Neither any trustee of the fund nor any officer, employee, or agent of the fund, while acting within the scope of his authority, shall be subject to any personal liability resulting from the providing of facilities for the city university or from any other exercise or carrying out of any of the fund's purposes or powers.

(d) Upon an appeal taken by the city university construction fund in any action or other proceeding to which the fund is a party, the service of notice of appeal shall perfect the appeal and shall stay the execution of the judgment or order appealed from without any undertaking or other security being furnished by the fund.

(e) No provision of this article shall be construed as a defense and indemnification provision within the meaning of section eighteen of the public officers law or any other similar law or as otherwise precluding any employee, as defined in said section of the public officers law, of the fund from recourse to the provisions thereof.

§ 6281. Municipal regulations. (a) No county, town or village, including but not limited to the city of New York, shall have the power to modify or change the plans and specifications for facilities to be provided pursuant to agreements between the dormitory authority and the city university construction fund, or the construction, plumbing, heating, lighting or other mechanical branch of work necessary to complete the work in question, nor to require that any person, firm or corporation employed on any such work shall perform any such work in any

other or different manner from that provided by such plans and specifications, nor to require that any such person, firm or corporation obtain any other or additional authority or permit from such county, city, town or village, including but not limited to the city of New York as a condition of doing such work, nor shall any condition whatever be imposed by any such county, city, town or village, including but not limited to the city of New York in relation to the work being done pursuant to the aforesaid agreements, and such work shall be in accordance with the drawings, plans, specifications and contracts in relation thereto; and the doing of any such work for the dormitory authority by any person, firm or corporation in accordance with the terms of such drawings, plans, specifications or contracts shall not subject said person, firm or corporation to any liability or penalty, civil or criminal, other than as may be stated in such contracts or incidental to the proper enforcement thereof.

(b) Notwithstanding any other provision of this article or any other law, any contract let by the dormitory authority and/or the city university construction fund for the purposes of this article shall be in conformity with the provisions of section one hundred one of the general municipal law.

§ 6282. Exemption from taxation. The moneys and property of the fund and its operations shall be exempt from taxation.

ARTICLE 126

COMMUNITY COLLEGES AND STATE-AIDED FOUR-YEAR COLLEGES

Section 6301. Definitions.
6302. Authorization to establish community colleges.
6303. Programs and curricula of community colleges.
6303-a. Graduation, achievement and placement program.
6304. Financing of community colleges.
6304-A. Reports to local sponsors.
6305. Non-resident and out-of-state students.
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§ 6301. Definitions. As used in this article, unless the context shall otherwise require, the following terms shall mean:

1. "State university trustees." Board of trustees of the state university.

2. "Community colleges." Colleges established and operated pursuant to the provisions of this article, either individually or jointly, by counties, cities, intermediate school districts, school districts approved by the state university trustees, or individually by community college regions approved by the state university trustees, and providing two-year post secondary programs pursuant to regulations prescribed by the state university trustees and receiving financial assistance from the state therefor.

3. "Local sponsor." Any city, county, intermediate school district, school district approved by the state university trustees, or community college region approved by the state university trustees, sponsoring or participating in the establishment or operation of a community college.

4. "Community college region." A community college local sponsor composed of two or more contiguous counties, cities or school districts, or any combination thereof, which are eligible to appoint members to a community college regional board of trustees.

5. "Resident." A person who has resided in the state for a period of at least one year and in the county, city, town, intermediate school district, school district or community college region, as the case may

be, for a period of at least six months, both immediately preceding the date of such person's registration in a community college or, for the purposes of section sixty-three hundred five of this article, his or her application for a certificate of residence; provided, however, that this term shall include any student who is not a resident of New York state, other than a non-immigrant noncitizen within the meaning of paragraph (15) of subsection (a) of section 1101 of title 8 of the United States Code, if such student:

(i) attended an approved New York high school for two or more years, graduated from an approved New York high school and applied for attendance at an institution or educational unit of the state university within five years of receiving a New York state high school diploma; or

(ii) attended an approved New York state program for general equivalency diploma exam preparation, received a general equivalency diploma issued within New York state and applied for attendance at an institution or educational unit of the state university within five years of receiving a general equivalency diploma issued within New York state; or

(iii) was enrolled in an institution or educational unit of the state university in the fall semester or quarter of the two thousand one--two thousand two academic year and was authorized by such institution or educational unit to pay tuition at the rate or charge imposed for students who are residents of the state.

Provided, further, that a student without lawful immigration status shall also be required to file an affidavit with such institution or educational unit stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

In the event that a person qualified as above for state residence, but has been a resident of two or more counties in the state during the six months immediately preceding his application for a certificate of residence pursuant to section sixty-three hundred five of this chapter, the charges to the counties of residence shall be allocated among the several counties proportional to the number of months, or major fraction thereof, of residence in each county.

6. "Certificate of residence form". A standard form as developed by the chancellor of the state university of New York, in conjunction with the chancellor of the city university of New York.

§ 6302. Authorization to establish community colleges. 1. Any local sponsor, other than a community college region, acting through its local legislative body or board, or other appropriate governing agency, which in the case of the city of New York acting as a local sponsor shall be the mayor of that city, may by local law, resolution, order or ordinance, and pursuant to the master plan, standards and regulations prescribed by the state university trustees and with the approval of said trustees:

a. Establish a community college.

b. Elect to participate in and pay an appropriate share of the expenses involved in the community college program of any other local sponsor consenting to such arrangement.

c. Combine with one or more other local sponsors for the joint establishment and operation of a community college.

2. Pursuant to section sixty-three hundred ten of this article, any eligible county, city or school district acting through its local legislative body or board, may by local law or resolution, and pursuant to the master plan, standards and regulations prescribed by the state university trustees, and with the approval of said trustees, combine with one or more contiguous counties, cities or school districts, or any combination thereof, to constitute a community college region for the purpose of operating, as local sponsor, an existing community college which is currently sponsored by a city or school district other than a school district located in a city with a population of one million or more.

3. In the city of New York, the board of education, with the approval

of the state university trustees, may act as a local sponsor in the establishment and operation, as a community college, of a post secondary technical vocational training institution which is partly supported by such board of education and partly supported by an educational foundation for an industry chartered by the board of regents. In addition to the community college programs and curricula authorized by this article, the institution may offer such baccalaureate, masters degree programs and curricula in support of its mission, in accordance with standards and regulations prescribed by the state university trustees, as may be authorized pursuant to the provisions of the master plan. Notwithstanding any other provision of law, the institution shall be financed and administered in the manner provided for community colleges.

4. Community colleges so established and operated shall be eligible to receive financial assistance from the state as hereinafter provided, which shall be paid to the local sponsor or sponsors, provided, however, that in the case of any local sponsor which shall have assigned such financial assistance to the dormitory authority, such payment shall be made to the commissioner of taxation and finance for deposit in the community college tuition and instructional income fund.

5. Whenever a plan for a community college, other than a plan for participation in a community college region, shall have been formulated by a county board of supervisors and approved as provided in this section, the board of supervisors may submit the question of the establishment of the community college contemplated by such plan to a referendum at any general election at which all the voters of the county may vote. The form of the proposition shall be determined by the board of supervisors and shall include an estimate of the county's share of the initial capital cost and an estimate of the county's share of the annual cost of maintenance and operation. If the majority of the voters voting on such proposition shall approve the establishment of the community college, such college shall be deemed established and the board of supervisors shall proceed forthwith to exercise the powers and authority conferred upon it in this article.

6. a. Notwithstanding any other provision of law, community colleges established under this article shall have the authority to:

(i) Determine that the bidder on a contract for the purchase of apparel or sports equipment is not an acceptable bidder based on either of the following considerations:

(A) the labor standards applicable to the manufacture of the apparel or sports equipment, including but not limited to employee compensation, working conditions, employee rights to form unions, and the use of child labor, or

(B) the bidder's failure to provide information sufficient for the state agency or corporation to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

(ii) Include in the internal policies and procedures governing procurement of apparel a prohibition against the purchase of apparel or sports equipment from any vendor based upon either or both of the following considerations:

(A) the labor standards applicable to the manufacture of the apparel or sports equipment, including but not limited to employee compensation, working conditions, employee rights to form unions, and the use of child labor; or

(B) the bidder's failure to provide sufficient information for said state agencies to determine the labor standards applicable to the manufacture of the apparel or sports equipment.

b. For the purposes of this subdivision the term:

(i) "apparel" shall mean goods, such as, but not limited to, sports uniforms, including gym uniforms, required school uniforms, shoes, including, but not limited to, athletic shoes or sneakers, sweatshirts, caps, hats, and other clothing, whether or not imprinted with a school's name or logo, academic regalia, lab coats and staff uniforms; and

(ii) "sports equipment" shall mean equipment, such as, but not limited to, balls, bats and other goods intended for use by those participating in sports and games.

§ 6303. Programs and curricula of community colleges. 1. Community colleges shall provide two-year programs of post high school nature

combining general education with technical education relating to the occupational needs of the community, area or community college region in which the college is located and those of the state and the nation generally. Special courses and extension work may be provided for part-time students.

2. Training for certain occupational skills may be limited to selected community colleges by the state university trustees in order to avoid unnecessary duplication or overlapping of facilities and programs.

3. The curricula in community colleges shall be designed to serve the needs of students who seek two years of post secondary education and whose needs would not ordinarily be met by the usual four-year college curriculum. However, such colleges shall nevertheless provide sufficient general education to enable qualified students who so desire to transfer after completion of the community college program to institutions providing regular four-year courses except that the provision of such general education sufficient for transfer to institutions providing regular four-year courses shall be at the option of the local sponsor in any of the community colleges established upon discontinuance of a state institute of applied arts and sciences and upon discontinuance of the veterans vocational school at Troy pursuant to the provisions of section fifty-nine hundred nine of former article one hundred nineteen of this chapter.

4. The curricula of the community colleges shall be developed with the assistance and guidance of the state university trustees and shall be subject to their approval, and such modifications, amendments and revisions as they may from time to time prescribe.

5. Notwithstanding the provisions of any other general, special or local law, rule or regulation, community colleges may permit persons sixty years of age or over to audit courses given therein without tuition, examination, grading or credit therefor upon a space available basis, subject to the provisions of section sixty-three hundred four of this chapter, as determined by the president of each such institution, provided that such audit attendance does not deny course attendance at a

community college by an individual who is otherwise qualified under the regulations and the provisions of section sixty-three hundred four of this chapter. The provisions of this paragraph shall not affect any state aid to community colleges granted pursuant to article one hundred twenty-six of this chapter.

6. Notwithstanding the provisions of any other general, special or local law, rule or regulation, each community college, or the entity or entities responsible for setting tuition at such institution, shall be authorized to set a reduced rate of tuition and/or fees, or to waive tuition and/or fees entirely, for students participating in any dual or concurrent enrollment program with no reduction in other state, local, or other support for such students earning college credit that such higher education partner would otherwise be eligible to receive; provided that, for purposes of this provision, a dual or concurrent enrollment program shall mean one or more college courses taken by a high school student through a community college while such student is still enrolled in high school or boards of cooperative educational services and for which the student may receive both high school and college credit.

§ 6303-a. Graduation, achievement and placement program. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Plan" shall mean the graduation, achievement and placement (GAP) program plan to be developed by the state university trustees pursuant to subdivision two of this section, after consultation with the community college presidents, councils and faculty.

(b) "Program" shall mean the GAP program to be developed by the state university trustees pursuant to subdivision two of this section.

2. By no later than July first, two thousand fourteen, the state university trustees shall develop, as part of the master plan to be submitted pursuant to section three hundred fifty-four of this chapter, a comprehensive plan to be incorporated into its two thousand sixteen master plan and fully implemented no later than July first, two thousand

eighteen at each of the state university of New York community colleges. Such plan shall seek to develop a remedial education program to accomplish the following goals:

(a) Improve community college outcomes by reducing the time to degree completion or transfer to a four year college;

(b) Reduce state and local sponsor expenditures on remedial coursework;

(c) Improve overall community college graduation rates and employment prospects.

3. Each community college shall utilize features in its program identified in the SUNY task force on remediation report, issued pursuant to chapter fifty-seven of the laws of two thousand twelve, and shall consider other features of successful existing programs, including, but not limited to the following:

(a) Adoption of a consistent definition of "college readiness" for student placement into remedial programs using multiple measures of student achievement;

(b) Accelerated developmental education program offerings;

(c) Incorporating remedial instruction into the beginning of college-level programs, either as introductory courses or integrated into initial college-level courses;

(d) Utilize supplemental academic support for developmental students enrolled in college level courses as well as other contextualization models;

(e) A consolidated course schedule that permits students to take classes in a morning, afternoon or evening schedule so as to enable students to balance school, work and other personal responsibilities;

(f) An advisement model that directs counselors with assigned caseloads to meet with students monthly from program entry until graduation;

(g) Career and employment services that provide students with interview training, job skills and career planning;

(h) Academic support services that provide tutoring from qualified undergraduate or graduate students or faculty; and

(i) Comprehensive evaluation and the use of data to assess the effectiveness of the program.

4. Each community college shall be required to implement, on a partial basis, its program by the two thousand fourteen--two thousand fifteen academic year.

5. Each community college shall report on the implementation of the program and shall report on measures of student success for each student enrolled in such program. Such report shall include but not be limited to:

(a) Annual number and percentage of entering first-time students enrolled in remedial (developmental) education courses in math, english/reading or both and complete a college-level course in the same subject.

(b) Annual number and percentage of entering first-time degree or certificate seeking students who complete entry college-level math, english and reading courses within the first two consecutive academic years.

(c) Number and percentage of entering degree or certificate seeking students enrolling from fall to spring and fall to fall at an institution of higher education.

§ 6304. Financing of community colleges. 1. The master plan, standards and regulations prescribed by the state university trustees shall include provisions for financing the capital costs and operating costs of such colleges in the following manner:

a. State financial aid shall be one-third of the amount of operating costs, as approved by the state university trustees. Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement entered into between the dormitory authority and a local sponsor. Such aid for a college shall, however, be for two-fifths of operating costs for any fiscal year of the college during which it is implementing a program of full opportunity provided a plan has been approved by the state university trustees. Such plan, which shall be submitted by the college only after approval by the board

of trustees and the local sponsor or sponsors, shall

(i) establish a policy of offering acceptance in an appropriate program of the college to all applicants residing in the sponsorship area who graduated from high school within the prior year and to applicants who are high school graduates and who were released from active duty with the armed forces of the United States within the prior year;

(ii) provide for full implementation of such policy by the fall semester of nineteen hundred seventy or, if the college demonstrates to the state university trustees that full implementation by such time would not be feasible and in the best interests of the college, provide for a timetable to achieve such full implementation within five years which provides for substantial growth in registration each year;

(iii) make provision for and contain adequate assurances of the expenditure of funds by the sponsor or sponsors at a level pursuant to state university regulations, at least that necessary to implement the plan;

(iv) provide for adequate programs of remediation, instruction and counselling to meet the needs of all students to be served by the college. The trustees may require periodic reports or certifications from colleges which have submitted plans which have been approved and may, in appropriate cases, revoke such approval in case a college is in default of implementing its plan.

b. (i) Operating costs shall not include any payment of debt service or rentals or other payments by a local sponsor to the dormitory authority pursuant to any lease, sublease or other agreement entered into between the dormitory authority and a local sponsor. Such operating costs shall be subject to such maximum limitations and joint regulations as shall be prescribed by both the city university trustees and the state university trustees with the approval of the director of the budget. Such limitations shall be based upon maximum allowances per student for each student in attendance in the case of operating costs, or in accordance with such other factors as may be deemed appropriate. Operating costs shall include courses offered for the purpose of providing occupational training or assistance to business for the creation and retention of job opportunities and for the improvement of

productivity, through contracts or arrangements between a community college and a business, labor organization, or not-for-profit corporations or other nongovernmental organizations, including labor-management committees composed of labor, business and community leaders organized to promote labor-management relations, productivity, the quality of working life, industrial development, and retention of business in the community.

(ii) By December thirty-first, nineteen hundred seventy-three, the state university trustees shall develop a new formula for the financing of the operating costs of community colleges. Such formula may include maximum limitations, regulations, and incentives to achieve compliance with the code of standards and procedures for community colleges.

The state university trustees shall present to the governor proposed legislation incorporating such formula into law for consideration during the nineteen hundred seventy-four regular session of the legislature. The state university trustees shall also present a detailed analysis of the fiscal impact of such a formula on the state and on each community college within the state.

Such formula or the amended version thereof, upon enactment into law, shall replace any limitations and regulations then in existence concerning the financing of community colleges promulgated pursuant to this section.

(iii) The state university trustees shall, on or before December thirty-first in each year, make a report to the governor and legislature as to the status of community college programs and curricula provided for in article one hundred twenty-six of this chapter. Such report shall also contain recommendations for any revision or alteration in the formula for financing the operating costs of community colleges.

(iv) The state university trustees shall promulgate regulations, effective the first day of July, nineteen hundred seventy-four, which shall include a code of standards and procedures for the administration and operation of community colleges. Such code of standards and procedures, may include, but not be limited to, minimum and maximum standards for academic curricula, minimum and maximum qualitative and quantitative standards for facilities, and standard administrative

procedures, which may include schedules and formats for the preparation and submission of annual budgets by the boards of trustees and the local sponsors to the state university trustees, schedules for local sponsors' disbursements to the community colleges of their provided shares of operating costs and systems of accounts for use by the boards of trustees and the local sponsors of the community colleges. Such regulations may supplement, replace or amend any limitations and regulations then in existence promulgated pursuant to this section.

b-1. (i) Notwithstanding any provision of law to the contrary, for the community college fiscal year two thousand thirteen--two thousand fourteen and thereafter, each program that confers a credit-bearing certificate, an associate of occupational studies degree, or an associate of applied science degree, shall demonstrate that it is preparing students for current and future job opportunities by partnering with employers as follows:

(A) The program is a partnership between the community college and one or more employers to train and employ students in a specific occupation;

(B) The program has an advisory committee made up of members of whom the majority are employers in the occupation or sector, or a related sector, or is otherwise advised by one or more employers in the occupation or sector, that employ or will employ workers in the region where the community college is located, and such committee serves to advise the community college on the program's curriculum, recruitment, placement and evaluation so that it remains up-to-date with employer needs; or

(C) The program is in a high-tech sector and is in demand for current or projected job growth, including those sectors identified by the regional economic development council, and is advised by current or potential future employers in the occupation or sector.

(ii) On or before January first, two thousand fourteen for the community college fiscal year two thousand thirteen--two thousand fourteen, November first, two thousand fourteen for the community college fiscal year two thousand fourteen--two thousand fifteen and November first of each community college fiscal year thereafter, the state university trustees and the city university trustees shall each submit a job linkage report to the director of the budget, the chairs of

the senate and assembly higher education committees and the chair of the senate finance committee and the chair of the assembly ways and means committee, including an accounting of full time equivalent enrollment in programs that confer credit-bearing certificates, associate of occupational studies degrees, or associate of applied science degrees, in such a form and manner as the director of the budget may require to verify compliance with subparagraph (i) of this paragraph.

b-2. (i) Notwithstanding any provision of law to the contrary, within amounts appropriated for incentive funding, the state university of New York and city university of New York shall make awards to community colleges from the next generation NY job linkage program incentive fund based on measures of student success for all students enrolled in programs that confer a credit-bearing certificate, an associate of occupational studies degree, or an associate of applied science degree, including, but not limited to:

(A) The number of students who are employed following degree or certificate completion and their wage gains, if any, as determined by the department of labor, which shall be given the greatest weighting among all measures of student success;

(B) The number of degree completions, certificate completions and student transfers to other institutions of higher education;

(C) The number of degree and certificate completions under clause (B) of this paragraph by students considered academically at-risk due to economic disadvantage or other factor of under-representation within the field of study; veterans; and the disabled;

(D) The number of students who make adequate progress towards completion of a degree or certificate, which may include accelerated completion of a developmental education program;

(E) The number of degree completions in innovative programs designed to enable students to balance school, work and other personal responsibilities; and

(F) The number of students engaged in career and employment opportunities including apprenticeships, cooperative education programs or other paid work experience that is an integral part of their academic program.

(ii) Awards shall be made on a pro-rata basis in accordance with a

methodology and in a form and manner developed by the director of the budget, in consultation with the state university and city university.

(iii) On or before December first of each year, or an alternative date as determined by the director of the budget in consultation with the state university and city university, the state university trustees and the city university trustees shall each submit a plan for approval by the director of the budget to allocate amounts available for the next generation NY job linkage program incentive fund in accordance with this paragraph.

c. The local sponsor or sponsors shall provide one-half of the amount of the capital costs, or so much as may be necessary, and one-third or, in the case of a college implementing a program of full opportunity for local residents, four-fifteenths of the operating costs, or so much as may be necessary, by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services or, where a community college region is the local sponsor, in the manner provided by section sixty-three hundred ten of this chapter. Where the local sponsor or sponsors provide all or a portion of its or their share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget. Local sponsors and, in the case of community college regions, any county, city or school district which has appointed members to a community college regional board of trustees may authorize the issuance of bonds or notes pursuant to the provisions of the local finance law to provide any portion or all of its requisite share of such costs for which a period of probable usefulness has been established in the local finance law. Where a county or city is the local sponsor of a community college, or appoints members to a community college regional board of trustees, the expenditures of the county or city for the college, or community college region, shall be a purpose of the county or city provided, however, that taxes to pay the local sponsor's share of operating costs, or the operating shares of the community college

region charged to the county, may be charged back to the cities and towns in the county in proportion to the number of students attending the community college each term who were residents of each such city or town at the beginning of such term.

Notwithstanding any provision of law to the contrary, in the case of community college regions, a community college regional board of trustees as finance board of the region may authorize the issuance of bonds, notes or other evidence of indebtedness or the effectuation of a financing transaction by the community college region with the dormitory authority pursuant to the provisions of article eight of title four of the public authorities law to provide all or any portion of such costs for which a period of possible usefulness has been established in the local finance law. Notwithstanding any other provision of law, the community college region shall itself have the power to borrow money for specific objects or purposes or a class or classes of objects or purposes described in section 11.00 of the local finance law by adoption, by two-thirds of the voting strength of the regional board of trustees thereof, of a bond resolution as described in section 32.00 of the local finance law and shall include the recitation described in section 80.00 of the local finance law. Said bond resolution shall include the power to enter into financing transactions with the dormitory authority in accordance with the provisions of article eight of title four of the public authorities law. Upon adoption and receipt of the approvals described in subdivision ten of section sixty-three hundred ten of this article, the community college region shall publish a legal notice of estoppel as described in section 81.00 of the local finance law, which shall be applicable to said bond resolution. A community college region is hereby authorized to pledge any revenues or other monies to the payment of any obligations issued, or any financing agreement entered into with the dormitory authority.

d. Tuition and fees charged students shall be fixed so as not to exceed in the aggregate more than one-third of the amount of operating costs of the community college.

1-b. For the purpose of budgeting and expending funds and for the

purpose of determining eligibility for state financial aid for operating costs pursuant to subdivision one of this section, subject to rules and regulations of the state university trustees and the approval of the director of the budget, the community colleges in the city of New York sponsored by the board of higher education or by the city of New York where the board of higher education has been designated as the trustees of such colleges, shall be treated as a single community college.

2. Community colleges shall be empowered and authorized through their boards of trustees, to accept gifts, grants, bequests and devises absolutely or in trust for such purposes as may be appropriate or proper for effectuating the programs and objectives of such colleges.

3. Nothing herein contained shall be construed to prevent any local sponsor or sponsors from creating and operating community colleges which exceed maximum cost limitations or allowances prescribed by the state university trustees, provided however, that the excess costs over such prescribed limits or allowances shall be borne and paid for or otherwise made available to or by such sponsors.

4. Where two or more local sponsors jointly establish and operate a community college, the local share of the capital costs shall be apportioned among them according to their respective equalized assessed valuations or such other factors or bases as may be provided or prescribed in the plans, standards and regulations prescribed by the state university trustees. The local share of the operating expenses shall be apportioned among such joint sponsors in accordance with the number of students who are residents of their respective areas, or such other factors as may be prescribed in the plans, standards and regulations by the state university trustees.

5. Any community college may, with the consent and approval of its local legislative body or board, community college regional board of trustees, or other appropriate governing agency, and the state university trustees, require lesser tuition charges or fees from persons who are residents of the sponsoring community, communities or community college region than the amount necessary in the aggregate to provide

one-third of the operating costs, or provide tuition to such persons without charge, provided that the local legislative body or board, community college regional board of trustees or other appropriate governing agency appropriates sufficient funds, or sufficient funds are made available from other sources to provide the amount which would normally be provided by such tuition and fees. Each community college shall provide that upon request by a student who is an eligible veteran the payment of tuition and fees, less the amounts payable for such purposes from scholarships or other financial assistance awarded said veteran pursuant to article thirteen of this chapter, article one hundred thirty of this chapter or any other community college, state or federal financial aid program, shall be deferred in such amounts and until such times as the several payments of veterans' benefits under the Veterans' Readjustment Benefit Act of l966, as amended, are received by the veteran, provided that the veteran has filed a claim for such benefits and presents to the community college proof of eligibility, extent of entitlement to benefits and the need for deferral until the receipt of such benefits.

5-a. Notwithstanding the provisions of any general, special or local law to the contrary, the fiscal year of a community college other than in the city of New York and other than one sponsored by a school district, shall begin with the first day of September and end with the thirty-first day of August in each year. All of the provisions of law fixing times or dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a city or a county, including but not limited to submission of a budget estimate, filing of a tentative budget, public hearing and adoption of a budget, shall apply to the budget of a community college sponsored by such city or county but shall be correspondingly changed, as to time, to relate to the commencement of the fiscal year of the community college; provided, however, that after the budget for the community college shall have been adopted, the local legislative body or board or other appropriate governing body shall provide for the raising of taxes required by such budget, without any decrease in amount, in the same manner and at the same time prescribed by law for the annual levy of taxes by or for the city or county. All of the provisions of law fixing

times and dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a school district shall apply to the budget of a community college sponsored by a school district. The provisions of this subdivision shall not apply to community college regions.

5-b. Moneys raised by taxation for maintenance of a community college and moneys received from all other sources for purposes of the community college, other than in the city of New York, shall be kept separate and distinct from any other moneys of the sponsor or sponsors and shall not be used for any other purpose. The amount of taxes levied for maintenance of a community college shall be credited thereto and made available therefor within the fiscal year of such community college. The provisions of this subdivision shall not apply to community college regions.

6. The local legislative body or board, or other appropriate governing agency, other than a community college regional board of trustees, shall provide the local sponsor's share of the community college operating and capital costs in conformance with such sponsor's annual budgetary appropriation, and shall direct that payment of all appropriations for maintenance of the college be made to the board of trustees of the college for expenditure by the board, subject to the terms and conditions of such appropriations appearing in such budget and to such regulations regarding the custody, deposit, audit and payment thereof as such local legislative body or board, or other appropriate governing agency, may deem proper to carry out the terms of the budget; provided that any local sponsor which, as of January first, nineteen hundred eighty-eight, provided for audit and payment of charges against the community college in the same manner as it provides for other charges against the local sponsor, may continue to do so for a period not to extend beyond September first, nineteen hundred eighty-nine.

Such local legislative body or board, or other appropriate governing agency, shall authorize the board of trustees of the college to elect a treasurer, establish a bank account or accounts in the name of the college and deposit therein moneys received or collected by the college,

including moneys appropriated and paid by the local sponsor, moneys received from tuition, fees, charges, sales of products and services, and from all other sources. The board of trustees of the college shall, subject to the requirements specified in or imposed pursuant to this subdivision, authorize the treasurer to pay all proper bills and accounts of the college, including salaries and wages, from funds in its custody. The treasurer shall execute a bond or official undertaking to the board of trustees of the college in such sum and with such sureties as that board shall require, the expense of which shall be a college charge.

The board of trustees of the college similarly shall authorize the treasurer to establish and maintain petty cash funds, not in excess of two hundred dollars each, for specified college purposes or undertakings, from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. Lists of all expenditures made from such petty cash funds shall be presented to the board of trustees at each regular meeting thereof, together with the bills supporting such expenditures, for audit and the board shall direct reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any of such bills as shall be disallowed upon audit shall be the personal responsibility of the treasurer and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances.

The board of trustees of the college shall provide for periodic audits of all accounts maintained at its direction and render such reports respecting any and all receipts and expenditures of the college as the local legislative body or board, or other appropriate governing agency, may direct.

7. The board of trustees of the college, or the community college

regional board of trustees may require any bank or banker in which community college moneys are on deposit or are to be deposited to file with the board a surety bond payable to the college executed by a surety company authorized to transact business in this state and securing to the college the payment of such deposits and the agreed interest thereon, if any. In lieu of a surety bond, the board may require any such bank or banker to deposit with it outstanding unmatured obligations of the United States of America, the state of New York, or of any municipality or college of the state of New York, as security for such moneys so deposited; but such obligations shall be subject to the approval of the board and shall be deposited in such place and held under such conditions as the board may determine. Every depositary of college moneys is hereby authorized and empowered to secure deposits of such moneys as provided in this subdivision.

8. a. The state shall, in addition to any other funds that may be appropriated for assistance to community colleges, annually appropriate and pay

(i) to the local sponsor of each community college, except a community college where the local sponsor has entered into an agreement with the dormitory authority to finance and construct a community college facility, an amount equal to the aggregate of all rentals and all payments due and payable to the dormitory authority pursuant to any lease, sublease, or other agreement entered into between the dormitory authority and such local sponsor, whether or not such local sponsor shall be liable therefor, for each twelve-month period beginning on the next succeeding July first, and

(ii) to the local sponsor of each community college where the local sponsor has entered into an agreement with the dormitory authority to finance and construct a community college facility, an amount equal to one-half of all rentals and all payments due and payable to the dormitory authority pursuant to any lease, sublease, or other agreement entered into between the dormitory authority and such local sponsor, whether or not such local sponsor shall be liable therefor, for each twelve-month period beginning on the next succeeding July first, provided, however, if such a local sponsor shall thereafter agree to finance the costs of providing all or part of a community college

facility the state shall, instead, annually appropriate and pay to such local sponsor an amount equal to that portion of all rentals and all payments due and payable to the dormitory authority during the twelve-month period beginning on the next succeeding July first pursuant to any lease, sublease or other agreement providing for such financing which portion represents the state's share (one-half) of the cost of each facility being financed, whether or not the local sponsor shall be liable to pay such rentals and payments, and

(iii) to the local sponsor of each community college which has financed the entire capital cost of constructing a community college facility, an amount equal to one-half of the annual debt service on obligations issued by such local sponsor for the purpose of constructing such facility. No local sponsor of a community college shall be eligible for assistance pursuant to the provisions of this paragraph unless: (a) a first instance appropriation has been enacted into state law prior to the commencement of construction; and (b) the state comptroller has approved the interest rate of any and all obligations issued by such local sponsor after July twenty-fourth, nineteen hundred seventy-six to finance the cost of such facility prior to the issuance of such obligations; and (c) all contracts for the construction of such facility entered into by such local sponsor after July twenty-fourth, nineteen hundred seventy-six have been approved by the director of the budget prior to the awarding of such contracts.

(iv) notwithstanding any other provision of this paragraph to the contrary, if the dormitory authority and the state university of New York shall have entered into an agreement pursuant to subdivision twenty-one of section sixteen hundred seventy-eight of the public authorities law and paragraph x of subdivision two of section three hundred fifty-five of this chapter, the amounts otherwise payable to the local sponsors of the community colleges pursuant to this subparagraph on account of the state's share of the cost of each facility being financed shall be payable to the dormitory authority in accordance with subdivision five of section ninety-seven-p of the state finance law.

b. For the purposes of this subdivision, all references to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts

which have appointed members to a community college regional board of trustees.

c. For purposes of this subdivision, the reference to the local sponsor of a community college may be deemed, in the case of a community college region, to alternatively refer to the community college regional board of trustees thereof.

9. a. Where construction of a community college facility has commenced pursuant to the provisions of a lease, sublease or other agreement with the dormitory authority or prior to July twenty-fourth, nineteen hundred seventy-six, the local sponsor of such community college may elect to finance the entire capital cost of constructing such facility pursuant to the provisions of subdivision ten of this section, provided, however, that the proceeds of obligations issued by such local sponsor to finance the capital cost of constructing such facility may be paid to the dormitory authority to the extent of amounts owing under a lease, sublease or other agreement with the dormitory authority entered into by such local sponsor with respect to such facility, and provided further that any such local sponsor which elected to refinance the entire capital cost of constructing a community college facility pursuant to the provisions of this subdivision, may, at the time it enters into permanent financing of such facility, elect to do so pursuant to the provisions of the dormitory authority act or subdivision ten of this section.

b. For the purposes of this subdivision, all references to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of trustees.

10. a. Each local sponsor of a community college shall have full power and authority to finance all or a portion of the capital costs of a community college facility pursuant to the provisions of the local finance law and to expend the proceeds therefrom to pay such costs.

b. For the purposes of this subdivision, the reference to the local sponsor of a community college shall be deemed, in the case of community college regions, to refer to those counties, cities or school districts which have appointed members to a community college regional board of trustees.

c. A community college region shall have full power and authority to finance all or a portion of the capital costs of a regional community college facility pursuant to the provisions of article eight of title four of the public authorities law and to expend the proceeds therefrom to pay such costs.

11. a. The following terms, when used or referred to in this subdivision, shall have the following meaning:

(i) "Credit card" means any credit card, credit plate, charge card, charge plate, courtesy card, debit card, other identification card, value transfer device as defined by the state comptroller or device issued by a person to another person which may be used to obtain a cash advance or a loan or credit, or to purchase or lease property or services on the credit of the person issuing the credit card or a person who has agreed with the issuer to pay obligations arising from the use of a credit card issued to another person.

(ii) "Card issuer" means an issuer of a credit card, charge card or other value transfer device.

(iii) "Financing agency" means any agency defined as such in subdivision eighteen of section four hundred one of the personal property law.

(iv) "Person" means an individual, partnership, corporation or any other legal or commercial entity.

b. The board of trustees of any community college may determine, by resolution, that it is in the public interest to authorize such community college to enter into agreements with one or more financing agencies or card issuers to provide for the acceptance, by such officers of the community college as may be designated pursuant to this subdivision, of credit cards as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations or other amounts owed by

students to the community college. Any such agreement shall govern the terms and conditions upon which a credit card proffered as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations or other amounts shall be accepted or declined and the manner in and conditions upon which the financing agency or card issuer shall pay to such community college the amount of tuition, expenses, fees, charges, revenue, financial obligations or other amounts paid by means of a credit card pursuant to such agreement. Any such agreement may provide for the payment by such community college to such financing agency or card issuer of fees for the services provided by such financing agency or card issuer pursuant to such agreement, which fees may consist of a discount deducted from or payable in respect of the amount of each such tuition, expense, fee, charge, revenue, financial obligation or other amount. If fees are paid by such a discount, they shall be post-audited by the officer or board of the community college responsible for auditing claims against the community college.

c. Any community college which has entered into an agreement with a financing agency or card issuer as authorized by this subdivision may accept credit cards as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations or other amounts, as provided in such agreement and may pay such fees as are specified in such agreement to such financing agency or card issuer in consideration of the services rendered by such financing agency or card issuer thereunder. Notwithstanding any other provision of law to the contrary, it shall be the option of the board of trustees of the community college to require, as a condition of accepting payment by credit card, that such person offering payment by credit or charge card pay a service fee to the community college not exceeding costs incurred by the community college in connection with the credit or charge card payment transaction, including any fee owed by the community college to the financing agency or card issuer arising from that transaction.

d. Contracts entered into pursuant to this subdivision between community college and financing agencies or card issuers shall be awarded in accordance with the community college's written internal policies and procedures governing procurements.

e. The underlying debt, lien, obligation, bill, account or other amount owed by the student to the community college for which payment by credit card is accepted by the community college shall not be expunged, cancelled, released, discharged or satisfied, and any receipt or other evidence of payment shall be deemed conditional, until the community college has received final and unconditional payment of the full amount due from the financing agency or card issuer for such credit card transaction.

f. The board of trustees, in enacting a resolution pursuant to this subdivision, shall designate which of its officers, charged with the duty of collecting or receiving moneys on behalf of the community college, shall be authorized to accept credit cards as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations and other amounts.

g. Under circumstances where community colleges are otherwise authorized by law to contract for the collection of tuition, expenses, fees, charges, revenue, financial obligations or other amounts, such contract shall provide that the contractor accept credit cards as a mechanism for payment.

12. a. Notwithstanding any other law to the contrary, whenever an officer of a community college is authorized pursuant to law to disburse or transfer on behalf of the community college funds in the custody of the officer, that officer shall be authorized to disburse or transfer such funds by means of electronic or wire transfer. Such disbursement shall be otherwise subject to applicable laws, provided that:

(i) the board of trustees of the community college has entered into a written agreement with the bank or trust company in which such funds have been deposited, prescribing the manner in which electronic or wire transfer of such funds shall be accomplished, identifying by number and name those accounts from which electronic or wire transfers may be made, identifying which officer or officers are authorized to order the electronic or wire transfer of funds from those accounts, and implementing a security procedure as defined in section 4-A-201 of the

uniform commercial code; and

(ii) the bank or trust company processing the transfer shall provide to the officer ordering the electronic or wire transfer of funds written confirmation of each such transaction no later than the business day following the day on which the funds are transmitted.

b. It shall be the duty of the board of trustees of the community college to adopt a system of internal controls for the documentation and reporting of all transfers or disbursements of funds accomplished by electronic or wire transfer.

13. a. The board of trustees of any community college may determine, by resolution, that it is in the public interest and authorize such community college to provide for the acceptance of tuition, expenses, fees, charges, revenue, financial obligations or other amounts via a community college internet website. However, submission via the internet may not be required as the sole method for the collection of tuition, expenses, fees, charges and other amounts. Such payments shall be accepted via the internet in a manner and condition defined by such community college. Any method used to receive internet payments shall comply with article one of the state technology law and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum must:

(i) authenticate the identity of the sender; and

(ii) ensure the security of the information transmitted.

b. Payments received via the internet shall be considered received by the appropriate officer and paid by the payor at the time the internet transaction is completed and sent by the payor.

c. The underlying debt, lien, obligation, bill, account or other amount owed by the student to the community college for which payment by internet is accepted by the community college shall not be expunged, cancelled, released, discharged or satisfied, and any receipt or other evidence of payment shall be deemed conditional, until the community college has received final and unconditional payment of the full amount due.

d. The board of trustees, in enacting a resolution pursuant to this subdivision, shall designate which of its officers, charged with the duty of collecting or receiving moneys on behalf of the community college, shall be authorized to accept such payments via the internet.

§ 6304-A. Reports to local sponsors. The commissioner shall provide the local sponsor or sponsors with a copy of each program review report of the sponsored community college prepared by the department pursuant to this chapter. The comptroller shall provide the local sponsor or sponsors with a copy of each final audit or final report on the sponsored community college prepared by the department of audit and control. The president of the higher education services corporation shall provide the local sponsor or sponsors with a copy of each report of a financial aid program review of the sponsored community college.

§ 6305. Non-resident and out-of-state students. 1. In addition to admitting residents of its own local sponsor or sponsors, each community college shall, within the quota and under the conditions prescribed by the state university trustees, admit non-resident students and out-of-state students.

2. Any community college may, with the approval of the state university trustees, charge non-resident students sufficient tuition and fees to cover an allocable portion of the local sponsor's share of the operating costs of such community college in addition to regular tuition and fees. Such community college may elect to charge to and collect from each county within the state which has issued a certificate or certificates of residence pursuant to subdivision three of this section on the basis of which such non-resident students are attending such community college, an allocable portion of the local sponsor's share of the operating costs of such community college attributable to such non-resident students, computed on a per student basis, together with a further sum of not to exceed three hundred dollars each year to be determined and approved by the state university trustees for each such

non-resident student on account of the local sponsor's share of the capital costs incurred to provide facilities in which such non-resident students can be accommodated; or, where such non-resident students come from communities which have elected to participate in and pay an appropriate share of the expenses involved in the local sponsor's community college program, such allocable portion of operating expenses and such further sum not to exceed three hundred dollars per student for capital costs on account of their residents attending such community college shall be determined and approved by the state university trustees, and be charged to and collected from such communities.

3. The chief fiscal officer of each county, as defined in section 2.00 of the local finance law, shall, upon application and submission to such chief fiscal officer of satisfactory evidence in-person or electronically, issue to any person desiring to enroll in a community college as a non-resident student, a certificate of residence form showing that said person is a resident of said county. No such chief fiscal officer shall require a person desiring to enroll in a community college as a non-resident student to disclose or furnish his or her social security number. If the chief fiscal officer of a county refuses to issue such a certificate on the ground that the person applying therefor is not a resident of such county, or that such person is not subject to rules or regulations promulgated under subdivision four-a of this section, the person applying may appeal, in writing, electronically or by mail, to the chancellor of the state university. The chancellor of the state university, or such officers or employees thereof as shall be designated by the chancellor in a manner authorized by the state university trustees, shall make a determination after a hearing, upon ten days' notice to such chief fiscal officer of the county, and such determination shall be final and binding on the county. Such person shall, upon registration for each college year, file with the college such a certificate of residence form issued not earlier than two months prior thereto, and such certificate of residence form shall be valid for a period of one year from the date of issuance. The state university trustees shall be authorized to promulgate regulations to effectuate the provisions of this subdivision.

4. If, pursuant to subdivision two of this section, a community college elects to charge to and collect an allocable portion of the operating costs and a further sum on account of capital costs of such college from each county which has issued a certificate form or certificates of residence forms pursuant to subdivision three of this section, on the basis of which non-resident students are attending such community college, the president of such community college shall, within forty-five days after the commencement of each college term or program, or as otherwise provided by rules or regulations promulgated pursuant to subdivision four-a of this section, submit to the chief fiscal officer of each county a list of non-resident students attending such college on the basis of such certificates of residence form and a voucher for the amount payable by each county for these students. Such list and voucher shall be determined on the basis of non-resident students enrolled in the program as of the end (or last day) of the third week of the commencement for a program scheduled for one semester, the end of the second for a program scheduled for an academic quarter and the end of the first week for any program scheduled to be completed in thirty days or less. The chancellor of the state university, or such officers or employees thereof as shall be designated by the chancellor in the manner authorized by the state university trustees, shall notify the chief fiscal officers of each county of the approved annual operating and capital charge-back rate for each community college. The amount billed to the chief fiscal officer of each county by the president of such community college as a charge for the allocable portion of the operating costs and a further sum on account of capital costs of such college for non-resident students shall be paid to the chief fiscal officer of such college by the billed county no later than sixty days after the county receives said billing.

4-a. Notwithstanding any provision of law, rule, or regulation to the contrary, the state university trustees are authorized and directed to promulgate rules or regulations setting forth: (a) a schedule of late fees and exceptions thereof for a student submitting a certificate of residence form after the deadline otherwise prescribed by subdivision four of this section for such submission, but within the relevant semester or term; and (b) a reconciliation process for valid forms

received after the list of non-resident students was sent to a county pursuant to subdivision four of this section.

5. Amounts payable to such colleges by a county pursuant to this section shall be a general county charge; provided, however, that with respect to the amounts allocable to each community college a county may charge back such amounts in whole or in part to the cities and towns in the county in proportion to the number of students who, on the basis of certificates of residence issued by such county, were attending each such college as non-residents of the local sponsors thereof during the terms for which the county has been charged, and who were residents of each such city or town at the beginning of such terms.

7. In the case of counties comprising the city of New York, references in this section to a county shall mean the city of New York and references in this section to the chief fiscal officer of a county shall mean the comptroller of the city of New York.

8. Part-time and out-of-state students shall be charged such tuition and fees as may be approved by the state university trustees. Any student attending a community college who is a member or the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and stationed in this state, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees. Any student attending a community college in accordance with the federal GI bills and in compliance with all applicable eligibility requirements thereof, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees. Any student attending a community college who is the spouse or the dependent of a member of the armed forces of the United States on full-time active duty and not stationed in this state immediately following being stationed therein, whether or not a resident of this state, shall be charged the tuition rate for residents as approved by the state university trustees.

8-a. The payment of tuition and other fees and charges of a student who is attending a community college and who is not a legal resident of

New York state but is a United States citizen, a permanent lawful resident, an individual who is granted U or T non-immigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000, a person granted temporary protected status pursuant to the Federal Immigration Act of 1990, an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States, or an applicant without lawful immigration status may be reduced by state-aided programs, scholarships and other financial assistance awarded under the provisions of articles thirteen, thirteen-A, fourteen and fourteen-A of this chapter, provided that the student meets the requirements set forth in subparagraph (ii) of paragraph a or subparagraph (ii) of paragraph b of subdivision five of section six hundred sixty-one of this chapter, as applicable.

9. A community college may expend moneys collected as capital charges received from counties of nonresident students for up to one-half the purchase price of equipment. A community college may include up to one-half the purchase price of equipment in calculating capital charges collected from counties of nonresident students. Such expenditures shall be made pursuant to guidelines promulgated in rules and regulations of the board of trustees of the state university. In no event shall such expenditures qualify for state aid as capital costs.

10. On or before March thirty-first, nineteen hundred ninety-five and every year thereafter, the state shall reimburse each county which has issued a certificate of residence for any non-resident student in attendance at the fashion institute of technology during the nineteen hundred ninety-three--ninety-four academic year and every year thereafter in an amount equal to fifty percent of the actual amount paid by such county on behalf of such students and on or before June first, nineteen hundred ninety-five and every year thereafter, the state shall reimburse each county for the remaining fifty percent of the actual amount paid by each such county on behalf of such students.

12. Such calculated chargeback rates shall be set on an academic year basis and shall not vary by semester within each academic year, and no

retroactive charge shall be billed to any county based on an increased chargeback rate after the commencement of each annual academic year.

13. Beginning in the two thousand fourteen--two thousand fifteen academic year, the state university of New York and the city university of New York shall develop an on-line training program to be made available to each county treasurer and/or financial officer, to provide information regarding chargeback fees and guidance concerning common forms, timelines, and policies relating to chargeback fees and the payment thereof.

14. Beginning in the two thousand fourteen--two thousand fifteen academic year, the state university of New York and the city university of New York shall assist in the development and implementation of an on-line or electronic billing system, to be available to the counties of this state, for the payment of chargeback fees.

§ 6306. Administration of community colleges--boards of trustees. 1. Each community college, except in the city of New York, shall be administered by a board of trustees of ten members, nine of whom shall be appointed for terms of seven years in annual rotation, and one member elected as herein provided, except that initial appointments shall be made for terms of one to nine years respectively. Five members shall be appointed by the local legislative body or board, or other appropriate governing agency, one of whom may be a member of such local legislative body or board, or other appropriate governing agency, four, from among persons residing in the sponsoring community, by the governor and one member elected by and from among the students of the college who shall serve as a member of the board for a one-year term, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred seventy-five. The student member shall be afforded the same parliamentary privileges as are conferred upon voting members, including but not limited to the right to make and second motions and to place items on the agenda. Such student member shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the

members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. In the event that the student member ceases to be a student at the institution, he shall be required to resign. The governor's initial appointments shall be for terms of two, four, six and eight years respectively and those by local authorities for terms of one, three, five, seven and nine years respectively. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Where two or more local sponsors join in the establishment of a community college, the apportionment of the appointments among them shall be made by the state university trustees. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to the board of trustees of any community college hereafter established shall take office immediately upon their selection and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of the boards of trustees of community colleges heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day of June of the calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year all initial terms of office of appointed members of the boards of trustees of community colleges heretofore established shall be deemed to have commenced on the first day of July of the year in which such colleges were established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of

the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees. In the case of community colleges in the city of New York the year in which any such college was established for the purposes of this subdivision shall mean the year in which it was or may be determined that its board of trustees be appointed and serve in the manner provided by this subdivision.

The provisions of this subdivision shall not apply to community college regional boards of trustees.

1-a. Notwithstanding the provisions of subdivision one of this section, the term of office of a member of the board of trustees of Rockland Community College appointed by the local legislative body or board shall be five years.

2. The board of trustees of each community college shall appoint a president for the college, subject to approval by the state university trustees, and it shall appoint or delegate to the president the appointment of other members of the staff. The staff of a community college shall consist of the professional service and the non-professional service. The professional service shall include positions requiring the performance of educational functions in agriculture, home economics, liberal and applied arts and sciences, engineering, technical skills, crafts, business education, medicine, dentistry, nursing, academic administration, library service, student activities, student personnel services, and other professions required to carry on the work of the community colleges. The non-professional service shall consist of all positions not in the professional service. The board of trustees of each community college shall adopt curricula, subject to the approval of the state university trustees, prepare a budget and, with the exception of community college regional boards of

trustees, submit such budget for approval by the local legislative body or board, or other appropriate governing agency and, subject to the general supervision of the state university trustees, discharge such other duties as may be appropriate or necessary for the effective operation of the college. Where the city of New York is the local sponsor of a community college, salaries fixed by the board of trustees of such college shall be in accordance with salary schedules approved by the mayor of that city.

3. In the city of New York, upon the establishment of a community college sponsored by the board of education, the sponsoring board shall be the trustees and shall be vested with the powers of a board of trustees of a community college, or upon the application of the sponsoring board, approved by the state university trustees, the board of trustees of such community college may be appointed and serve in the manner provided by subdivision one of this section; and upon the establishment and continuance of a community college sponsored by the city of New York, the local sponsor may designate the board of education in that city as the trustee to be vested with the powers of a board of trustees of a community college, or the local sponsor may provide that the board of trustees of such community college shall be appointed and serve in the manner provided by subdivision one of this section. In the event that the board of education serves as the board of trustees of a community college in the city of New York, its powers and duties in relation thereto shall be as prescribed in this article for boards of trustees of community colleges. In the city of New York, the board of trustees of the fashion institute of technology shall, under such by-laws as such board deems appropriate, provide for the eligibility for sabbatical leaves of absence to members of its permanent instructional staff; provided, however, that when such leaves are for one-half year, they shall be at full pay, and when such leaves are for one year, they shall be at half pay.

3-a. (a) Notwithstanding the provisions of subdivisions one and three of this section, effective July first, two thousand eight, the fashion institute of technology shall be administered by a board of trustees of twelve members. Six members shall be appointed by the local sponsor, one

of whom may be a member of such sponsor; five members shall be appointed by the governor from among persons who reside in the city of New York; and one member shall be elected by and from among the students of the fashion institute of technology.

(b) The provisions of subdivisions one and three of this section notwithstanding, effective July first, two thousand nine, the fashion institute of technology shall be administered by a board of trustees of fourteen members. Seven members shall be appointed by the local sponsor, one of whom may be a member of such sponsor; six members shall be appointed by the governor from among persons who reside in the city of New York; and one member shall be elected by and from among the students of the fashion institute of technology.

(c) The provisions of subdivisions one and three of this section notwithstanding, effective July first, two thousand ten, the fashion institute of technology shall be administered by a board of trustees of sixteen members. Eight members shall be appointed by the local sponsor, one of whom may be a member of such sponsor; seven members shall be appointed by the governor from among persons who reside in the city of New York; and one member shall be elected by and from among the students of the fashion institute of technology.

3-b. The board of trustees of each community college, and those provided for in the city of New York by subdivision three of this section, shall adopt a policy for admission of students who have completed an online high school program located within the United States consistent with the provisions of subparagraph eleven of paragraph h of subdivision two of section three hundred fifty-five of this chapter.

4. The board of trustees of each community college may acquire by deed, gift, devise, bequest or lease, real or personal property suitable for carrying out the program and purposes of the college, and pursuant to regulations prescribed by the state university trustees may apply any income that may be derived therefrom to the maintenance thereof; but no lands, grounds, buildings, facilities or equipment shall be purchased or leased unless an appropriation has been made, therefor, or unless otherwise authorized by law. Title to personal property so acquired shall vest in such board of trustees in its own name and such property

shall be held and used by such board for college purposes. Title to real property so acquired shall vest in and be held by the local sponsor in trust for the uses and purposes of the community college. Where a community college region is the local sponsor of a community college, title to real and personal property shall vest in the community college regional board of trustees. The use of real or personal property given to the board of trustees of any community college, or of the income therefrom, to provide any part of the local sponsor's share of capital or operating costs shall be subject to the consent of the state university trustees and such regulations as they may prescribe.

5. The board of trustees shall have the care, custody, control and management of the lands, grounds, buildings, facilities and equipment used for the purposes of such college and of all other property belonging to such college and used for carrying out its purposes, and it shall have power to protect, preserve and improve the same.

5-a. a. The board of trustees of each community college shall have the authority to appoint security officers for the community college and, in its discretion, to designate or to revoke the designation of one or more than one security officer as a peace officer. A security officer so designated shall have the powers of a peace officer as set forth in section 2.20 of the criminal procedure law. A security officer designated as a peace officer must have satisfactorily completed or complete, within one year of the date of such designation, a course of law enforcement training prescribed by the municipal police training council in consultation with the state university board of trustees. A peace officer so designated may possess and carry a firearm as a part of on duty employment only if authorized to do so by the president of the community college. The geographical area of employment of a peace officer so designated is the campus and other property of the community college at which the peace officer serves, including that portion of a public highway which crosses or abuts such property, and residential or other facilities owned, operated, or maintained by a not-for-profit entity associated with the community college for which such community college provides security.

b. The appointment of security officers at a community college shall be governed by and conform with civil service laws, rules and regulations, if applicable to the community college and its employees. The designation of a security officer as a peace officer shall be based on qualifications established by the community college board of trustees, and in accordance with seniority. For purposes of this subdivision, "seniority" means total employment service with the community college making such designation.

c. A security officer who has been designated a peace officer may have such designation suspended or removed pursuant to procedures established by the community college or in compliance with any local collective bargaining agreement, if applicable to the community college and its employees.

d. The designation of peace officers pursuant to this subdivision shall not be deemed to supersede in any way the authority of other peace officers and police officers.

e. Nothing contained in this section shall be construed to: (i) alter any existing collective bargaining agreement; (ii) diminish the rights of employees pursuant to an existing collective bargaining agreement; (iii) affect existing law with respect to an application to the public employment relations board seeking designation by the board that certain persons are managerial or confidential; or (iv) alter or restrict the power of a county or community college sponsor or employee organization to negotiate with respect to an alternate method of appointment or promotion of security officers.

5-b. Subject to the approval of the board of regents, the board of trustees shall have the authority to grant honorary associate degrees.

6. The board of trustees shall have such other powers and perform such other duties as may be provided by law or prescribed by the state university trustees.

7. Subject to the approval of the local sponsor acting through its

local legislative body or board, or other appropriate governing agency, and pursuant to such regulations and limitations as may be established and prescribed by the state university trustees, the board of trustees of each community college may enter into any contract or agreement deemed necessary or appropriate for the effective operation of the college, (1) including contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder; provided, however, that the sponsor shall not be liable for any portion of any defaults which it has agreed to assume pursuant to any such agreement in an amount in excess of money appropriated or otherwise lawfully available therefor at the time the liability for payment arises, and (2) including contracts with non-profit corporations organized by officers, employees, alumni or students of the college for the furtherance of its objects and purposes. Notwithstanding the provisions of any other law, general, special or local, such contracts entered into with such non-profit corporation shall not be subject to any requirement that contracts be let to the lowest responsible bidder after advertisement for bids. Nothing contained in this subdivision shall be deemed to diminish or impair any powers or authority otherwise vested in the board of trustees of any community college. The provisions of this subdivision shall not apply to community college regional boards of trustees.

8. Subject to the approval of the local sponsor acting through its local legislative body or board, or other appropriate governing agency, and pursuant to such regulations and limitations as may be established and prescribed by the state university trustees with the approval of the director of the budget, the board of trustees of each community college may participate in cooperative educational programs, services and arrangements with colleges, universities, school districts, boards of cooperative educational services, libraries, museums and join any cooperative association of such educational institutions formed as a corporation pursuant to section two hundred sixteen of this chapter. The provisions of this subdivision shall not apply to community college regional boards of trustees.

8-a. a. The board of trustees shall, on or before January first, two thousand, adopt and implement a plan providing for the investigation of any violent felony offense occurring at or on the grounds of each such institution, and providing for the investigation of a report of any missing student. Such plans shall provide for the coordination of the investigation of such crimes and reports with local law enforcement agencies. Such plans shall include, but not be limited to, written agreements with appropriate local law enforcement agencies providing for the prompt investigation of such crimes and reports and a requirement that the institution shall notify the appropriate law enforcement agency as soon as practicable but in no case more than twenty-four hours after a report of a violent felony or that a student who resides in housing owned or operated by such institution is missing; provided that each institution shall: (1) inform each victim of a sexual offense of their options to notify proper law enforcement authorities, including on-campus and local police; (2) inform the victim of a sexual offense of the right to report or not to report such offense to the local law enforcement agencies; and (3) offer the option to be assisted by campus authorities in notifying such authorities, if the victim of sexual assault so chooses, all in compliance with applicable federal law, including, but not limited to, the federal Campus Sexual Assault Victims' Bill of Rights under Title 20 U.S. Code Section 1092(f).

b. As used in this subdivision, the following terms shall have the following meanings:

(i) "Local law enforcement agencies" means any agency or agencies employing peace officers or police officers for the enforcement of the laws of the state, and which has or have jurisdiction under provisions of the criminal procedure law over offenses occurring at or on the grounds of any institution subject to the provisions of this subdivision.

(ii) "Missing student" means any student of an institution subject to the provisions of this subdivision, who resides in a facility owned or operated by such institution and who is reported to such institution as missing from his or her residence.

(iii) "Violent felony offense" means a violent felony offense as defined in subdivision one of section 70.02 of the penal law.

9. In the case of colleges sponsored by community college regions, references in subdivisions two, four, five, six and eight-a of this section to the board of trustees of a community college shall mean the community college regional board of trustees.

10. The boards of trustees of the state university of New York community colleges shall consult with boards of cooperative educational services (BOCES) to identify new or existing programs offered to students that would allow a student to pursue an associate of occupational studies (AOS) degree from a community college upon high school graduation. Once identified, BOCES in collaboration with the community college boards of trustees shall make such path, identified programs, and AOS degree options known to ensure that students are aware that such options exist. Such notification shall begin in the eighth grade, and include the provision of materials on AOS degree options to school counselors in each school district in such region. Provided however, that such boards and BOCES shall not take any action to direct or suggest that a student should pursue a particular degree or pathway.

11. The board of trustees of each community college shall adopt written policies requiring that all public single-occupancy bathroom facilities be designated as gender neutral for use by no more than one occupant at a time or for family or assisted use. Such gender neutral bathroom facilities shall be clearly designated by the posting of such on or near the entry door of each facility. For purposes of this section, "single-occupancy bathroom" shall have the same meaning as paragraph (d) of subdivision one of section one hundred forty-five of the public buildings law.

* 12. (a) The use of artificial intelligence systems, as defined by section one hundred three-e of the state technology law, shall not affect (i) the existing rights of employees pursuant to a collective bargaining agreement; or (ii) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

(b) The use of such artificial intelligence systems shall not result in the: (i) discharge, displacement or loss of position, including

partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of collective bargaining agreements; or

(ii) transfer of existing duties and functions currently performed by employees of each community college to an artificial intelligence system.

(c) The use of an artificial intelligence system shall not alter the rights or benefits, and privileges, including but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership status of all existing employees of each community college shall be preserved and protected.

* NB Repealed July 1, 2028

§ 6307. Establishment of state-aided four-year colleges. 1. Upon recommendation of the state university trustees, counties or adjoining cities not now adequately served by any four-year college programs, may be empowered singly or jointly to establish and operate four-year college programs. Such colleges shall be financed and administered in a manner similar to that provided for community colleges herein.

§ 6308. Defense and indemnification of community college trustees, officers and employees. 1. As used in this section, the term "employee" shall mean any person holding a position by appointment or employment in the service of a community college, whether or not compensated, or a volunteer expressly authorized to participate in a community college sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his estate or judicially appointed personal representative.

2. (a) Upon compliance by the employee with the provisions of subdivision four of this section, the local sponsor of a community college shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his

public employment or duties, or which is brought to enforce a provision of section nineteen hundred eighty-one or nineteen hundred eighty-three of title forty-two of the United States code and the act or omission underlying the action occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the local sponsor.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by the local sponsor provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the local sponsor determines based upon its investigation and review of the facts and circumstances of the case that representation by the local sponsor would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The local sponsor shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel. The local sponsor may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. The local sponsor shall certify to its chief fiscal officer that the employee or group of employees is entitled to representation by private counsel under the provisions of this section. Reasonable attorneys' fees and litigation expenses shall be paid by the local sponsor to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the board of trustees of the community college at which such employee is employed and upon the audit and warrant of the chief fiscal officer of the sponsor. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(c) Where the employee delivers process and a request for a defense to

the local sponsor as required by subdivision four of this section, the sponsor shall take the necessary steps including the retention of private counsel under the terms and conditions provided in paragraph (b) of this subdivision on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

3. (a) The local sponsor shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, or shall pay such judgement or settlement; provided, that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless or pay prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(b) An employee represented by the local sponsor or by private counsel pursuant to this section shall cause to be submitted to the board of trustees of the community college at which he is employed any proposed settlement which may be subject to indemnification or payment by the local sponsor and if not inconsistent with the provisions of this section such board of trustees of the community college at which he is employed shall certify such settlement, and submit such settlement and certification to the local sponsor. The local sponsor shall review such proposed settlement as to form and amount, and shall give its approval if in its judgment the settlement is in the best interest of the local sponsor and the community college. Nothing in this subdivision shall be construed to authorize the local sponsor to indemnify and save harmless an employee with respect to a settlement or pay any such settlement not so reviewed and approved.

(c) Nothing in this subdivision shall authorize the local sponsor to indemnify and save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to section fifty-one of the general municipal law; provided, however, that the local sponsor shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an

adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgement, consent decree or stipulation of settlement entered in any court of this state or of the United States.

(d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the board of trustees of the community college at which he is employed; and if not inconsistent with the provisions of this section, such judgment or settlement shall be certified for payment by such board. If the local sponsor concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the chief fiscal officer of the local sponsor.

4. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon (i) delivery to the local sponsor at its main business office by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the community college or local sponsor based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the local sponsor provide for his defense pursuant to this section.

5. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.

6. The provisions of this section shall not in any way affect the obligation of any claimant to give notice to the local sponsor under any provision of law.

7. The provisions of this section shall not be construed to impair,

alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

8. The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

9. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the sponsor or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

10. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.

11. In the case of colleges sponsored by community college regions, references in this section to the board of trustees of a community college shall mean the president of colleges sponsored by such regions.

§ 6309. Reimbursement of defense costs incurred by or on behalf of community college trustees, officers and employees. 1. As used in this section, unless the context otherwise requires, the term "employee" shall mean any person holding a position by appointment or employment in the service of a community college, whether or not compensated, or a volunteer expressly authorized to participate in a community college sponsored volunteer program, but shall not include an independent contractor. The term employee shall include a former employee, his or her estate, or judicially appointed personal representative.

2. (a) Upon compliance by the employee with the provisions of subdivision three of this section, and subject to the conditions set forth in paragraph (b) of this subdivision, it shall be the duty of the local sponsor of a community college to pay reasonable attorneys' fees and litigation expenses incurred by or on behalf of an employee in his or her defense of a criminal proceeding in a state or federal court arising out of any act which occurred while such employee was acting within the scope of his or her public employment or duties, upon his or her acquittal, or upon the dismissal of the criminal charges against him or her, or reasonable attorney's fees incurred in connection with an appearance before a grand jury which returns no true bill against the employee where such appearance was required as a result of any act which occurred while such employee was acting within the scope of his or her public employment or duties unless such appearance occurs in the normal course of the public employment or duties of such employee.

(b) Upon the application for reimbursement of reasonable attorneys' fees or litigation expenses, or both, made by or on behalf of an employee as provided in subdivision three of this section, the local sponsor shall determine, based upon its investigation and its review of the facts and circumstances, whether such reimbursement shall be paid. The local sponsor shall notify the employee in writing of such determination. Upon determining that such reimbursement should be provided, the local sponsor shall so certify to its chief fiscal officer. Upon such certification, reimbursement shall be made for such fees or expenses, or both, upon the audit and warrant of the chief fiscal officer. Any dispute with regard to entitlement to reimbursement or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by a court of competent jurisdiction upon appropriate motion or by way of a special proceeding.

3. Reimbursement of reasonable attorneys' fees or litigation expenses, or both, by the local sponsor as prescribed by this section shall be conditioned upon (a) delivery to the local sponsor at its main business office by the employee of a written request for reimbursement of expenses together with, in the case of a criminal proceeding, the original or a copy of an accusatory instrument within ten days after the

employee is arraigned upon such instrument or, in the case of a grand jury appearance, written documentation of evidence of such appearance and (b) the full cooperation of the employee in defense of any action or proceeding against the community college or local sponsor based upon the same act, and in the prosecution of any appeal.

4. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate, or restrict any immunity available to or conferred upon any unit, entity, officer, or employee of the sponsor or any other level of government, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provisions of state or federal statutory or common law.

5. If any provision of this section or the application thereof to any person or circumstance by held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstances.

§ 6310. Community college regions - administration and finance. 1. Each community college region and community college sponsored by such region shall be administered by a single board of trustees of fourteen members, thirteen of whom shall be appointed for terms of seven years, as set forth in this subdivision, and one member elected as herein provided, except that initial appointments shall be made for terms of one to nine years respectively. Seven members shall be appointed by the local legislative bodies or boards of those counties eligible to appoint members to the community college regional board of trustees. The seven locally appointed members of such board may include one member from the local legislative body or board of each county eligible to appoint members to the community college regional board of trustees. Membership in a community college regional board of trustees shall be apportioned among the counties participating in such board in accordance with the

number of full-time equivalent students attending a community college sponsored by such regional board who are residents of the respective participating counties, and in accordance with such further regulations as may be prescribed by the state university trustees. Six members shall be appointed by the governor and one member elected by and from among the students of the college who shall serve as a member of the board for a one-year term, provided, however, that the term of the student member first elected shall be nine months commencing October first, nineteen hundred eighty-four. The student member shall be afforded the same parliamentary privileges as are conferred upon members, including but not limited to the right to make and second motions and to place items on the agenda. Such student member shall be subject to every provision of any general, special or local law, ordinance, charter, code, rule or regulation applying to the members of such board with respect to the discharge of their duties including, but not limited to, those provisions setting forth codes of ethics, disclosure requirements and prohibiting business and professional activities. The election of the student member shall be conducted in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines established by the state university trustees. In the event that the student member ceases to be a student at the institution, he shall be required to resign. The governor's initial appointments shall be as follows: (a) two individuals shall be appointed for terms of two and four years respectively; (b) two individuals for terms of six years and two individuals for terms of eight years. Appointments by local authorities shall be as follows: (a) three individuals for terms of one, three and five years, respectively; (b) two individuals for terms of seven years, and two individuals for terms of nine years. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to any community college regional board of trustees hereafter established shall take office immediately upon their selection

and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of community college regional boards of trustees heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day of June of the calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year all initial terms of office of appointed members of the community college regional board of trustees heretofore established shall be deemed to have commenced on the first day of July of the year in which such community college regions were established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees.

1-a. Notwithstanding the provisions of subdivision one of this section, a community college region established to operate as local sponsor of Jamestown community college shall be administered by a single board of trustees of fifteen members, fourteen of whom shall be appointed for terms of seven years, except that the initial appointments shall be made as set forth in this subdivision, and one member who shall be elected by and from among the students of the college and shall serve as set forth in subdivision one of this section. Eight members shall be appointed by the local governing bodies of the counties and city eligible to appoint members to the Jamestown community college regional board of trustees, and six members shall be appointed by the governor. The eight locally appointed members of such board may include one member appointed from among the local governing bodies of the counties or city eligible to appoint members to the regional board of trustees.

Membership in the Jamestown community college regional board of trustees shall be apportioned in accordance with the number of full-time equivalent students attending the community college who are residents of the respective participating counties or city, and in accordance with such further regulations as may be prescribed by the state university trustees.

Upon the effective date of this subdivision, and notwithstanding any inconsistent provision of any other law, the current Jamestown community college board of trustees shall be redesignated the Jamestown community college regional board of trustees and the terms of the current members of the Jamestown community college board of trustees shall continue until their expiration or termination as provided by section sixty-three hundred six of this chapter. The governor's initial appointments to the Jamestown community college regional board of trustees shall be as follows: one individual shall be appointed for a term of three years, and one individual shall be appointed for a term of five years. Initial appointments by the local authorities shall be as follows: one individual shall be appointed for a term of two years, one individual shall be appointed for a term of four years, and one individual shall be appointed for a term of six years. Vacancies shall be filled for unexpired terms in the same manner as original selections by the authority responsible for the original selection. The board shall select its own chairman from among its voting membership. Trustees shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this article. Members initially appointed or elected under this subdivision to any community college regional board of trustees hereafter established shall take office immediately upon their selection and qualification, but for purposes of determining the expiration of their respective terms and the commencement of the terms of their successors, the term of office of each such initial member shall be deemed to have commenced on the first day of July of the year in which such college was established. The terms of office of all members of community college regional boards of trustees heretofore established, appointed or elected as provided in this subdivision, shall terminate on the thirtieth day of June of the

calendar year within which such terms expire under the provisions of this subdivision as hereby amended. For the purpose of determining such year, all initial terms of office of appointed members of the community college regional board of trustees heretofore established and the terms of their successors for full terms, if any, shall be deemed to have commenced upon the expiration of the number of years from such date for which such initial appointments were made.

The one member elected by and from among the students of the college may be removed by such students in accordance with rules and regulations promulgated by the respective representative campus student association in accordance with guidelines promulgated by the state university trustees.

1-b. Notwithstanding any provision of this article to the contrary, with regard to the operating costs of the Jamestown community college, the county of Chautauqua, as a local sponsor of such college, may pay all such operating costs incurred by such county and may also pay all such operating costs incurred by any city within such county which is a local sponsor of such college. The county of Chautauqua may pay all such operating costs pursuant to this subdivision:

(a) without any charge back to any city or town within such county; or

(b) with a charge back of all or any portion of such operating costs to the cities (including the city of Jamestown) and towns in such county, in proportion to the number of students attending such community college each term who were residents of each such city or town at the beginning of such term.

2. Pursuant to such regulations and limitations as may be established and prescribed by the state university trustees, the community college regional board of trustees may enter into any contract or agreement deemed necessary or appropriate for the effective operation of the college, including: (a) contracts or agreements entered into with the federal government to enable participation in federal student loan programs, including any and all instruments required thereunder; and (b) contracts with non-profit corporations organized by officers, employees, alumni or students of the college for the furtherance of its objects and

purposes. Notwithstanding the provisions of any other law, general, special or local, such contracts entered into with such non-profit corporation shall not be subject to any requirement that contracts be let to the lowest responsible bidder after advertisement for bids. Nothing contained in this subdivision shall be deemed to diminish or impair any powers or authority otherwise vested in the community college regional board of trustees.

3. Pursuant to such regulations and limitations as may be established and prescribed by the state university trustees with the approval of the director of the budget, the community college regional board of trustees may participate in cooperative educational programs, services and arrangements with colleges, universities, school districts, boards of cooperative educational services, libraries, museums and join any cooperative association of such educational institutions formed as a corporation pursuant to section two hundred sixteen of this chapter.

4. The community college regional board of trustees is hereby created a body corporate. All property which is now vested in, or shall hereafter be conveyed or transferred to the community college regional board of trustees, shall be held by them as a corporation.

4-a. (a) A community college regional board of trustees shall have the authority to appoint security officers for the community college and, in its discretion, to designate or to revoke the designation of one or more than one security officer as a peace officer. A security officer so designated shall have the powers of a peace officer as set forth in section 2.20 of the criminal procedure law. A security officer designated as a peace officer must have satisfactorily completed or complete, within one year of the date of such designation, a course of law enforcement training prescribed by the municipal police training council in consultation with the state university board of trustees. A peace officer so designated may possess and carry a firearm as a part of on duty employment only if authorized to do so by the president of the community college. The geographical area of employment of a peace officer so designated is the campus and other property of the community college at which the peace officer serves, including that portion of a

public highway which crosses or abuts such property, and residential or other facilities owned, operated, or maintained by a not-for-profit entity associated with the community college for which such college provides security.

(b) The appointment of security officers at a community college shall be governed by and conform with civil service laws, rules and regulations, if applicable to the community college and its employees. The designation of a security officer as a peace officer shall be based on qualifications established by the community college board of trustees, and in accordance with seniority. For purposes of this subdivision, "seniority" means total employment service with the community college making such designation.

(c) A security officer who has been designated a peace officer may have such designation suspended or removed pursuant to procedures established by the community college or in compliance with any local collective bargaining agreement, if applicable to the community college and its employees.

(d) The designation of peace officers pursuant to this subdivision shall not be deemed to supersede in any way the authority of other peace officers and police officers.

(e) Nothing contained in this section shall be construed to: (i) alter any existing collective bargaining agreement; (ii) diminish the rights of employees pursuant to an existing collective bargaining agreement; (iii) affect existing law with respect to an application to the public employment relations board seeking designation by the board that certain persons are managerial or confidential; or (iv) alter or restrict the power of a county or community college sponsor or employee organization to negotiate with respect to an alternate method of appointment or promotion of security officers.

5. Two or more eligible counties appointing members to a community college regional board of trustees shall divide the local share of the capital costs of a community college sponsored by such community college region according to the respective equalized assessed valuations of such counties or such other factors as may be prescribed by the state university trustees. The local share of the operating expenses of a community college sponsored by a community college region shall be

apportioned among those counties appointing members to the community college regional board of trustees on the basis of operating shares. Such operating shares shall be allocated in proportion to the number of students attending the community college who are residents of the respective counties participating on the community college regional board, calculated on the basis of full-time equivalent students, in the same manner as the allocable portion of the local sponsor's share of operating costs pursuant to section sixty-three hundred five of this chapter, and such other factors as may be prescribed by the state university trustees. Any community college sponsored by a community college region may, under the provisions of section six thousand three hundred five of this chapter, elect to charge an allocable portion of the operating costs incurred by the regional sponsor, and a further sum on account of the regional sponsor's share of capital costs, to the counties of residence of students attending such college who are non-residents of the community college region.

6. The final budget of the community college region as adopted by the regional board of trustees and approved by the state university trustees shall be a charge against all of the counties appointing members to such board. The regional board of trustees, after approval of its budget, shall certify to the legislative body or board of all counties appointing members to such regional board the respective proportionate share of the capital and operating costs required to be raised by each county. The counties shall add such costs, as certified, to their own budgets and provide such certified costs by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services. Where a county provides all or a portion of its share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget. Such funds shall be turned over to the treasurer of the community college sponsored by the community college region within the fiscal year of such region. Notwithstanding any other provision of this

subdivision, all counties appointing members to a community college regional board of trustees may require that any budget proposed by such regional board, which would result in an increase in the level of contributions to college revenues by such counties over the level of contributions required for the previous college fiscal year, shall be approved by the legislative body or board of all such counties.

7. Notwithstanding the provisions of any general, special or local law to the contrary, the fiscal year of a community college sponsored by a community college region shall begin with the first day of September and end with the thirty-first day of August in each year. All of the provisions of law fixing times or dates within which or by which certain acts shall be performed in relation to the preparation and adoption of the budget of a county, including but not limited to submission of a budget estimate, filing of a tentative budget, public hearing and adoption of a budget, shall apply to the budget of a community college-sponsored by a community college region but shall be correspondingly changed, as to time, to relate to the commencement of the fiscal year of the community college region; provided, however, that after the budget for the community college region shall have been adopted, the counties appointing members to a community college regional board of trustees shall provide for the raising of taxes required by such budget, without any decrease in amount, in the same manner and at the same time prescribed by law for the annual levy of taxes by or for the county.

8. Moneys raised by taxation for maintenance of a community college region and moneys received from all other sources for purposes of the community college region shall be kept separate and distinct from any other moneys of the counties appointing members to the community college regional board of trustees and shall not be used for any other purpose. The amount of taxes levied for maintenance of a community college region shall be credited thereto and made available therefor within the fiscal year of such community college region.

9. The community college regional board of trustees shall direct that payment of amounts for maintenance of the college be made in whole or in

part to the treasurer of the community college sponsored by such region for expenditure by such officer, subject to such regulations regarding the custody, deposit, audit and payment thereof as such board of trustees may deem proper.

The board of trustees may authorize the treasurer of the college to establish a bank account or accounts in the name of the college and deposit therein moneys received or collected by the college, including moneys appropriated and paid by the counties appointing members to the community college regional board of trustees, moneys received from tuition, fees, charges, sales of products and services, and from all other sources. The board of trustees may authorize the treasurer to pay all proper bills and accounts of the college, including salaries and wages, from funds in its custody. The treasurer shall execute a bond or official undertaking to the community college regional board of trustees in such sum and with such sureties as that board shall require, the expense of which shall be a college charge.

The community college regional board of trustees similarly may authorize the treasurer to establish and maintain petty cash funds, not in excess of two hundred dollars each, for specified college purposes or undertakings, from which may be paid, in advance of audit, properly itemized and verified or certified bills for materials, supplies or services furnished to the college for the conduct of its affairs and upon terms calling for the payment of cash to the vendor upon the delivery of any such materials or supplies or the rendering of any such services. Lists of all expenditures made from such petty cash funds shall be presented to the board of trustees at each regular meeting thereof, together with the bills supporting such expenditures, for audit and the board shall direct reimbursement of such petty cash funds from the appropriate budgetary item or items in an amount equal to the total of such bills which it shall so audit and allow. Any of such bills or any portion of any of such bills as shall be disallowed upon audit shall be the personal responsibility of the treasurer and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances.

The community college regional board of trustees shall provide for periodic audits of all accounts maintained at its direction and render such reports respecting any and all receipts and expenditures of the college as the local legislative body or board, or other appropriate governing agency, may direct.

10. All proposals for the acquisition or construction, including new construction, additions or reconstruction of college facilities adopted by a community college regional board of trustees shall be approved by the legislative body or board of all counties appointing members to such board of trustees, and the state university trustees. Upon such approvals, each participating county may finance its proportionate share of the cost of acquisition of such facilities either from any current funds legally available therefor, or by the issuance of obligations pursuant to the local finance law. All counties participating in such regional board of trustees may together issue joint obligations pledging the full faith and credit for all participating counties jointly and that each such county shall pay a specified share of annual debt service on such joint obligations in accordance with the provisions of article five-g of the general municipal law and applicable provisions of the local finance law.

10-a. Notwithstanding the provisions of subdivision ten of this section, upon receipt of the approvals set forth in such subdivision, the board of trustees of the community college region may finance a duly authorized specific object or purpose or class of objects or purposes by the issuance of bonds, notes or other evidence of indebtedness or pursuant to a financing transaction of the community college region with the dormitory authority in accordance with the provisions of article eight of title four of the public authorities law.

11. The community college regional board of trustees, for the purpose of administering the state civil service law, shall be deemed to be a municipal employer. No civil service rights of an employee of any community college or local sponsor shall be lost, impaired or affected by reason of the enactment of this section and related amendments of this article into law.

12. For the purposes of article fourteen of the civil service law, the community college regional board of trustees shall be deemed to be the public employer and as such shall negotiate with and enter into written agreements with employee organizations representing the instructional staff and non-instructional staff of the community colleges that have been certified or recognized under such article. For purposes of such article, the president of the community college shall be deemed to be the chief executive officer, the chief legal officer of the community college shall be chief legal officer, and the community college regional board of trustees shall be deemed to be the legislative body of the government. The state public employment relations board shall have exclusive jurisdiction for the purpose of administering the provisions of such article.

13. For the purpose of this section, all references in this section to a "county" or "counties" shall be deemed to include a city or cities, or a school district or school districts, as the case may be.

14. a. The following terms, when used or referred to in this subdivision, shall have the following meaning:

(i) "Credit card" means any credit card, credit plate, charge card, charge plate, courtesy card, debit card, other identification card, value transfer device as defined by the state comptroller or device issued by a person to another person which may be used to obtain a cash advance or a loan or credit, or to purchase or lease property or services on the credit of the person issuing the credit card or a person who has agreed with the issuer to pay obligations arising from the use of a credit card issued to another person.

(ii) "Card issuer" means an issuer of a credit card, charge card or other value transfer device.

(iii) "Financing agency" means any agency defined as such in subdivision eighteen of section four hundred one of the personal property law.

(iv) "Person" means an individual, partnership, corporation or any other legal or commercial entity.

b. The community college regional board of trustees of any community college may determine, by resolution, that it is in the public interest to authorize such community college to enter into agreements with one or more financing agencies or card issuers to provide for the acceptance, by such officers of the community college as may be designated pursuant to this subdivision, of credit cards as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations or other amounts owed by students to the community college. Any such agreement shall govern the terms and conditions upon which a credit card proffered as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations or other amounts shall be accepted or declined and the manner in and conditions upon which the financing agency or card issuer shall pay to such community college the amount of tuition, expenses, fees, charges, revenue, financial obligations or other amounts paid by means of a credit card pursuant to such agreement. Any such agreement may provide for the payment by such community college to such financing agency or card issuer of fees for the services provided by such financing agency or card issuer pursuant to such agreement, which fees may consist of a discount deducted from or payable in respect of the amount of each such tuition, expenses, fee, charge, revenue, financial obligation or other amount. If fees are paid by such a discount, they shall be post-audited by the officer or board of the community college responsible for auditing claims against the community college.

c. Any community college which has entered into an agreement with a financing agency or card issuer as authorized by this subdivision may accept credit cards as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations or other amounts, as provided in such agreement and may pay such fees as are specified in such agreement to such financing agency or card issuer in consideration of the services rendered by such financing agency or card issuer thereunder. Notwithstanding any other provision of law to the contrary, it shall be the option of the community college regional board of trustees of the community college to require, as a condition of accepting payment by credit card, that such person offering payment by credit or charge card pay a service fee to the community college not exceeding costs incurred by the community college in connection with the credit or charge card

payment transaction, including any fee owed by the community college to the financing agency or card issuer arising from that transaction.

d. Contracts entered into pursuant to this subdivision between a community college and financing agencies or card issuers shall be awarded in accordance with the community college's written internal policies and procedures governing procurements.

e. The underlying debt, lien, obligation, bill, account or other amount owed by the student to the community college for which payment by credit card is accepted by the community college shall not be expunged, cancelled, released, discharged or satisfied, and any receipt or other evidence of payment shall be deemed conditional, until the community college has received final and unconditional payment of the full amount due from the financing agency or card issuer for such credit card transaction.

f. The community college regional board of trustees, in enacting a resolution pursuant to this subdivision, shall designate which of its officers, charged with the duty of collecting or receiving moneys on behalf of the community college, shall be authorized to accept credit cards as a means of payment of tuition, expenses, fees, charges, revenue, financial obligations and other amounts.

g. Under circumstances where community colleges are otherwise authorized by law to contract for the collection of tuition, expenses, fees, charges, revenue, financial obligations or other amounts, such contract shall provide that the contractor accept credit cards as a mechanism for payment.

15. a. Notwithstanding any other law to the contrary, whenever an officer of a community college is authorized pursuant to law to disburse or transfer on behalf of the community college funds in the custody of the officer, that officer shall be authorized to disburse or transfer such funds by means of electronic or wire transfer. Such disbursements shall be otherwise subject to applicable laws, provided that:

(i) the community college regional board of trustees of the community

college has entered into a written agreement with the bank or trust company in which such funds have been deposited, prescribing the manner in which electronic or wire transfer of such funds shall be accomplished, identifying by number and name those accounts from which electronic or wire transfers may be made, identifying which officer or officers are authorized to order the electronic or wire transfer of funds from those accounts, and implementing a security procedure as defined in section 4-A-201 of the uniform commercial code; and

(ii) the bank or trust company processing the transfer shall provide to the officer ordering the electronic or wire transfer of funds written confirmation of each such transaction no later than the business day following the day on which the funds are transmitted.

b. It shall be the duty of the community college regional board of trustees of the community college to adopt a system of internal controls for the documentation and reporting of all transfers or disbursements of funds accomplished by electronic or wire transfer.

16. a. The community college regional board of trustees of any community college, may determine, by resolution, that it is in the public interest and authorize such community college to provide for the acceptance of tuition, expenses, fees, charges, revenue, financial obligations or other amounts via a community college internet website. However, submission via the internet may not be required as the sole method for the collection of tuition, expenses, fees, charges and other amounts. Such payments shall be accepted via the internet in a manner and condition defined by such community college. Any method used to receive internet payments shall comply with article one of the state technology law and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum must:

(i) authenticate the identity of the sender; and

(ii) ensure the security of the information transmitted.

b. Payments received via the internet shall be considered received by the appropriate officer and paid by the payor at the time the internet transaction is completed and sent by the payor.

c. The underlying debt, lien, obligation, bill, account or other amount owed by the student to the community college for which payment by internet is accepted by the community college shall not be expunged, cancelled, released, discharged or satisfied, and any receipt or other evidence of payment shall be deemed conditional, until the community college has received final and unconditional payment of the full amount due.

d. The community college regional board of trustees, in enacting a resolution pursuant to this subdivision, shall designate which of its officers, charged with the duty of collecting or receiving moneys on behalf of the community college, shall be authorized to accept such payments via the internet.

17. Notwithstanding any provision of this chapter to the contrary, a community college regional board of trustees of a community college region shall be the local sponsor of such community college for the purposes of entering into agreements with the dormitory authority of the state of New York on behalf of the community college pursuant to subdivisions nine, ten, eleven, twelve, thirteen, fourteen and sixteen of section sixteen hundred eighty of the public authorities law and shall have full authority to perform, on behalf of such community college, all obligations of the college under its agreements with the dormitory authority.

§ 6311. New York opportunity promise scholarship. 1. Eligibility. A New York opportunity promise scholarship shall be awarded to an applicant who meets all of the following conditions:

(a) is at least twenty-five years of age or older, but in no case more than fifty-five years of age, as of January first of the calendar year for the semester for which the applicant makes initial application;

(b) has applied for a New York state tuition assistance program award pursuant to section six hundred sixty-seven of this chapter, a federal Pell grant pursuant to section 1070 of title 20 of the United States code, et. seq., and any other applicable financial aid;

(c) is matriculated at a New York state public institution of higher

education in an approved program directly leading to an associate's degree in a high-demand field; provided that for the two thousand twenty-five -- two thousand twenty-six academic year, such fields shall include but not be limited to advanced manufacturing, technology, cybersecurity, engineering, artificial intelligence, nursing and allied health professions, green and renewable energy, and pathways to teaching in shortage areas, provided further that such fields may be updated annually thereafter by the department of labor no later than one hundred eighty days prior to the first start date of the fall term of such New York state public institutions of higher education, and provided further that the eligibility of such approved program established in the semester for which the applicant makes initial application shall continue;

(d) is eligible for the payment of tuition and fees at a rate no greater than that imposed for resident students in the applicable New York state public institution of higher education; and

(e) has not already obtained any postsecondary degree, provided that nothing in this paragraph shall be construed to prohibit the eligibility of a student who is already enrolled in an eligible associate degree program on the effective date of this section and who meets all the other eligibility requirements of this subdivision, and provided further that nothing in this paragraph shall be construed to prohibit the eligibility of a student who, though having previously obtained a postsecondary degree, is enrolled in an approved program leading to an associate's degree in nursing.

2. Amount. Within amounts appropriated therefor, and subject to availability of funds, awards shall be granted for the two thousand twenty-five -- two thousand twenty-six academic year and thereafter to applicants who are determined to be eligible to receive such awards. Such awards shall be calculated on a per term basis prior to the start of each term the applicant is successfully enrolled and shall not exceed the positive difference, if any, of (a) the sum of actual tuition, fees, books, and applicable supplies charged to the applicant and approved by the applicable New York state public institution of higher education, less (b) the sum of all payments received by the applicant from all sources of financial aid received by the applicant with the exception of

aid received pursuant to federal work-study programs authorized under sections 1087-51 through 1087-58 of title 20 of the United States code and educational loans taken by the applicant or guardian.

3. Additional provisions. An eligible recipient shall complete at least six credits per semester, for a total of at least twelve credits per academic year, in an approved program of study. An eligible recipient shall be continuously enrolled without a gap of more than one academic year, provided that such duration may be extended for an allowable interruption of study including, but not limited to, death of a family member, medical leave, military service, and parental leave. Notwithstanding any inconsistent provision of this section, if an applicant fails to meet the eligibility criteria of this section at any point, no further awards shall be made to the applicant.

4. Conditions. (a) An eligible recipient shall continue to make satisfactory academic progress in order to maintain continued eligibility for an award pursuant to this section.

(b) Each campus that enrolls students pursuant to this section shall take steps consistent with established policy to maximize the award of credit for prior learning for participating students.

(c) No student shall receive an award pursuant to this section for greater than ten semesters.

(d) A student who earns college credit pursuant to this section shall be entitled to transfer such credit to another state university of New York or city university of New York campus consistent with transfer policies established by the state university of New York or city university of New York.

5. Reporting. By September first, two thousand twenty-six, and by September first of each year thereafter, the chancellor of the state university of New York and the chancellor of the city university of New York shall each submit a report to the governor, the speaker of the assembly, and the temporary president of the senate, including but not limited to the following information:

(a) enrollment data by full and part-time status;

(b) retention and completion rates by full and part-time status;

(c) barriers to student participation;

(d) demographic data related to the program;

(e) average prior learning and transfer credit awarded;

(f) the total amount of funds awarded and the average award per student; and

(g) post-completion outcomes including transfer, employment, and wages, as applicable.

ARTICLE 127

MILITARY SERVICE

Section 6350. Leave of absence for military service.
6351. Preservation of educational status and financial resources.
6352. Option of refund or credit.
6353. Enforcement.
6354. Applicability.

§ 6350. Leave of absence for military service. Whenever a student who is: (a) a member of the national guard or other reserve component of the armed forces of the United States and is called or ordered to active duty, as defined in 10 USC § 101(d)(1), or (b) a member of the state organized militia, and is called or ordered to active duty for the state, as defined in subdivision one of section six of the military law, the institution of higher education in which the student is enrolled shall grant the student a military leave of absence from the institution while such student is serving on active duty, and for one year after the conclusion of such service.

§ 6351. Preservation of educational status and financial resources. A student on a military leave of absence from an institution of higher education shall be entitled, upon release from serving on active duty, to be restored to the educational status such student had attained prior to being called or ordered to such duty without loss of academic credits earned, scholarships or grants awarded, or tuition and other fees paid

prior to the commencement of his or her active duty.

§ 6352. Option of refund or credit. An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after the student returns from a military leave of absence, at the option of the student.

§ 6353. Enforcement. Any violation of this article shall constitute an unfair educational practice pursuant to section three hundred thirteen of this chapter. Any student alleging a violation of this article may commence an administrative or judicial proceeding pursuant to section three hundred thirteen of this chapter.

§ 6354. Applicability. This article shall apply to all institutions of higher education and any business or trade school in the state.

ARTICLE 129

STATE AID FOR CERTAIN INDEPENDENT INSTITUTIONS OF HIGHER EDUCATION

Section 6401. State aid for certain independent institutions of higher learning.

6401-a. State aid for high needs nursing programs for certain independent institutions of higher learning.

6402. Enrollment grants to schools of medicine and dentistry.

6403. Adjustments to enrollment grants.

6404. Purchases by certain independent institutions.

6405. State reimbursement to certain independent institutions of higher education which participate in the federal work study program.

§ 6401. State aid for certain independent institutions of higher learning. 1. Notwithstanding the provisions of any general, special or

local law to the contrary, the commissioner is hereby authorized to apportion for each annual period commencing July first nineteen hundred seventy-six and to pay to any independent institution of higher education within the state which meets the requirements of subdivision two of this section, upon application by such institution, such amounts of state aid as are authorized to be paid by subdivision three of this section.

2. (a) Notwithstanding the provisions of any other law, in order to qualify for state aid apportionments pursuant to this section, any institution of higher education must meet either the requirements set forth in subparagraphs (i) through (vi) of this paragraph or, in the alternative, the requirements set forth in paragraph (b) of this subdivision:

(i) The institution must be a non-profit college or university incorporated by the regents or by the legislature, or a school of medicine, dentistry or osteopathy authorized by the regents to confer the degree of doctor of medicine, doctor of medical science, doctor of dental surgery or doctor of osteopathy.

(ii) The institution must maintain one or more earned degree programs, culminating in an associate or higher degree.

(iii) The institution must meet such standards of educational quality applicable to comparable public institutions of higher education, as may be from time to time established by the regents.

(iv) The institution must be eligible for state aid under the provisions of the constitution of the United States and the constitution of the state of New York.

(v) The institution must submit a financial statement which shall include total assets and liabilities, in such form as may be approved by the commissioner.

(vi) The institution must have total endowment assets of less than seven hundred fifty million dollars ($750,000,000), based on the most recent academic year data collected in the Integrated Postsecondary Education Data System, as required under Title IV of the Higher Education Act of 1965, as amended, and reported by the Department of Education's National Center for Education Statistics.

(b) An institution of higher education located in this state, at least

one-half of the students of which are economically disadvantaged, and the course credits and degrees of which are offered by a consortium of sponsoring colleges, each of which sponsoring colleges satisfies the following requirements, shall qualify for state aid apportionments pursuant to this section:

(i) The sponsoring college must be non-profit college or university incorporated by the regents or by the legislature.

(ii) The sponsoring college must maintain one or more earned degree programs, culminating in an associate or higher degree.

(iii) The sponsoring college must meet such standards of educational quality applicable to comparable public institutions of higher education, as may be from time to time established by the regents.

(iv) The sponsoring college must be eligible for state aid under the provisions of the constitution of the United States and the constitution of the state of New York.

(v) The sponsoring college must submit a financial statement which shall include total assets and liabilities, in such form as may be approved by the commissioner.

(vi) The sponsoring college must have total endowment assets of less than seven hundred fifty million dollars ($750,000,000), based on the most recent academic year data collected in the Integrated Postsecondary Education Data System, as required under Title IV of the Higher Education Act of 1965, as amended, and reported by the Department of Education's National Center for Education Statistics.

3. Degree awards. The amount of such annual apportionment to each institution meeting the requirements of subdivision two of this section shall be computed by multiplying by not to exceed six hundred dollars the number of earned associate degrees, by not to exceed one thousand five hundred dollars the number of earned bachelor's degrees, by not to exceed nine hundred fifty dollars the number of earned master's degrees, and by not to exceed four thousand five hundred fifty dollars the number of earned doctorate degrees, conferred by such institution during the twelve-month period next preceding the annual period for which such apportionment is made, provided that there shall be excluded from any such computation the number of degrees earned by students with respect to whom state aid other than that established by this section or section

sixty-four hundred one-a of this article is granted directly to the institution, and provided further that, except as otherwise provided in this subdivision, the amount apportioned for an associate degree shall be awarded only to two year institutions qualifying under subdivision two of this section. The regents shall promulgate rules defining and classifying professional degrees for the purposes of this section. Institutions qualifying for state aid pursuant to the provisions of paragraph (b) of subdivision two of this section shall, for purposes of this subdivision, be deemed to be the institutions which confer degrees. For purposes of this subdivision, a two-year institution which has received authority to confer bachelor degrees shall continue to be considered a two-year institution until such time as it has actually begun to confer the bachelor's degree. Thereafter, notwithstanding any other provision of law to the contrary, an institution which was formerly a two-year institution for the purposes of this section and which was granted authority by the regents to confer bachelor degrees, (a) such authority having been granted after the first day of June, nineteen hundred ninety-three, but before the first day of July, nineteen hundred ninety-three, (b) such authority having been granted after the first day of May, two thousand five, but before the first day of June, two thousand five, (c) such authority having been granted after the first day of April, two thousand nine, but before the first day of May, two thousand nine, or (d) such authority having been granted after the first day of December, two thousand nine, but before the first day of January, two thousand ten, may elect to continue to receive awards for earned associate degrees. Should such institution so elect, it shall not be eligible during the time of such election to receive awards for earned bachelor's degrees. Notwithstanding the preceding provisions of this subdivision, in the event that the total amount of such annual apportionments to all institutions meeting the requirements of subdivision two of this section would otherwise exceed the total amount appropriated for unrestricted aid to independent colleges and universities, the annual apportionment to each such institution shall be reduced proportionally.

4. Thirty-five percent of each such annual apportionment payable pursuant to this section shall be paid on or before October fifteenth,

thirty-five percent shall be paid on or before February fifteenth, and the remaining thirty percent shall be paid on or before May fifteenth.

5. The commissioner shall promulgate regulations requiring the submission to him, by any institution intending to apply for state aid apportionments pursuant to this section, of reports in such form, at such times and containing such information as he shall by such regulations require, concerning, but not limited to such matters as the present and contemplated future programs, curricula and facilities of the institution, and its financial affairs, its long range plans and its progress in implementing such plans, and its administrative practices and procedures. No institution shall be eligible to receive any apportionment of state aid, or portion thereof, payable pursuant to this section unless such institution shall have submitted all reports required pursuant to such regulations, in form satisfactory to the commissioner.

§ 6401-a. State aid for high needs nursing programs for certain independent institutions of higher learning. 1. Notwithstanding the provisions of any general, special or local law to the contrary, the commissioner is hereby authorized to grant state aid for high needs nursing programs to any independent institution of higher education within the state which meets the requirements of subdivision two of this section, upon application by such institution, such amounts of state aid as are authorized to be paid by subdivision three of this section.

2. Notwithstanding the provisions of any other law, in order to qualify for state aid grants pursuant to this section, any independent institution of higher education must meet the requirements set forth in paragraphs (a) through (d) of this subdivision.

(a) The institution must be a non-profit college or university incorporated by the regents or by the legislature.

(b) The institution must maintain an earned degree program in nursing, culminating in an associate or higher degree in nursing.

(c) The institution must meet such standards of educational quality applicable to comparable public institutions of higher education, as may

be from time to time established by the regents.

(d) The institution must be eligible for state aid under the provisions of the constitution of the United States and the constitution of the state of New York.

3. The commissioner shall grant such state aid awards within the amounts appropriated for such purpose, not to exceed one million dollars and based on availability of funds, according to a schedule to be determined by the commissioner, to each institution meeting the requirements of subdivision two of this section. Awards shall be distributed in the following amounts:

(a) Two hundred fifty dollars per student enrolled in an earned degree program in nursing at a two year degree granting institution;

(b) Five hundred dollars per student enrolled in an earned degree program in nursing at a four year degree granting institution.

4. The commissioner shall promulgate all rules and regulations necessary for the implementation of this section.

§ 6402. Enrollment grants to schools of medicine and dentistry. 1. The commissioner shall apportion each year to each non-public institution of higher education offering an approved program in medicine a sum to be determined as follows:

(a) Two thousand one hundred fifty dollars shall be apportioned for each full-time student enrolled.

(b) An additional three thousand five hundred dollars shall be apportioned for each full-time upper division student enrolled who is a resident of the state and who:

(i) participates in the coordinated transfer program of the association of American medical colleges; or

(ii) participates in the fifth pathway program; or

(iii) participated in and successfully completed in good standing the biomedical education program of the city college of the city university of New York.

2. The commissioner shall apportion each year to each non-public

institution of higher education offering an approved program in dentistry the sum of fifty-eight hundred dollars for each full-time student enrolled, except that aid distributed under this program shall not exceed a sum based upon a total enrollment of eight hundred thirty-five students at New York University and two hundred forty students at Columbia University.

3. Receipt of aid for eligible students pursuant to paragraph (b) of subdivision one of this section shall preclude an institution from receiving state aid for the same students under the provisions of section sixty-four hundred one of this article.

4. (a) To be eligible for assistance under this section an institution must meet such standards of educational quality applicable to comparable public institutions of higher education, as may be from time to time established by the regents.

(b) In addition, to be eligible for assistance under subdivision two of this section an institution must annually submit to the commissioner a complete and detailed report as to each major item of educational and other revenue and expenditure contained in the budget for such approved program of dentistry, for both the preceding and the current academic years for which aid pursuant to this section has or will be received. Such report shall also include enrollment and faculty data, and shall be in such form as the commissioner, with the approval of the director of the budget, may prescribe.

The commissioner, upon review of the data contained in such report, shall be authorized to require such institutions to file an application with the appropriate agency of the federal government for a Financial Distress Grant pursuant to Title VIII of the Health Professions Educational Assistance Act of 1976, as a condition of further receipt of assistance under subdivision two of this section.

5. The commissioner of education may promulgate rules and regulations to accomplish the purposes of this section.

6. Funds appropriated for the purposes of this section shall be paid

in accordance with a payment schedule to be established by the commissioner and approved by the director of the budget.

§ 6403. Adjustments to enrollment grants. 1. The grants provided pursuant to paragraph (a) of subdivision one and subdivision two of section sixty-four hundred two of this chapter shall be reduced by one hundred per centum of the grant otherwise allocable to each first year excess non resident student in those institutions enrolling more than thirty per centum of nonresident students in its first year class during the nineteen hundred seventy-nine--nineteen hundred eighty academic year or thereafter.

2. For purposes of this section, "nonresident student" shall mean any entering student who does not qualify as a resident under the provisions of paragraph b of subdivision five of section six hundred sixty-one of this chapter.

3. For purposes of this section "excess nonresident student" shall mean any nonresident student enrolled in an entering first year class after the per centum of total nonresident students in such class exceeds thirty per centum with respect to subdivision one of this section.

4. A reduction in grants pursuant to this section shall remain in effect with respect to each affected class until the graduation of such class.

§ 6404. Purchases by certain independent institutions. Any postsecondary institution chartered under the powers of the regents pursuant to section two hundred sixteen of this chapter or incorporated under a special act of the legislature may make purchases of commodities and services pursuant to the terms of contracts let by the office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law which may establish limitations with respect to commodities and services and impose such other appropriate conditions upon purchasing as

deemed necessary by the commissioner of general services in order to protect the state's own purchasing interests; provided that each such purchase shall have a cost of five hundred dollars or more and that said institution shall accept sole responsibility for any payment of such cost due the vendor.

§ 6405. State reimbursement to certain independent institutions of higher education which participate in the federal work study program. 1. For purposes of this section, the following terms shall be defined as follows:

a. "Institutional award year" shall mean the period from the first day of July until the thirtieth day of June of the following year, next preceding the state fiscal year in which state aid is to be paid.

b. "Eligible expenditures" shall mean the total expenditures made by an institution from federal college work study funds received by the institution for the employment of students by such institution.

2. The commissioner is hereby authorized to pay any independent, non-profit institution of higher education incorporated by the regents or the legislature, which maintains one or more earned degree programs, other than seminarian or theological programs, and which participates in the college work study program in accordance with the provisions of Part C of Title IV of the Higher Education Act of 1965 as amended, upon application by such institution, twenty-five percentum of the eligible expenditures of the institution for the purpose of reimbursing the institution for its expenditure of funds in such work study program. Such payments shall commence in the state fiscal year beginning April first, nineteen hundred eighty-one for expenditures made during the institutional award year commencing on July first, nineteen hundred eighty.

3. Payments shall be made in accordance with a schedule to be determined by the commissioner, and upon application by the institution in such form and at such times as are determined by the commissioner.

The commissioner is authorized to promulgate such regulations as are needed to accomplish the purposes of this section.

4. Any institution receiving payment pursuant to this section shall not use such funds for any purpose other than a college work study program, and shall indicate separately the total of all funds expended for the college work study program and the amount of reimbursement claimed by the institution, on such form as the commissioner shall designate.

5. Any institution receiving funds under this section shall match such payments dollar for dollar with additional financial aid to needy students who are determined to be in need according to standards approved by the commissioner and shall indicate the total of all financial aid provided for all students during academic year nineteen hundred eighty--nineteen hundred eighty-one and thereafter on such form as the commissioner shall designate.

6. Payments to institutions of higher education pursuant to subdivision two of this section shall not exceed:

a. For payments to be made during the state fiscal year commencing April first, nineteen hundred eighty-one, one-third of twenty-five percent of the eligible expenditures of an institution.

b. For payments to be made during the state fiscal year commencing April first, nineteen hundred eighty-two, two-thirds of twenty-five percent of the eligible expenditures of an institution.

c. For payments to be made during the state fiscal year commencing April first, nineteen hundred eighty-three, and in each state fiscal year thereafter, one hundred percent of twenty-five percent of the eligible expenditures of an institution.

ARTICLE 129-A

REGULATION BY COLLEGES OF CONDUCT ON CAMPUSES AND OTHER

COLLEGE PROPERTY USED FOR EDUCATIONAL PURPOSES

Section 6430. General provisions.
6431. Advisory committee on campus security.
6432. Sexual assault, domestic violence and stalking prevention information.
6433. Campus crime reporting and statistics.
6434. Investigation of crimes and crime reporting.
6435. Appointment of private college security officers.
6436. Bias related and hate crime prevention information.
6436-a. Designation of a Title VI coordinator and duties.
6437. Prohibition on the marketing of credit cards.
6438. Notification of fire safety standards and measures in all college-owned or college-operated housing.
6438-a. Opioid overdose prevention in college housing.
6438-b. Access to medication abortion prescription drugs.
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§ 6430. General provisions. 1. The trustees or other governing board of every college chartered by the regents or incorporated by special act of the legislature and which maintains a campus, unless otherwise provided, shall adopt written rules for implementing all policies required pursuant to this article and for the maintenance of public order on college campuses and other college property used for educational purposes and provide a program for the enforcement thereof. Such rules shall prohibit, among other things, any action or situation which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization. Such rules shall govern the conduct of students, faculty and other staff as well as visitors and other licensees and invitees on such campuses and property. The penalties for violations of such rules shall be clearly set forth therein and shall include provisions for the ejection of a violator from such campus and property, in the case of a student or faculty violator his or her suspension, expulsion, or other appropriate disciplinary

action, and in the case of an organization which authorizes such conduct, recision of permission for that organization to operate on campus property. Such penalties shall be in addition to any penalty pursuant to the penal law or any other law to which a violator or organization may be subject.

2. A copy of such rules shall be given to all students enrolled in said college and shall be deemed to be part of the by-laws of all organizations operating on said campus which shall review annually such by-laws with individuals affiliated with such organizations.

3. Each college shall annually file with the department on or before the first day of July a certificate of compliance with the provisions of this article.

4. If a college fails to file a certificate of compliance pursuant to subdivision three of this section within sixty days of the time required, such college shall not be eligible to receive any state aid or assistance until such certificate of compliance is duly filed.

5. Each college shall file a copy of all written rules adopted as required in this article with the department on or before the first day of July, two thousand four, and once every ten years thereafter.

6. Nothing contained in this article shall:

a. be construed to limit or restrict the freedom of speech and peaceful assembly; or

b. prevent or limit a college from setting forth additional standards of conduct for students.

§ 6431. Advisory committee on campus security. 1. The president or chief administrative officer of each college, except those independent colleges ineligible to receive state aid under section sixty-four hundred one of this title, shall appoint an advisory committee on campus

security.

2. Such committee shall consist of a minimum of six members, at least half of whom shall be female; one-third of the committee shall be appointed from a list of students that contains at least twice the number to be appointed which is provided by the largest student governance organization on such campus, one-third thereof shall be appointed from a list of faculty members that contains twice the number to be appointed which is provided by the largest faculty organization on such campus, and one-third of whom shall be selected by the president or chief administrative officer.

3. The committee shall review current campus security policies and procedures and make recommendations for their improvement. It shall specifically review current policies and procedures for:

a. educating the campus community, including security personnel and those persons who advise or supervise students, about sexual assault, domestic violence and stalking offenses pursuant to section sixty-four hundred thirty-two of this article, and bias related and hate crimes pursuant to section sixty-four hundred thirty-six of this article;

b. educating the campus community about personal safety and crime prevention;

c. reporting sexual assaults, domestic violence, stalking incidents and hate crimes and assisting victims during investigations;

d. referring complaints to appropriate authorities;

e. counseling victims; and

f. responding to inquiries from concerned persons.

4. The committee shall report, in writing, to the college president or chief administrative officer on its findings and recommendations at least once each academic year, and such report shall be available upon

request.

5. Nothing in this section shall be construed to alter, amend, modify or affect existing standards for civil liability.

§ 6432. Sexual assault, domestic violence and stalking prevention information. Each college shall inform incoming students about sexual assault, domestic violence and stalking prevention measures through programs which may include workshops, seminars, discussion groups, and film presentations, in order to disseminate information, promote discussion, encourage reporting, and facilitate prevention of sexual assault, domestic violence and stalking. Such information shall include, but not be limited to:

1. the applicable laws, ordinances, and regulations relating to such offenses;

2. the penalties for the commission of a sex offense, a domestic violence incident and a stalking offense;

3. the procedures in effect at the college for dealing with such offenses;

4. the availability of counseling and other support services for the victims of such offenses;

5. the nature of and common circumstances relating to sex offenses, incidents of domestic violence and stalking offenses on college campuses; and

6. the methods the college employs to advise and to update students about security procedures.

§ 6433. Campus crime reporting and statistics. Each college that receives state aid shall indicate on their website how to access the

campus crime statistics that are filed annually with the United States Department of Education as required under Title 20 of the U.S. Code Section 1092(f).

The information on each college's website shall include the United States Department of Education's website address for campus crime statistics and a link to statistics for that college. Each college shall report and post incidents of hate crime offenses as a separate, clearly designated category on their website.

The president or chief administrative officer of each college shall, working with the advisory committee on campus safety, inform students and prospective students of the existence of the campus crime statistics and other campus safety policies and procedures as part of the college's onboarding process.

§ 6434. Investigation of crimes and crime reporting. 1. Each college shall adopt and implement a plan providing for the investigation of any hate crime or violent felony offense occurring at or on the grounds of each such institution, and providing for the investigation of a report of any missing student. Such plans shall provide for the coordination of the investigation of such crimes and reports with local law enforcement agencies. Such plans shall include, but not be limited to, written agreements with appropriate local law enforcement agencies providing for the prompt investigation of such crimes and reports and a requirement that the institution shall notify the appropriate law enforcement agency as soon as practicable but in no case more than twenty-four hours after a report of a hate crime, or a violent felony or a report that a student who resides in housing owned or operated by such institution is missing; provided that each institution shall: (1) inform each victim of a sexual offense of their options to notify proper law enforcement authorities, including on-campus and local police; (2) inform the victim of a sexual offense of the right to report or not to report such offense to local law enforcement agencies; and (3) offer the option to be assisted by campus authorities in notifying such authorities, if the victim of sexual assault so chooses, all in compliance with applicable federal

law, including, but not limited to, the federal Campus Sexual Assault Victims' Bill of Rights under Title 20 U.S. Code Section 1092(f).

2. As used in this section, the following terms shall have the following meanings:

a. "Local law enforcement agencies" means any agency or agencies employing peace officers or police officers for the enforcement of the laws of the state, and which has or have jurisdiction under provisions of the criminal procedure law over offenses occurring at or on the grounds of any institution subject to the provisions of this section.

b. "Missing student" means any student of an institution subject to the provisions of this section, who resides in a facility owned or operated by such institution and who is reported to such institution as missing from his or her residence.

c. "Violent felony offense" means a violent felony offense as defined in subdivision one of section 70.02 of the penal law.

d. "Hate crime" shall have the same meaning as section 485.05 of the penal law.

§ 6435. Appointment of private college security officers. 1. Notwithstanding any other provision of law to the contrary, the trustees or other governing board of each independent non-profit college which maintains a campus or other property for educational purposes outside the limits of any city having a population of one million or more and is chartered by the regents or incorporated by special act of the legislature may request that security guards employed by such college be appointed as private college campus security officers by the sheriff of the county in which the college is located pursuant to section six hundred sixty-two of the county law or by the chief law enforcement officer of a city where the college is located, pursuant to section two hundred nine-aa of the general municipal law, as added by chapter six hundred eleven of the laws of nineteen hundred ninety-five. Security

guards appointed as such campus security officers may exercise within their geographic area of authority as defined hereinafter any or all of the following powers:

a. to make a warrantless arrest of a person (i) for any offense when he or she has reasonable cause to believe that such person has committed such offense in his or her presence and (ii) for a crime when he or she has reasonable cause to believe that such person has committed such crime, whether in his or her presence or otherwise, and follow such person in continuous close pursuit into public places beyond the geographic area of authority to make such warrantless arrest; provided, however, that such campus security officers shall comply with the post-arrest procedures set forth in section 140.40 of the criminal procedure law and shall not interfere with an ongoing criminal investigation conducted by any police officer;

b. to use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to effect an arrest pursuant to paragraph a of this subdivision or to prevent the escape from custody of such person and use deadly physical force for such purpose when he or she reasonably believes such to be necessary to defend himself or herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force;

c. to carry and utilize a police baton and noxious materials designed and intended for prevention of crime and enforcement of law and order; provided, however, that no such campus security officer shall carry or use such police baton or noxious materials before receiving training in the use thereof. Training in the use of a baton shall include, but not be limited to, the defensive use of the baton and instruction in the legal use of physical force pursuant to article thirty-five of the penal law;

d. to temporarily possess stolen property, weapons, appliances and substances described in article two hundred sixty-five of the penal law and article thirty-three of the public health law whenever appropriate

for the prevention of crime, preservation of evidence and enforcement of law and order, and as soon thereafter as practicable deliver such stolen property, weapons, appliances and substances to a police officer;

e. to issue appearance tickets pursuant to subdivision three of section 150.20 of the criminal procedure law;

f. to issue uniform appearance tickets pursuant to article twenty-seven of the parks, recreation and historic preservation law and to issue simplified traffic information pursuant to section 100.25 of the criminal procedure law and section two hundred seven of the vehicle and traffic law;

g. to issue a uniform navigation summons and/or complaint pursuant to section nineteen of the navigation law;

h. to issue uniform appearance tickets pursuant to article seventy-one of the environmental conservation law; and

i. to seize an alcoholic beverage upon observing a person under twenty-one years of age openly in possession of an alcoholic beverage as defined in section three of the alcoholic beverage control law, with intent to consume such beverage in violation of section sixty-five-c of such law.

2. For purposes of this section, "geographical area of authority" means any real property owned by or under the control of the college by which the security guard is employed and located within the geographic boundaries of the county wherein the appointment was made.

3. To become eligible for appointment as a private college campus security officer a security guard must first successfully complete a course of instruction in public and private law enforcement approved by the municipal police training council, the security guard advisory council, or the department of state or other comparable course offered or recognized by a department or agency of the state of New York as providing appropriate training for the exercise of the powers enumerated

in this section. Such training shall also comply with all requirements of article seven-A of the general business law and any regulations promulgated thereunder.

4. To be eligible for appointment as a private college campus security officer, an applicant shall be of good character, cooperate in a background check as may be required by the county sheriff or chief law enforcement officer, be at least twenty-one years of age at the time of appointment, be a citizen of the United States, and be in compliance with the requirements of, and duly registered in accordance with, the provisions of article seven-A of the general business law and any regulations promulgated thereunder.

5. The duration of the appointment shall be coexistent with the period of employment except as otherwise provided in this section, section six hundred sixty-two of the county law or section two hundred nine-aa of the general municipal law, as added by chapter six hundred eleven of the laws of nineteen hundred ninety-five.

6. Any independent non-profit college which requests appointment of any of its security guards as a private college campus security officer as provided for in subdivision one of this section shall indemnify and hold harmless, the appointing sheriff, the county in which such sheriff serves, the appointing chief law enforcement officer and the city in which such chief law enforcement officer serves from liability and damages including cost of defense to the extent proximately caused by the intentional or negligent acts or omissions of the college's security guards while acting pursuant to their scope of employment by the college.

7. A college shall immediately notify the appointing sheriff or chief law enforcement officer whenever a security guard appointed by the college as a private college campus security officer is arrested, suspended from employment, transferred, terminated or disabled so as to be incapable of performing campus security officer duties. Upon receipt of such notice, the sheriff or chief law enforcement officer shall immediately revoke such appointment.

8. Private college campus security officers appointed in accordance with this section shall not be subject to assignment under section two hundred nine-f of the general municipal law or any mutual aid provisions of law.

§ 6436. Bias related and hate crime prevention information. Each college shall inform incoming students about bias related and hate crime prevention measures through programs which may include workshops, seminars, discussion groups, and film presentations, in order to disseminate information about bias related and hate crimes, promote discussion, encourage reporting of incidents of bias related and hate crimes, and facilitate prevention of such incidents. Such information shall include, but not be limited to:

1. the applicable laws, ordinances, and regulations on bias related crime, including the provisions and coverage of the hate crimes act of 2000 codified in article four hundred eighty-five of the penal law;

2. the penalties for commission of bias related and hate crimes;

3. the procedures in effect at the college for dealing with bias related and hate crimes;

4. the availability of counseling and other support services for the victims of bias related and hate crimes;

5. the nature of and common circumstances relating to bias related and hate crimes on college campuses; and

6. the methods the college employs to advise and to update students about security procedures.

*** § 6436-a. Designation of a Title VI coordinator and duties.** 1. Purpose and designation of coordinator. (a) To ensure students are

protected from illegal discrimination based on characteristics, as further described in applicable state and federal law, institutions shall engage in proper coordination of these efforts through a centralized process and with a centralized point of contact for all compliance, similar to the role of the Title IX coordinator and their role in the implementation of applicable federal laws, rules and regulations, and state law, including article one hundred twenty-nine-B of this title.

(b) Within ninety days of the effective date of this section, an institution, defined as a college or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York state shall designate a Title VI coordinator to ensure compliance with Title VI of the federal civil rights act of 1964, codified at 42 U.S.C. 2000d et seq., 34 C.F.R. Part 100, and any other related applicable laws, rules or regulations.

2. Responsibilities of the Title VI coordinator when receiving reports of discrimination or harassment. If the Title VI coordinator receives a report, the Title VI coordinator shall:

(a) offer supportive measures for the student or students making a complaint;

(b) notify any students who report conduct that may reasonably constitute discrimination or harassment under this section and Title VI of the federal civil rights act of 1964, of the institution's policies and/or procedures; and

(c) ensure there is a process for investigation and resolution of complaints consistent with obligations under federal and state law.

3. Developing training to promote equal access and participation. The division of human rights, in coordination with institutions of public and private higher education located within the state, shall develop model training for students and employees to ensure institutional compliance. Such training or institutionally developed equivalents shall be delivered annually to all students and employees commencing with the first full academic year after this section shall take effect, and each academic year thereafter.

4. Notification of policies and procedures. The Title VI coordinator shall notify all students and employees each academic year of the institution's policies and procedures for reporting discrimination and harassment.

(a) Form of notification. The Title VI coordinator shall ensure that the annual notification includes:

(i) the institution's nondiscrimination policy statement;

(ii) website links to all policies and procedures for reporting discrimination and harassment to the institution;

(iii) the contact information of the Title VI coordinator; and

(iv) any other information the Title VI coordinator and the institution deem necessary.

5. Designees. The Title VI coordinator may have a designee or designees to assist in carrying out the functions set forth in this section, and may work with other employees to carry out the functions set forth in this section, provided, however, the Title VI coordinator shall be ultimately responsible for coordinating and overseeing the institution's compliance with this section and with Title VI of the federal civil rights act of 1964.

6. Training for Title VI coordinator and designee or designees. All Title VI coordinators and their designees shall be trained in their duties and responsibilities set forth in this section and Title VI of the federal civil rights act of 1964.

7. Recordkeeping. (a) The Title VI coordinator shall be responsible for appropriate recordkeeping related to any reports and complaints of discrimination and harassment, in accordance with applicable state and federal law, including all records related to assessments of reports, records documenting actions the institution took to meet its obligations, and any records of training attendance and materials.

8. Other duties. The Title VI coordinator may perform other relevant duties as established by the institution.

* NB Effective August 26, 2026

§ 6437. Prohibition on the marketing of credit cards. Each college shall prohibit the advertising, marketing, or merchandising of credit cards on college campuses to students, except pursuant to an official college credit card marketing policy. An official college credit card marketing policy may include:

1. registration of on-campus credit card marketers;

2. limiting credit card marketers to specific dates and specific areas of the campus as designated by the college;

3. prohibiting credit card marketers from offering gifts to a student in exchange for completing a credit card application; and

4. informing students about good credit management practices through programs which may include workshops, seminars, discussion groups, and film presentations.

§ 6438. Notification of fire safety standards and measures in all college-owned or college-operated housing. Each college shall provide written notification to students residing in college-owned or college-operated housing with regard to a description of such housing facility's fire safety system, including whether the housing is or is not equipped with a sprinkler system. Each college shall also indicate, within such written notification, how to access the campus fire safety report on student housing as required under Title 20 of the U.S. Code Section 1092(i). For the purposes of this section, "sprinkler system" shall have the same meaning as in section one hundred fifty-five-a of the executive law.

§ 6438-a. Opioid overdose prevention in college housing. 1. Every campus of the state university of New York and every campus of the city university of New York shall provide training in the administration of opioid antagonists pursuant to a program approved under section

thirty-three hundred nine of the public health law to every resident assistant employed by such campus. Such campuses shall provide and maintain onsite in each college-owned or college-operated housing opioid antagonists, as defined in section thirty-three hundred nine of the public health law, in quantities and types deemed by the commissioner of health. Such opioid antagonists shall be accessible by every resident assistant for use during emergencies to any student, staff or other individual on college-owned or college-operated housing premises suspected of having an opioid overdose whether or not there is a previous history of opioid abuse.

2. Each campus of the state university of New York and every campus of the city university of New York may designate additional employees who volunteer to administer opioid antagonists in the event a resident assistant is not physically present at a suspected overdose incident, provided that such employee is trained in the administration of opioid antagonists by a program approved under section thirty-three hundred nine of the public health law.

3. Any person or entity acting reasonably and in good faith in compliance with this section shall not be subject to criminal, civil or administrative liability solely by reason of such action.

§ 6438-b. Access to medication abortion prescription drugs. 1. Every campus of the state university of New York and every campus of the city university of New York shall provide access to medication abortion to all students enrolled at such institutions by either:

(a) employing or contracting with individuals authorized to prescribe medication abortion prescription drugs within their lawful scope of practice pursuant to title eight of this chapter; or

(b) providing students with information and referrals to providers authorized to prescribe medication abortion prescription drugs within their lawful scope of practice pursuant to title eight of this chapter.

2. Twenty-four months after the effective date of this section, and annually on such date thereafter, the board of trustees of the state

university of New York and the board of trustees of the city university of New York shall each submit a report to the governor, the temporary president of the senate and the speaker of the assembly that includes, but is not limited to, the following:

(a) whether campuses provide access to medication abortion pursuant to paragraph (a) or paragraph (b) of subdivision one of this section; and

(b) the number of individuals at each campus authorized to prescribe such prescription drugs.

§ 6438-c. Student-athlete compensation. 1. For the purposes of this section:

(a) "student-athlete" shall mean (i) a student enrolled at a college and participating in intercollegiate athletics, or (ii) an individual who has completed at least their sophomore year of high school or international equivalent and is eligible, or may in the future be eligible, to attend a college and participate in intercollegiate athletics. Such term shall not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport; and

(b) "team contract" shall mean any written agreement between a student-athlete and a college, or division, department, program or team thereof, which includes goals and objectives, standards, prohibitions, broadcast, advertising or marketing rights or consents, rules or expectations applicable to the student-athlete.

2. (a) A college shall not uphold any rule, requirement, standard, or other limitation that prevents a student-athlete from earning compensation pursuant to this section as a result of the use of the student-athlete's name, image, or likeness.

(b) An athletic association, conference, or other group or organization with authority over intercollegiate athletics, including, but not limited to, the National Collegiate Athletic Association (NCAA), shall not prevent a student-athlete from earning compensation pursuant to this section as a result of the use of the student-athlete's name, image, or likeness.

(c) An athletic association, conference, or other group or

organization with authority over intercollegiate athletics, including, but not limited to, the NCAA, shall not prevent a college from: (i) participating in intercollegiate athletics as a result of allowing a student-athlete pursuant to this section from earning compensation as a result of the use of the student-athlete's name, image, or likeness; or (ii) identifying, facilitating, enabling, or supporting opportunities for a student-athlete to earn compensation for the student-athlete's name, image, or likeness.

(d) An athletic association, conference, or other group or organization with authority over intercollegiate athletics, including, but not limited to the NCAA, shall not and shall not authorize its member institutions to:

(i) prevent a college from participation in intercollegiate athletics because a student-athlete in attendance has previously earned or intends to earn compensation for the use of his or her name, image, or likeness;

(ii) entertain a complaint, open an investigation, or take any other adverse action against a college for engaging in any activity protected in this section or for involvement in a student-athlete's name, image, or likeness; or

(iii) penalize or prevent a college from participation in intercollegiate athletics because an individual or entity whose purpose includes supporting or benefitting the college or its athletic programs or student-athletes violates the collegiate athletic association's rules or regulations with regard to a student-athlete's name, image, or likeness.

3. A college, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not provide a prospective student-athlete with compensation in relation to the student-athlete's name, image, or likeness.

4. (a) A college, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not prevent a student-athlete from obtaining professional representation in relation to name, image, or likeness contracts or legal matters, including, but not limited to, representation provided by athlete agents or legal representation provided by attorneys.

(b) Professional representation obtained by a student-athlete shall be from persons registered and/or licensed by the state. Professional representation provided by athlete agents shall be by persons registered pursuant to article thirty-nine-E of the general business law. Legal representation of student-athletes shall be by attorneys licensed pursuant to article fifteen of the judiciary law.

(c) Athlete agents representing student-athletes shall comply with the federal Sports Agent Responsibility and Trust Act, established in chapter 104 of title 15 of the United States Code, in their relationships with student-athletes.

5. A scholarship from the college in which a student-athlete is enrolled that provides the student-athlete with the cost of attendance at that college is not compensation for purposes of this section, and a scholarship shall not be revoked due to earning compensation as a result of the use of the student-athlete's name, image, or likeness, or due to obtaining legal or athletic agent representation in relation to name, image, or likeness matters.

6. (a) A student-athlete shall not enter into a contract providing compensation to the student-athlete for use of the student-athlete's name, image, or likeness if a provision of the contract causes a conflict pursuant to paragraph (d) of this subdivision.

(b) A student-athlete who enters into a contract providing compensation to the student-athlete for use of the student-athlete's name, image, or likeness shall disclose the contract in advance of executing it to an official of the college, as designated by the college.

(c) A college asserting a conflict pursuant to paragraph (a) of this subdivision shall disclose to the student-athlete or the student-athlete's legal representation the relevant contractual provisions that are in conflict; provided, however, that a college shall not be required to disclose any financial terms of such contract unless otherwise required by applicable law.

(d) A college asserting a conflict pursuant to paragraph (a) of this subdivision may assert a conflict based on, but not limited to, the following grounds:

(i) the proposed contract would cause the student-athlete to violate the team contract; or

(ii) the proposed contract would cause the student-athlete to violate the college's student handbook or code of conduct; or

(iii) the proposed contract would conflict with an existing contract or sponsorship the college participates in; or

(iv) the proposed contract would reasonably be judged to cause financial loss or reputational damage to the college; or

(v) the proposed contract would require actions by the student-athlete during team activities; or

(vi) the proposed contract would require actions by the student-athlete during scheduled classes; or

(vii) the proposed contract would use the college's name, brand, copywritten materials, trademarks, service marks, symbols, nicknames, trade dress, insignia, mascot, uniform styles, colors, imagery, campus landmarks, or any other intellectual property or indicia; or

(viii) the proposed contract would require the student-athlete to display a sponsor's product, logo, brand, or other indicia, or otherwise advertise for a sponsor, during official team activities; or

(ix) the proposed contract would require the student-athlete to display a sponsor's product, logo, brand or other indicia, or otherwise advertise for a sponsor at any time, and such sponsor is a competitor of, or offers products or services within the same category as a sponsor of the college.

7. A team of a college's athletic program shall not prevent a student-athlete from using the student-athlete's name, image, or likeness for a commercial purpose when the student-athlete is not engaged in official team activities, except where there is a conflict pursuant to paragraph (d) of subdivision six of this section or any other prohibition in this section.

8. Each college athletic program that participates in Division 1 NCAA athletics shall offer a student-athlete assistance program or programs, designed to provide student-athletes participating in Division 1 athletics with tools aimed to enhance their well-being and experiences in the classroom, off the field of play, and beyond their tenure as

student-athletes. The student-athlete assistance program may include but not be limited to:

(a) a dedicated financial distress fund that would support student-athletes in times of financial need. Disbursements from such fund are not compensation for the purposes of this section;

(b) access to ongoing mental health support services provided by counselors specially trained to understand the unique issues and pressures student-athletes confront;

(c) access to broad-based financial literacy training, with a specific emphasis on the issues and opportunities relevant to student-athletes, during and beyond their tenure at the college;

(d) a degree completion assistance program that provides former student-athletes who disenrolled from the college in good academic standing and who earned the NCAA Academic Progress Rate eligibility point for Division I institutions, before completing their degree, access to need-based financial aid and counseling assistance required to support undergraduate degree completion;

(e) access to training regarding sex-based discrimination and harassment that ensures student-athletes fully understand their rights and responsibilities under the law, including how to make a report of discrimination or harassment on their campus;

(f) access to leadership training that will set the conditions for student-athletes to become successful leaders, improve communication skills, make positive decisions, and manage conflict; and

(g) access to a career development program, positioned to assist student-athletes in transferring the valuable skills developed during intercollegiate athletic participation, to a successful post-college career.

§ 6438-d. Notification of alcohol or controlled substance violations. 1. Every institution of higher education shall make publicly accessible its policy on notifying a parent, guardian, or emergency contact of a violation by a student under the age of twenty-one for the use or possession of alcohol or a controlled substance. Such violations may include but shall not be limited to, rule infractions, violations of federal, state, or local law, or controlled substance or alcohol related

hospitalizations or overdoses.

2. All institutions of higher education shall conduct regular training on the provisions of the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) related to health and safety emergencies and its impact on such institutions' response to student alcohol or controlled substance related hospitalizations or overdoses. These trainings shall be conducted for relevant administration and staff as identified by the institution. Such institutions may set the time intervals and parameters for such trainings.

ARTICLE 129-B

IMPLEMENTATION BY COLLEGES AND UNIVERSITIES OF SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING PREVENTION AND RESPONSE POLICIES AND PROCEDURES

Section 6439. Definitions.
6440. General provisions.
6441. Affirmative consent to sexual activity.
6442. Policy for alcohol and/or drug use amnesty.
6443. Students' bill of rights.
6444. Response to reports.
6445. Campus climate assessments.
6446. Options for confidential disclosure.
6447. Student onboarding and ongoing education.
6448. Privacy in legal challenges.
6449. Reporting aggregate data to the department.

§ 6439. Definitions. As used in this article, the following terms have the following meanings:

1. "Institution" shall mean any college or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York.

2. "Title IX Coordinator" shall mean the Title IX Coordinator and/or

his or her designee or designees.

3. "Bystander" shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.

4. "Code of conduct" shall mean the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated in the institution.

5. "Confidentiality" may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.

6. "Privacy" may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials. Institutions may substitute another relevant term having the same meaning, as appropriate to the policies of the institution.

7. "Accused" shall mean a person accused of a violation who has not yet entered an institution's judicial or conduct process.

8. "Respondent" shall mean a person accused of a violation who has entered an institution's judicial or conduct process.

9. "Reporting individual" shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.

10. "Sexual activity" shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).

11. "Domestic violence", "dating violence", "stalking" and "sexual assault" shall be defined by each institution in its code of conduct in a manner consistent with applicable federal definitions.

§ 6440. General provisions. 1. Every institution shall:

a. adopt written rules implementing this article by amending its code of conduct or other comparable policies;

b. annually file with the department on or before the first day of July, beginning in two thousand sixteen, a certificate of compliance with the provisions of this article; and

c. file a copy of all written rules and policies adopted as required in this article with the department on or before the first day of July, two thousand sixteen, and once every ten years thereafter, except that the second filing shall coincide with the required filing under article one hundred twenty-nine-A of this chapter, and continue on the same cycle thereafter.

2. All institutional services and protections afforded to reporting individuals under this article shall be available to all students and applicable to conduct that has a reasonable connection to that institution. When such conduct involves students or employees from two or more institutions, such institutions may work collaboratively to address the conduct provided that such collaboration complies with the Family Educational Rights and Privacy Act codified at 20 U.S.C. 1232g; 34 C.F.R. Part 99.

3. If an institution fails to file a certificate of compliance on or before September first beginning in two thousand sixteen, such institution shall be ineligible to receive state aid or assistance until it files such a certificate. The department shall conduct audits of

institutions by random selection, at any time after September first, two thousand sixteen, to ensure compliance with the provisions of this article, and shall post information and statistics regarding compliance with this article on the department's website.

4. A copy of such rules and policies shall be provided by each institution to all students enrolled in said institution using a method and manner appropriate to its institutional culture. Each institution shall also post such rules and policies on its website in an easily accessible manner to the public.

5. The protections in this article apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

6. The provisions of this article shall apply regardless of whether the violation occurs on campus, off campus, or while studying abroad.

7. Institutions shall, where appropriate, utilize applicable state and federal law, regulations, and guidance in writing the policies required pursuant to this article.

8. Nothing in this article shall be construed to limit in any way the provisions of the penal law that apply to the criminal action analogous to the student conduct code violations referenced herein. Action pursued through the criminal justice process shall be governed by the penal law and the criminal procedure law.

9. Nothing in this article shall be construed to create a new private right of action for any person.

10. Nothing in this article shall be construed to prevent an institution from continuing an investigation when required by law to continue such investigation.

§ 6441. Affirmative consent to sexual activity. 1. Every institution shall adopt the following definition of affirmative consent as part of its code of conduct: "Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression."

2. Each institution's code of conduct shall reflect the following principles as guidance for the institution's community:

a. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

b. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

c. Consent may be initially given but withdrawn at any time.

d. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

e. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

f. When consent is withdrawn or can no longer be given, sexual activity must stop.

§ 6442. Policy for alcohol and/or drug use amnesty. 1. Every institution shall adopt and implement the following policy as part of its code of conduct: "The health and safety of every student at the {Institution} is of utmost importance. {Institution} recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. {Institution} strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to {Institution's} officials or law enforcement will not be subject to {Institution's} code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault."

2. Nothing in this section shall be construed to limit an institution's ability to provide amnesty in additional circumstances.

§ 6443. Students' bill of rights. Every institution shall adopt and implement the following "Students' Bill of Rights" as part of its code of conduct which shall be distributed annually to students, made available on each institution's website, posted in campus residence halls and campus centers, and shall include links or information to file a report and seek a response, pursuant to section sixty-four hundred forty-four of this article, and the options for confidential disclosure pursuant to section sixty-four hundred forty-six of this article: "All students have the right to: 1. Make a report to local law enforcement and/or state police; 2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously; 3. Make a decision about whether or not to disclose a crime or violation and

participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution; 4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard; 5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available; 6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations; 7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident; 8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution; 9. Access to at least one level of appeal of a determination; 10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and 11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution."

§ 6444. Response to reports. 1. Every institution shall ensure that reporting individuals are advised of their right to:

a. Notify university police or campus security, local law enforcement, and/or state police;

b. Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law

enforcement or to the district attorney. Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options;

c. Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;

d. Disclose confidentially the incident and obtain services from the state or local government;

e. Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;

f. File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance. Reports shall be investigated in accordance with institution policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy;

g. Disclose, if the accused is an employee of the institution, the incident to the institution's human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority;

h. Receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court; and

i. Withdraw a complaint or involvement from the institution process at any time.

2. Every institution shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to an institution

representative, the following information shall be presented to the reporting individual: "You have the right to make a report to university police or campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."

3. Every institution shall ensure that reporting individuals have information about resources, including intervention, mental health counseling, and medical services, which shall include information on whether such resources are available at no cost or for a fee. Every institution shall also provide information on sexually transmitted infections, sexual assault forensic examinations, and resources available through the New York state office of victim services, established pursuant to section six hundred twenty-two of the executive law.

4. Every institution shall ensure that individuals are provided the following protections and accommodations:

a. When the accused or respondent is a student, to have the institution issue a "no contact order" consistent with institution policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of institution policy subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request. Institutions may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual;

b. To be assisted by the institution's police or security forces, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order;

c. To receive a copy of the order of protection or equivalent when received by an institution and have an opportunity to meet or speak with an institution representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons;

d. To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension;

e. To receive assistance from university police or campus security in effecting an arrest when an individual violates an order of protection or, if university police or campus security does not possess arresting powers, then to call on and assist local law enforcement in effecting an arrest for violating such an order, provided that nothing in this article shall limit current law enforcement jurisdiction and procedures;

f. When the accused or respondent is a student determined to present a continuing threat to the health and safety of the community, to subject the accused or respondent to interim suspension pending the outcome of a judicial or conduct process consistent with this article and the institution's policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request;

g. When the accused is not a student but is a member of the institution's community and presents a continuing threat to the health

and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution;

h. To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment, consistent with the institution's policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, and shall be allowed to submit evidence in support of his or her request.

5. Every institution shall ensure that every student be afforded the following rights:

a. The right to request that student conduct charges be filed against the accused in proceedings governed by this article and the procedures established by the institution's rules.

b. The right to a process in all student judicial or conduct cases, where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, that includes, at a minimum: (i) notice to a respondent describing the date, time, location and factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions; (ii) an opportunity to offer evidence during an investigation, and to present evidence and testimony at a hearing, where appropriate, and have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least five years from such a hearing and may include a transcript, recording or other appropriate record; and (iii) access to at least one level of appeal of a determination before a panel, which may include one or more students,

that is fair and impartial and does not include individuals with a conflict of interest. In order to effectuate an appeal, a respondent and reporting individual in such cases shall receive written notice of the findings of fact, the decision and the sanction, if any, as well as the rationale for the decision and sanction. In such cases, any rights provided to a reporting individual must be similarly provided to a respondent and any rights provided to a respondent must be similarly provided to a reporting individual.

c. Throughout proceedings involving such an accusation of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, the right:

i. For the respondent, accused, and reporting individual to be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process. Rules for participation of such advisor shall be established in the code of conduct.

ii. To a prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made pursuant to the provisions of this article and the institution's policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking or sexual assault.

iii. To an investigation and process that is fair, impartial and provides a meaningful opportunity to be heard, and that is not conducted by individuals with a conflict of interest.

iv. To have the institution's judicial or conduct process run concurrently with a criminal justice investigation and proceeding,

except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when law enforcement specifically requests and justifies a longer delay.

v. To review and present available evidence in the case file, or otherwise in the possession or control of the institution, and relevant to the conduct case, consistent with institution policies and procedures.

vi. To exclude their own prior sexual history with persons other than the other party in the judicial or conduct process or their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.

vii. To receive written or electronic notice, provided in advance pursuant to the college or university policy and reasonable under the circumstances, of any meeting they are required to or are eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process, at which time the designated hearing or investigatory officer or panel shall provide a written statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.

viii. To make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

ix. To simultaneous (among the parties) written or electronic notification of the outcome of a judicial or conduct process, including the sanction or sanctions.

x. To be informed of the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process

and the rationale for the actual sanction imposed.

xi. To choose whether to disclose or discuss the outcome of a conduct or judicial process.

xii. To have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

6. For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), institutions shall make a notation on the transcript of students found responsible after a conduct process that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they "withdrew with conduct charges pending." Each institution shall publish a policy on transcript notations and appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

7. Institutions that lack appropriate on-campus resources or services shall, to the extent practicable, enter into memoranda of understanding, agreements or collaborative partnerships with existing community-based organizations, including rape-crisis centers and domestic violence shelters and assistance organizations, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, which may also include resources and services for the respondent.

8. Institutions shall, to the extent practicable, ensure that students

have access to a sexual assault forensic examination by employing the use of a sexual assault nurse examiner in their campus health center or entering into memoranda of understanding or agreements with at least one local health care facility to provide such a service.

9. Nothing in this article shall be deemed to diminish the rights of any member of the institution's community under any applicable collective bargaining agreement.

§ 6445. Campus climate assessments. 1. Every institution shall conduct, no less than every other year, a campus climate assessment to ascertain general awareness and knowledge of the provisions of this article, including student experience with and knowledge of reporting and college adjudicatory processes, which shall be developed using standard and commonly recognized research methods.

2. The assessment shall include questions covering, but not be limited to, the following:

a. the Title IX Coordinator's role;

b. campus policies and procedures addressing sexual assault;

c. how and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;

d. the availability of resources on and off campus, such as counseling, health and academic assistance;

e. the prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;

f. bystander attitudes and behavior;

g. whether reporting individuals disclosed to the institution and/or

law enforcement, experiences with reporting and institution processes, and reasons why they did or did not report;

h. the general awareness of the difference, if any, between the institution's policies and the penal law; and

i. general awareness of the definition of affirmative consent.

3. Every institution shall take steps to ensure that answers to such assessments remain anonymous and that no individual is identified. Institutions shall publish results of the surveys on their website provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual shall be shared.

4. Information discovered or produced as a result of complying with this section shall not be subject to discovery or admitted into evidence in any federal or state court proceeding or considered for other purposes in any action for damages brought by a private party against an institution, unless, in the discretion of the court, any such information is deemed to be material to the underlying claim or defense.

§ 6446. Options for confidential disclosure. 1. In accordance with this article, every institution shall ensure that reporting individuals have the following:

a. Information regarding privileged and confidential resources they may contact regarding domestic violence, dating violence, stalking or sexual assault;

b. Information about counselors and advocates they may contact regarding domestic violence, dating violence, stalking, or sexual assault;

c. A plain language explanation of confidentiality which shall, at a minimum, include the following provision: "Even {Institution} offices

and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.";

d. Information about how the institution shall weigh a request for confidentiality and respond to such a request. Such information shall, at a minimum, include that if a reporting individual discloses an incident to an institution employee who is responsible for responding to or reporting domestic violence, dating violence, stalking, or sexual assault but wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh the request against the institution's obligation to provide a safe, non-discriminatory environment for all members of its community. The institution shall assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of reporting choices;

e. Information about public awareness and advocacy events, including guarantees that if an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, the institution is not obligated to begin an investigation based on such information. The institution may use the information provided at such an event to inform its efforts for additional education and prevention efforts;

f. Information about existing and available methods to anonymously disclose including, but not limited to information on relevant confidential hotlines provided by New York state agencies and not-for-profit entities;

g. Information regarding institutional crime reporting including, but not limited to: reports of certain crimes occurring in specific geographic locations that shall be included in the institution's annual security report pursuant to the Clery Act, 20 U.S.C. 1092(f), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual; that the institution is

obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual; that a reporting individual shall not be identified in a timely warning; that the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, allows institutions to share information with parents when i. there is a health or safety emergency, or ii. when the student is a dependent on either parent's prior year federal income tax return; and that generally, the institution shall not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.

2. The institution may take proactive steps, such as training or awareness efforts, to combat domestic violence, dating violence, stalking or sexual assault in a general way that does not identify those who disclose or the information disclosed.

3. If the institution determines that an investigation is required, it shall notify the reporting individuals and take immediate action as necessary to protect and assist them.

4. The institution should seek consent from reporting individuals prior to conducting an investigation. Declining to consent to an investigation shall be honored unless the institution determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. Honoring such a request may limit the institution's ability to meaningfully investigate and pursue conduct action against an accused individual. Factors used to determine whether to honor such a request include, but are not limited to:

a. Whether the accused has a history of violent behavior or is a repeat offender;

b. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;

c. The increased risk that the accused will commit additional acts of violence;

d. Whether the accused used a weapon or force;

e. Whether the reporting individual is a minor; and

f. Whether the institution possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

§ 6447. Student onboarding and ongoing education. 1. Every institution shall adopt a comprehensive student onboarding and ongoing education campaign to educate members of the institution's community about domestic violence, dating violence, stalking, and sexual assault, in compliance with applicable federal laws, including the Clery Act as amended by the Violence Against Women Act reauthorization of 2013, 20 U.S.C. 1092(f).

2. Included in this campaign shall be a requirement that all new first-year and transfer students shall, during the course of their onboarding to their respective institution, receive training on the following topics, using a method and manner appropriate to the institutional culture of each institution:

a. The institution prohibits sexual and interpersonal violence and will offer resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution;

b. Relevant definitions including, but not limited to, the definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and consent;

c. Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression;

d. The role of the Title IX Coordinator, university police or campus security, and other relevant offices that address domestic violence, dating violence, stalking, and sexual assault prevention and response;

e. Awareness of violence, its impact on victims and survivors and their friends and family, and its long-term impact;

f. Bystander intervention and the importance of taking action to prevent violence when one can safely do so;

g. Risk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institution officials who can answer general or specific questions about risk reduction; and

h. Consequences and sanctions for individuals who commit these crimes and code of conduct violations.

3. Every institution shall train all new students, whether first-year or transfer, undergraduate, graduate, or professional.

4. Every institution shall use multiple methods to educate students about violence prevention and shall share information on domestic violence, dating violence, stalking and sexual assault prevention with parents of enrolling students.

5. Every institution shall offer to all students general and specific training in domestic violence, dating violence, stalking and sexual

assault prevention and shall conduct a campaign that complies with the Violence Against Women Act, 20 U.S.C. 1092(f), to educate the student population. They shall, as appropriate, provide or expand specific training to include groups such as international students, students that are also employees, leaders and officers of registered or recognized student organizations, and online and distance education students. They shall also provide specific training to members of groups that the institution identifies as high-risk populations.

6. Every institution shall require that each student leader and officer of student organizations recognized by or registered with the institution, as well as those seeking recognition by the institution, complete training on domestic violence, dating violence, stalking, or sexual assault prevention prior to receiving recognition or registration, and each institution shall require that each student-athlete complete training on domestic violence, dating violence, stalking, or sexual assault prevention prior to participating in intercollegiate athletic competition.

7. Every institution must regularly assess programs and policies established pursuant to this article to determine effectiveness and relevance for students.

§ 6448. Privacy in legal challenges. Pursuant to subdivision (i) of rule three thousand sixteen of the civil practice law and rules, in any proceeding brought against an institution which seeks to vacate or modify a finding that a student was responsible for violating an institution's rules regarding a violation covered by this article, the name and identifying biographical information of any student shall be presumptively confidential and shall not be included in the pleadings and other papers from such proceeding absent a waiver or cause shown as determined by the court. Such witnesses shall be identified only as numbered witnesses. If such a name or identifying biographical information appears in a pleading or paper filed in such a proceeding, the court, absent such a waiver or cause shown, shall direct the clerk of the court to redact such name and identifying biographical

information and so advise the parties.

§ 6449. Reporting aggregate data to the department. 1. Institutions shall annually report to the department the following information about reports of domestic violence, dating violence, stalking and sexual assault:

a. The number of such incidents that were reported to the Title IX Coordinator.

b. Of those incidents in paragraph a of this subdivision, the number of reporting individuals who sought the institution's judicial or conduct process.

c. Of those reporting individuals in paragraph b of this subdivision, the number of cases processed through the institution's judicial or conduct process.

d. Of those cases in paragraph c of this subdivision, the number of respondents who were found responsible through the institution's judicial or conduct process.

e. Of those cases in paragraph c of this subdivision, the number of respondents who were found not responsible through the institution's judicial or conduct process.

f. A description of the final sanctions imposed by the institution for each incident for which a respondent was found responsible, as provided in paragraph d of this subdivision, through the institution's judicial or conduct process.

g. The number of cases in the institution's judicial or conduct process that were closed prior to a final determination after the respondent withdrew from the institution and declined to complete the disciplinary process.

h. The number of cases in the institution's judicial or conduct process that were closed because the complaint was withdrawn by the reporting individual prior to a final determination.

2. The department shall create a reporting mechanism for institutions to efficiently and uniformly provide the information outlined in subdivision one of this section.

3. The department shall not release the information, as provided for in this section, if it would compromise the confidentiality of reporting individuals or any other party in the best judgment of the department.

4. Within one year of the effective date of this article, the department shall issue regulations in consultation with representatives from the state university of New York, city university of New York, and private and independent colleges and universities, and within two years of the effective date of this article the department shall issue a report to the governor, the temporary president of the senate, the speaker of the assembly and the chairs of the higher education committees in each house regarding the data collected pursuant to this section.

ARTICLE 130

ARTHUR O. EVE OPPORTUNITY FOR HIGHER EDUCATION

Section 6451. Arthur O. Eve opportunity for higher education; non-public institutions.
6452. Arthur O. Eve opportunity for higher education; state university of New York and city university of New York.
6453. Special nursing education program.
6454. Science and technology entry program.
6455. Collegiate science and technology entry program.
6456. Foster youth college success initiative.

§ 6451. Arthur O. Eve opportunity for higher education; non-public institutions. 1. To advance the cause of educational opportunity in

higher education, the commissioner may contract with non-public institutions of higher education for the support of special programs for the screening, testing, counseling, tutoring of, and, assistance to, residents of the state who are, (1) graduates of an approved high school or individuals who have attained a New York state high school equivalency diploma or its equivalent, as determined by the commissioner, (2) who have potential for the successful completion of a post secondary program, and (3) are economically and educationally disadvantaged, as defined by the regents.

2. To qualify for state assistance through such contracts, an institution of higher education must be a college or university incorporated by the regents or by the legislature, or a school of medicine, dentistry or osteopathy authorized by the regents to confer the degree of doctor of medicine, doctor of medical science, doctor of dental surgery or doctor of osteopathy and must maintain one or more earned degree programs culminating in an associate or higher degree.

3. Moneys made available to institutions through contracts shall be spent only for the following purposes:

a. Special testing, counseling and guidance services in the course of screening potential enrollees;

b. Remedial courses, developmental or compensatory courses and summer classes for such students;

c. Special tutoring, counseling and guidance services for such enrolled students;

d. Any necessary supplemental financial assistance, which may include the cost of books and necessary maintenance for such enrolled students, including students without lawful immigration status provided that the student meets the requirements set forth in subparagraph (ii) of paragraph a or subparagraph (ii) of paragraph b of subdivision five of section six hundred sixty-one of this chapter, as applicable; provided, however, that such supplemental financial assistance shall be furnished

pursuant to criteria promulgated by the commissioner with the approval of the director of the budget;

e. Partial reimbursement for tuition for regular academic courses pursuant to criteria promulgated by the commissioner;

f. Student travel for academic activities or conferences;

g. Expenses related to helping students apply for and prepare for graduate or professional school; and

h. The hiring of enrolled students participating in an Arthur O. Eve opportunity for higher education work-study program.

4. The commissioner shall promulgate regulations requiring the submission to him by any institution intending to contract with the state for assistance pursuant to this section of reports in such form and containing such information as he shall require, concerning, but not limited to, such matters as a description of the proposed program, estimated costs, objectives, the extent of the institution's support of such program and similar programs and the progress of students in such programs, and the commissioner shall take such factors into account in determining whether to enter into a contract with such institution and the terms and conditions thereof.

5. Contracts made pursuant to this section shall be subject to the approval of the director of the budget.

6. The commissioner shall prepare an annual report of the activities of the institutions which received state funds pursuant to this section in the preceding fiscal year, concerning, but not limited to, the effectiveness of each of the programs contracted for, the costs of the programs and the future plans thereof and shall transmit such report to the Governor and the legislature on or before the December first next following the close of such fiscal year.

§ 6452. Arthur O. Eve opportunity for higher education; state university of New York and city university of New York. 1. To provide additional educational opportunity at the state university of New York and the city university of New York, such institutions shall provide special programs for the screening, testing, counseling, and tutoring of, and assistance to, residents of the state who are, (1) graduates of an approved high school or individuals who have attained a New York state high school equivalency diploma or its equivalent, as determined by the commissioner, (2) who have potential for the successful completion of a post secondary program, and (3) are economically and educationally disadvantaged.

2. Such universities shall each formulate a general plan for the organization, development, co-ordination and operation of such a program within the amounts made available therefor by law. Such a plan shall include:

a. Definition of eligibility, provided, however, except for requiring residence in the state or in the city of New York in the case of those programs provided by the city university of New York, no such definition shall include either by its terms or in its application, any criteria or standard which determines eligibility based in whole or in part upon the geographical locality in which a student or prospective student resides,

b. Procedures for the selection of students from among the eligibles,

c. Description of the contents of such proposed program including counseling, tutoring and skill development,

d. Estimated costs,

e. Objectives including co-ordination with the university's long range plan,

f. Extent of other funds and resources to be utilized in support of the program,

g. Procedures for the evaluation of student progress, and

h. Periodic reports.

3. The general plan shall be transmitted to the board of regents at such time as the regents shall by rule require. Such plan shall be reviewed by the regents and shall guide and determine the operation of such programs at such universities.

4. a. Moneys made available to such universities pursuant to this section shall be spent only for the following purposes:

(i) Special testing, counseling and guidance services in the course of screening potential students,

(ii) Remedial courses, developmental and compensatory courses and summer classes for such students,

(iii) Special tutoring, counseling and guidance services for enrolled students,

(iv) Central services including evaluation and administrative costs,

(v) Any necessary supplemental financial assistance, which may include the cost of books and necessary maintenance for such students, including students without lawful immigration status provided that the student meets the requirements set forth in subparagraph (ii) of paragraph a or subparagraph (ii) of paragraph b of subdivision five of section six hundred sixty-one of this chapter, as applicable; provided, however, that such supplemental financial assistance shall be furnished pursuant to criteria promulgated by such universities and approved by the regents and the director of the budget.

b. No funds pursuant to this section shall be made available to support the regular academic programs of any institution participating in this program, nor shall funds be provided for programs which are incompatible with the regents plan for the expansion and development of higher education in the state.

5. a. The trustees of the state university and board of higher education in the city of New York shall each furnish to the regents, the director of the budget, the chairman of the senate finance committee and

the chairman of the assembly ways and means committee, at least annually, a report in such form, at such time and containing such information as the regents and the director of the budget may require, of the operations of such programs. The report shall include:

(i) A statement of the objectives of the program at the institution,

(ii) A description of the program,

(iii) The budgetary expenditures for such program, separately stating academic credit instructional costs, other instructional costs, tutoring costs, remediation, counseling, supplemental financial assistance and central services, including evaluation and administrative costs,

(iv) The extent of other funds and resources used in support of such program and their sources,

(v) The progress of students,

(vi) The extent and nature of the responsibility exercised over such program by such trustees and such board,

(vii) The extent and nature of supervision and control exercised over such program by the administrative officials of the constituent institutions in such universities,

(viii) A certification by such trustees and such board that the academic committees of the constituent institutions of such universities and their faculty committees have reviewed and approved the academic content of the courses offered for academic credit in such program and the amount of academic credit granted therefor and that the registration requirements of the regents and the commissioner have been met where applicable.

b. The regents shall review such report and forward the same, together with their comments and recommendations to the governor and the legislature, on or before December first next following the close of the state's fiscal year.

*** § 6453. Special nursing education program.** To grant greater opportunity in nursing education, the commissioner may:

1. Enter into contracts with any institution of higher education incorporated in this state, voluntary non-profit hospitals incorporated

within this state or public hospitals located within this state for:

(1) A contract for conducting courses approved by the department to assist foreign trained nurses to qualify for a license as a registered professional nurse in this state.

(2) A contract for conducting refresher courses for residents of this state who have been licensed as registered professional nurses but who are not actively engaged in nursing.

2. Enter into a contract to expand the enrollment of any institution of higher education incorporated within this state or any voluntary non-profit hospital or municipal or county hospital incorporated within this state providing either a regents' approved curriculum leading to a baccalaureate degree in professional nursing or a regents' registered program in professional nursing, by paying an agreed sum to the institution for each additional student enrolled in each year of instruction above the average enrollment in such year of instruction for the last five years prior to the year for which the payment is made. The sum shall not be paid for more than ten additional students per year.

3. Promulgate regulations necessary for the implementation of these programs.

* NB Section set out as 6443. Should read 6453

§ 6454. Science and technology entry program. 1. As used in this section:

a. "Council" means the council on professional career opportunity created pursuant to article forty-four of the executive law;

b. "Eligible students" shall mean secondary school students who are either economically disadvantaged or minorities historically underrepresented in the scientific, technical, health, and health-related professions as defined by the regents after consultation with the council; and

c. "Eligible applicant" shall mean an institution of postsecondary

education or a consortia of such institutions.

2. The purpose of the science and technology entry programs shall be to assist eligible students in acquiring the skills, attitudes and abilities necessary to pursue professional or pre-professional study in post-secondary degree programs in scientific, technical and health-related fields.

3. Grant applications submitted by eligible applicants shall outline a plan of instruction and curriculum-related activities and services to advance the purpose of the science and technology entry program. Such plans may provide for contracting by the eligible applicant with specified not-for-profit community based educational organizations for the provision of instruction, activities and services outlined in the plan. Such plans shall include quantifiable measures to assess the effectiveness of the instruction, activities and services in promoting the purposes of the science and technology entry program. Such measures shall include, but not be limited to:

a. the persistence rate of participating students in selecting and completing mathematics and science courses in an academic track in their subsequent years in high school;

b. the college placement rate of participating students in professional or pre-professional programs in scientific, technical, or health-related fields. Such approved plans may be amended with the approval of the commissioner.

4. Eligible applicants receiving grants pursuant to this section shall provide a program of instruction and curriculum-related activities and services to advance the purpose of the science and technology entry program. The curricula of these programs shall, to the extent practicable, emphasize the concrete aspects of the scientific, technical or health-related discipline as it relates to a professional career, through laboratories, relevant work experience opportunities, or similar activities. In addition to specialized instruction, programs funded pursuant to this section shall provide participating students with

personal, career and financial aid counseling to ensure that such students are fully aware of the opportunities and necessary preparations for professional careers in scientific, technical, or health-related fields.

5. a. Grants shall be awarded to eligible applicants based upon criteria established by the commissioner after consultation with the council, including, but not limited to, the following:

(1) an established record of conducting effective collaborative educational programs with neighboring secondary schools;

(2) the ability and willingness to cooperate with other postsecondary institutions in operating a program funded pursuant to this section;

(3) the capacity to secure or provide additional support in amounts equal to at least twenty-five percent of the grant sought under this section through private and other governmental sources and through in-kind services;

(4) a location within a school district with an enrollment comprised of at least twenty percent minority group students or a location near such a district that is accessible by public transportation.

b. The commissioner shall select the grant recipients after consultation with the council. To the fullest extent practicable the commissioner and the council shall ensure that grants are awarded to eligible applicants in a diversity of regions of the state.

6. To be selected to participate in a program funded pursuant to this section, an eligible student must exhibit the potential for college level study if provided with special services, as indicated by academic record, test scores, attendance record, personal references, and other measures deemed appropriate by the commissioner.

7. No grant pursuant to this section shall exceed two hundred thousand dollars to any eligible applicant in a single state fiscal year unless the eligible applicant is a consortium comprised of two or more institutions of post-secondary education or unless the eligible applicant is conducting summer classes as an approved part of its program.

8. The commissioner is authorized to require eligible applicants receiving funds pursuant to this section to report periodically upon:

a. compliance with the approved plan;

b. the objectives of the applicant's program;

c. the curricula and the activities and services offered by the program;

d. the sources of support and the expenditures of the program;

e. the background and progress of students selected to participate in the program;

f. the performance of the program in meeting the evaluation standards established pursuant to this section; and

g. other matters the commissioner deems appropriate.

§ 6455. Collegiate science and technology entry program. 1. General requirements. The commissioner shall award grants to degree-granting institutions in New York or to consortia of such institutions to be used for the purpose of increasing access by minority or disadvantaged students to academic programs that have been registered by the commissioner and that prepare students either for licensure in the professions or for employment in scientific and technical fields.

2. Undergraduate programs. (a) (i) Undergraduate science and technology entry program moneys may be used for tutoring, counseling, remedial and special summer courses, supplemental financial assistance, program administration, and other activities which the commissioner may deem appropriate. To be eligible for undergraduate collegiate science and technology entry program support, a student must be a resident of New York, or meet the requirements of subparagraph (ii) of this

paragraph, and must be either economically disadvantaged or from a minority group historically under represented in the scientific, technical, health and health-related professions, and must demonstrate interest in and a potential for a professional career if provided special services. Eligible students must be in good academic standing, enrolled full time in an approved, undergraduate level program of study, as defined by the regents.

(ii) An applicant who is not a legal resident of New York state, but who is a United States citizen, a permanent lawful resident, an individual who is granted U or T non-immigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000, a person granted temporary protected status pursuant to the Federal Immigration Act of 1990, an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States, or an applicant without lawful immigration status, shall be eligible for an award at the undergraduate level of study provided that the student:

(1) attended a registered New York state high school for two or more years, graduated from a registered New York state high school and applied for attendance at the institution of higher education for the undergraduate study for which an award is sought within five years of receiving a New York state high school diploma; or

(2) attended an approved New York state program for a state high school equivalency diploma, received a state high school equivalency diploma and applied for attendance at the institution of higher education for the undergraduate study for which an award is sought within five years of receiving a state high school equivalency diploma; or

(3) is otherwise eligible for the payment of tuition and fees at a rate no greater than that imposed for resident students of the state university of New York, the city university of New York or community colleges as prescribed in subparagraph eight of paragraph h of subdivision two of section three hundred fifty-five or paragraph (a) of subdivision seven of section sixty-two hundred six of this chapter.

Provided, further, that a student without lawful immigration status shall also be required to file an affidavit with such institution of

higher education stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(b) Applications for funding shall be submitted by eligible institutions to the department in accordance with requirements established by the commissioner. Priority consideration shall be given to institutions which coordinate their efforts to increase minority access with similar activities for programs at the secondary level in accordance with this section. Grants shall be awarded based on criteria established by the commissioner.

3. Graduate programs. (a) (i) Graduate science and technology entry program moneys may be used for recruitment, academic enrichment, career planning, supplemental financial assistance, review for licensing examinations, program administration, and other activities which the commissioner may deem appropriate. To be eligible for graduate collegiate science and technology entry program support, a student must be a resident of New York, or meet the requirements of subparagraph (ii) of this paragraph, and must be either economically disadvantaged or from a minority group historically underrepresented in the scientific, technical and health-related professions. Eligible students must be in good academic standing, enrolled full time in an approved graduate level program, as defined by the regents.

(ii) An applicant who is not a legal resident of New York state, but either is a United States citizen, a permanent lawful resident, an individual who is granted U or T non-immigrant status pursuant to the Victims of Trafficking and Violence Protection Act of 2000, a person granted temporary protected status pursuant to the Federal Immigration Act of 1990, an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States, or an applicant without lawful immigration status shall be eligible for an award at the graduate level of study provided that the student:

(1) attended a registered approved New York state high school for two or more years, graduated from a registered New York state high school and applied for attendance at the institution of higher education for the graduate study for which an award is sought within ten years of

receiving a New York state high school diploma; or

(2) attended an approved New York state program for a state high school equivalency diploma, received a state high school equivalency diploma and applied for attendance at the institution of higher education for the graduate study for which an award is sought within ten years of receiving a state high school equivalency diploma; or

(3) is otherwise eligible for the payment of tuition and fees at a rate no greater than that imposed for resident students of the state university of New York, the city university of New York or community colleges as prescribed in subparagraph eight of paragraph h of subdivision two of section three hundred fifty-five or paragraph (a) of subdivision seven of section sixty-two hundred six of this chapter.

Provided, further, that a student without lawful immigration status shall also be required to file an affidavit with such institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(b) Applications for funding shall be made by eligible institutions in accordance with requirements established by the commissioner. Grants shall be awarded based on criteria established by the commissioner. Priority consideration shall be given to institutions which coordinate their efforts to increase minority access with similar activities at the undergraduate level.

4. Reporting requirements. Institutions participating in the science and technology entry program shall submit to the commissioner such reports or other information as he shall require. The commissioner shall prepare for the board of regents an annual report of the activities of institutions which receive state funds pursuant to this section concerning, but not limited to, the effectiveness of the programs, the numbers of students served, and future plans.

§ 6456. Foster youth college success initiative. 1. Subject to an appropriation, the commissioner shall allocate the funds available for the foster youth college success initiative for the purpose of providing

support services to assist youth in foster care to apply for, enroll in, and succeed in college. Such grants shall be awarded to institutions of the state university of New York and institutions of the city university of New York, and the commissioner shall enter into contracts with degree-granting institutions in New York that are currently funded by the Arthur O. Eve higher education opportunity program pursuant to section sixty-four hundred fifty-one of this article for the purpose of providing additional services and expenses to expand opportunities for foster youth.

2. For the purposes of this section, "foster youth" shall mean students who (i) are an orphan or (ii) are, or have been, either a child or youth in foster care as such term is defined in section thirty-two hundred forty-four of this chapter or ward of the court at any time after their thirteenth birthday.

3. a. Funds appropriated in the two thousand fifteen--two thousand sixteen academic year for the purposes of this initiative shall be allocated by sector as follows: fifty-two percent for institutions in the state university of New York; thirty percent for institutions in the city university of New York; and eighteen percent for other degree-granting institutions in New York with current Arthur O. Eve higher education opportunity programs.

b. Funds appropriated in the two thousand sixteen--two thousand seventeen academic year and thereafter for the purposes of this initiative shall be allocated by sector based on the percentage of foster youth identified by each institution that will be served by this initiative in the following academic year, in applications received by the commissioner pursuant to subdivision six of this section, provided however that the award per student for foster youth first served in the two thousand fifteen--two thousand sixteen academic year shall be no less than the amount per student awarded for those students in the two thousand fifteen--two thousand sixteen academic year.

4. Funds for all programs under this section shall be awarded in equal amounts per foster youth to each institution that applies for funding

allocated to its sector distribution as provided in subdivision three of this section and has an application that is approved by the commissioner; provided, however, funds shall be awarded to a foster youth based on his or her need as determined by the institution of higher education where such foster youth is in attendance.

5. Moneys made available to institutions under this section shall be spent for the following purposes:

a. to provide additional services and expenses to expand opportunities through existing postsecondary opportunity programs at the state university of New York, the city university of New York, and other degree-granting higher education institutions for foster youth;

b. to provide any necessary supplemental financial aid for foster youth, which may include the cost of tuition and fees, books, transportation, housing and other expenses as determined by the commissioner to be necessary for such foster youth to attend college;

c. summer college preparation programs to help foster youth transition to college, prepare them to navigate on-campus systems, and provide preparation in reading, writing, and mathematics for foster youth who need it;

d. advisement, tutoring, and academic assistance for foster youth;

e. to provide supplemental housing and meals, including but not limited to during intersession and summer breaks, for foster youth; or

f. medical expenses including, but not limited to, primary care, behavioral health, vision and dental care which is not otherwise covered by an eligible student's health plan.

6. Eligible institutions shall file an application for approval by the commissioner each year demonstrating a need for such funding, including how the funding would be used and how many foster youth would be assisted with such funding. Successful applicants will be funded as

provided in subdivision four of this section.

7. No funds pursuant to this section shall be made available to support the regular academic programs of any institution participating in this program, nor shall funds be provided for programs which are incompatible with the regents plan for the expansion and development of higher education in this state.

TITLE VIII

THE PROFESSIONS

Article 130*. General provisions (§§ 6500-6516).
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131-B. Physician assistants and specialist assistants (§§ 6540-6548).
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141. Podiatry (§§ 7000-7010).
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147. Architecture (§§ 7300-7308).
148. Landscape architecture (§§ 7320-7328).
149. Public accountancy (§§ 7400-7409).
151. Shorthand reporting (§§ 7500-7504).

153. Psychology (§§ 7600-7606).
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157. Dietetics and nutrition (§§ 8000-8006).
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ARTICLE 130*

GENERAL PROVISIONS

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Subarticle 1. Introductory summary.

§ 6500. Introduction. This title provides for the regulation of the admission to and the practice of certain professions. This first article applies to all the professions included in this title, except that prehearing procedures and hearing procedures in connection with the regulation of professional conduct of the profession of medicine and physician's assistants and specialist's assistants shall be conducted pursuant to the provisions of Title II-A of article two of the public health law. Each of the remaining articles applies to a particular profession.

§ 6501. Admission to a profession (licensing). 1. Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the education department. To qualify for a license an applicant shall meet the requirements prescribed in the article for the particular profession and shall meet the requirements prescribed in section 3-503 of the general obligations law.

2. a. Notwithstanding any provision of law to the contrary, any applicant seeking to qualify for a license pursuant to this title who is the spouse of an active duty member of the armed forces of the United States, national guard or reserves as defined in 10 U.S.C. sections 1209 and 1211, and such spouse is transferred by the military to this state shall be afforded an expedited review of his or her application for licensure. Such application shall be on a form prescribed by the department and shall include an attestation by the applicant of the military status of his or her spouse and any other such supporting documentation that the department may require. Upon review of such application, the department shall issue a license to the applicant if the applicant holds a license in good standing in another state and in

the opinion of the department, the requirements for licensure of such other state are substantially equivalent to the requirements for licensure in this state.

b. In addition to the expedited review granted in paragraph a of this subdivision, an applicant who provides satisfactory documentation that he or she holds a license in good standing from another state, may request the issuance of a temporary practice permit, which, if granted will permit the applicant to work under the supervision of a New York state licensee in accordance with regulations of the commissioner. The department may grant such temporary practice permit when it appears based on the application and supporting documentation received that the applicant will meet the requirements for licensure in this state because he or she holds a license in good standing from another state with significantly comparable licensure requirements to those of this state, except the department has not been able to secure direct source verification of the applicant's underlying credentials (e.g., receipt of original transcript, experience verification). Such permit shall be valid for six months or until ten days after notification that the applicant does not meet the qualifications for licensure. An additional six months may be granted upon a determination by the department that the applicant is expected to qualify for the full license upon receipt of the remaining direct source verification documents requested by the department in such time period and that the delay in providing the necessary documentation for full licensure was due to extenuating circumstances which the military spouse could not avoid.

c. A temporary practice permit issued under paragraph b of this subdivision shall be subject to the full disciplinary and regulatory authority of the board of regents and the department, pursuant to this title, as if such authorization were a professional license issued under this article.

d. The department shall reduce the initial licensure application fee by one-half for any application submitted by a military spouse under this subdivision.

§ 6501-b. Affirmation of applications. Notwithstanding any other provision of law to the contrary, any application required by this title to be filed with the department may, in lieu of being certified or sworn under oath, be subscribed by the applicant and affirmed by the applicant as true under penalties of perjury.

§ 6502. Duration and registration of a license. 1. A license shall be valid during the life of the holder unless revoked, annulled or suspended by the board of regents or in the case of physicians, physicians practicing under a limited permit, physician's assistants, specialist's assistants and medical residents, the licensee is stricken from the roster of such licensees by the board of regents on the order of the state board for professional medical conduct in the department of health. A licensee must register with the department and meet the requirements prescribed in section 3-503 of the general obligations law to practice in this state.

2. The department shall establish the beginning dates of the registration periods for each profession and provide an application for registration conforming to the requirements of section 3-503 of the general obligations law to every licensee currently registered at least four months prior to the beginning of the registration period for the respective profession; provided however, the department shall mail an application forty-five days prior to the end date of such registration period to any licensee who has not registered.

3. An application for registration and the required registration fee shall be submitted together with or as a part of the application for a license. A person initially licensed or a licensee resuming practice after a lapse of registration during the last two years of a triennial registration period shall receive a prorated refund of one-third of the total registration fee for each full year of the triennial period that has elapsed prior to the date of registration. Except as provided in subdivision three-a of this section, the department shall renew the registration of each licensee upon receipt of a proper application, on a

form prescribed by the department and conforming to the requirements of section 3-503 of the general obligations law, and the registration fee. Any licensee who fails to register by the beginning of the appropriate registration period shall be required to pay an additional fee for late filing of ten dollars for each month that registration has been delayed. No licensee resuming practice after a lapse of registration shall be permitted to practice without actual possession of the registration certificate.

3-a. Prior to issuing any registration pursuant to this section and section sixty-five hundred twenty-four of this chapter, the department shall request and review any information relating to an applicant which reasonably appears to relate to professional misconduct in his or her professional practice in this and any other jurisdiction. The department shall advise the director of the office of professional medical conduct in the department of health of any information about an applicant which reasonably appears to be professional misconduct as defined in sections sixty-five hundred thirty and sixty-five hundred thirty-one of this chapter, within seven days of its discovery. The registration or re-registration of such applicant shall not be delayed for a period exceeding thirty days unless the director finds a basis for recommending summary action pursuant to subdivision twelve of section two hundred thirty of the public health law after consultation with a committee on professional conduct of the state board for professional medical conduct, if warranted. Re-registration shall be issued if the commissioner of health fails to issue a summary order pursuant to subdivision twelve of section two hundred thirty of the public health law within ninety days of notice by the department pursuant to this subdivision. Re-registration shall be denied if the commissioner of health issues a summary order pursuant to subdivision twelve of section two hundred thirty of the public health law.

4. Any licensee who is not engaging in the practice of his profession in this state and does not desire to register shall so advise the department. Such licensee shall not be required to pay an additional fee for failure to register at the beginning of the registration period.

5. Licensees shall notify the department of any change of name or mailing address within thirty days of such change. Failure to register or provide such notice within one hundred eighty days of such change shall be willful failure under section sixty-five hundred thirty of this chapter.

6. The fee for replacement of a lost registration certificate or license or for registration of an additional office shall be ten dollars.

7. An additional fee of twenty-five dollars shall be charged for the licensure or registration of any applicant who submits a bad check to the department.

§ 6502-a. Renewal of professional license, certification, or registration. 1. This section shall apply to healthcare professionals licensed, certified, registered or authorized pursuant to this title other than those licensed or registered pursuant to article one hundred thirty-one of this title.

2. In conjunction with and as a condition of each registration renewal, the professionals described in subdivision one of this section shall provide to the department, and the department shall collect, such information and documentation required by the department, in consultation with the department of health, as is necessary to enable the department of health to evaluate access to needed services in this state, including, but not limited to, the location and type of setting in which the professional practices and other relevant information. The department of health, in consultation with the department, shall make such data available in aggregate, de-identified form on a publicly accessible website.

3. The dates by which the professionals described in subdivision one of this section must comply with the requirements of subdivision two of this section shall be determined by the department and may vary by profession, to allow the development and refinement of necessary program

features and to allow sufficient advanced notice to be provided to affected professionals. The provisions of this section shall be effective only if and for so long as an appropriation is made for the purposes of its implementation.

§ 6503. Practice of a profession. Admission to the practice of a profession (1) entitles the licensee to practice the profession as defined in the article for the particular profession, (2) entitles the individual licensee to use the professional title as provided in the article for the particular profession, and (3) subjects the licensee to the procedures and penalties for professional misconduct as prescribed in this article (sections sixty-five hundred nine, sixty-five hundred ten, and sixty-five hundred eleven).

§ 6503-a. Waiver for entities providing certain professional services. 1. a. Notwithstanding any laws to the contrary, except as provided in subdivision two of this section, a not-for-profit corporation formed for charitable, educational, or religious purposes or other similar purposes deemed acceptable by the department; or an education corporation as defined in subdivision one of section two hundred sixteen-a of this chapter may provide the following services, provided that, except as otherwise provided in paragraph b of this subdivision, the entity was in existence prior to the effective date of this section and has applied to the department for a waiver pursuant to this section by no later than February first, two thousand twelve:

(i) services provided under article one hundred fifty-four, one hundred sixty-three or one hundred sixty-seven of this title for which licensure would be required, or

(ii) services constituting the provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this title and authorized and provided under article one hundred thirty-one, one hundred thirty-nine, or one hundred fifty-three of this title.

Such services may be provided either directly through the entity's employees or indirectly by contract with individuals or professional

entities duly licensed, registered, or authorized to provide such services.

b. The department may issue a waiver on or after July first, two thousand twelve to an entity which was created before, on, or after the effective date of this section if there is a demonstration of need of the entity's services satisfactory to the department.

c. After the commissioner prescribes the application form and posts notice of its availability on the department's website, any entity described in paragraph a of this subdivision providing services on the effective date of this section, must apply for a waiver no later than February first, two thousand twelve. Upon submission of an application, an entity may continue to operate and provide services until the department shall either deny or approve the entity's application. After the department renders a timely initial determination that the applicant has submitted the information necessary to verify that the requirements of paragraphs d, e, and f of this subdivision are satisfied, applications for waivers shall be approved or denied within ninety days; provided however, that if the waiver application is denied the entity shall cease providing professional services, pursuant to paragraph a of this subdivision, in the state of New York.

d. Such waiver shall provide that services rendered pursuant to this section, directly or indirectly, shall be provided only by a person appropriately licensed to provide such services pursuant to article one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three, one hundred fifty-four, or one hundred sixty-three of this title, or by a person otherwise authorized to provide such services under such articles, or by a professional entity authorized by law to provide such services.

e. An application for a waiver to provide professional services pursuant to this section shall be on a form prescribed by the commissioner. Such application shall include:

(i) the name of the entity,

(ii) the names of the directors and officers of such entity,

(iii) a listing of any other jurisdictions where the entity may provide services, and

(iv) an attestation made by an officer authorized by the entity to make such attestation that identifies the scope of services to be provided; includes a list of professions under this title in which professional services will be provided by such entity; includes a statement that, unless otherwise authorized by law, the entity shall only provide professional services authorized under this section; includes a statement that only a licensed professional, a person otherwise authorized to provide such services, or a professional entity authorized by law to provide such services shall provide such professional services as authorized under this section; and attests to the adequacy of the entity's fiscal and financial resources to provide such services.

Such application shall also include any other information related to the application as may be required by the department.

f. Each officer and director of such entity shall provide an attestation regarding his or her good moral character as required pursuant to paragraph h of this subdivision. The commissioner shall be further authorized to promulgate rules or regulations relating to the standards of the waiver for entities pursuant to this section. Such regulations shall include standards relating to the entity's ability to provide services, the entity's maintenance of patient and business records, the entity's fiscal policies, and such other standards as may be prescribed by the commissioner.

g. The entity operating pursuant to a waiver shall display, at each site where professional services are provided to the public, a certificate of such waiver issued by the department pursuant to this section, which shall contain the name of the entity and the address of the site. Such entities shall obtain from the department additional certificates for each site at which professional services are provided to the public. Each entity shall be required to re-apply for a waiver every three years. If any information supplied to the department regarding the entity shall change, the entity shall be required to

provide such updated information to the department within sixty days.

h. Entities operating under a waiver pursuant to this section shall be under the supervision of the regents and shall be subject to disciplinary proceedings and penalties. The waivers for such entities shall be subject to suspension, revocation or annulment for cause in the same manner and to the same extent as individuals and professional services corporations with respect to their licenses, certificates, and registrations, as applicable, as provided in this title relating to the applicable profession. All officers and directors of such entities shall be of good moral character. Entities operating pursuant to a waiver and their officers and directors shall be entitled to the same due process procedures as are provided to such individuals and professional services corporations. No waiver issued under this section shall be transferable or assignable, as such terms are defined in the regulations of the commissioner.

i. An entity operating pursuant to a waiver shall not practice any profession licensed pursuant to this title or hold itself out to the public as authorized to provide professional services pursuant to this title except as specifically authorized by this section or as otherwise authorized by law.

2. No waiver pursuant to this section shall be required of:

a. any entity operated under an operating certificate appropriately issued in accordance with article sixteen, thirty-one, or thirty-two of the mental hygiene law, article twenty-eight of the public health law, or comparable procedures by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit, in accordance with the scope of the authority of such operating certificate; or

b. a university faculty practice corporation duly incorporated pursuant to the not-for-profit corporation law; or

c. an institution of higher education authorized to provide a program

leading to licensure in a profession defined under article one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three, one hundred fifty-four or one hundred sixty-three of this title, to the extent that the scope of such services is limited to the services authorized to be provided within such registered program; or

d. an institution of higher education providing counseling only to the students, staff, or family members of students and staff of such institution; or

e. any other entity as may be defined in the regulations of the commissioner, provided that such entity is otherwise authorized to provide such services pursuant to law and only to the extent such services are authorized under any certificates of incorporation or such other organizing documents as may be applicable.

3. Nothing in this section shall be construed to limit the authority of another state agency to certify, license, contract or otherwise authorize an entity applying for a waiver pursuant to this section, if such state agency is otherwise authorized under another provision of law to certify, license, contract or authorize such an entity, nor shall a waiver pursuant to this section be construed to provide an exemption of such entity from any certification, licensure, need to contract or any other such requirement established by such state agency or under any other provision of law. If a state agency determines that such certification, licensure, contract or other authorization is required, a waiver pursuant to this section shall not have the effect of authorizing the provision of professional services under the jurisdiction of such agency in the absence of certification, licensure, a contract or other authorization from such state agency, and the department shall consult with such agency regarding the need for licensure, contracting, certification or authorization. In determining an application for a waiver pursuant to this section, the department shall consider as a factor in such determination any denial of an operating certificate or other authority to provide the services authorized pursuant to this section by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit, and shall not

approve a waiver application authorizing an entity to provide a program or services where the entity operated such a program or provided such services for which an operating certificate or license is pending, was disapproved or was revoked, or a written authorization or contract was terminated for cause, by one of such agencies, except upon approval of such action by the appropriate state agency. Such state agencies shall notify the department, upon request and within a fifteen day period, whether a waiver applicant has been subject to such disapproval, revocation or termination for cause or has a pending application for a license or operating certificate.

4. Nothing in this section shall be construed to limit the authority of the following entities to provide professional services they are authorized by law to provide:

a. any appropriately organized professional entity, including, but not limited to, those established under the business corporation law, the limited liability company law or the partnership law; or

b. any entity operated by a New York state or federal agency, political subdivision, municipal corporation, or local government agency or unit pursuant to authority granted by law, including but not limited to any entity operated by the office of mental health, the office for people with developmental disabilities, or the office of alcoholism and substance abuse services under articles seven, thirteen, and nineteen of the mental hygiene law, respectively.

5. For the purposes of this section, "professional entity" shall mean and include sole proprietorships and any professional services organization established pursuant to article fifteen of the business corporation law, article twelve of the limited liability company law and section two and article eight-B of the partnership law.

§ 6503-b. Waiver for certain special education schools and early intervention agencies. 1. Definitions. As used in this section the following terms shall have the following meanings:

a. "Special education school" means an approved program as defined in paragraph b of subdivision one of section forty-four hundred ten of this chapter that meets the requirements of paragraph b of subdivision six of such section forty-four hundred ten; an approved private non-residential or residential school for the education of students with disabilities that is located within the state; a child care institution as defined in section four thousand one of this chapter that operates a private school for the education of students with disabilities or an institution for the deaf or blind operating pursuant to article eighty-five of this chapter that either: (1) conducts a multi-disciplinary evaluation for purposes of articles eighty-one or eighty-nine of this chapter that involves the practice of one or more professions for which a license is required pursuant to this title and no exception from corporate practice restrictions applies, or (2) provides related services to students enrolled in the school or approved program that involves the practice of one or more professions for which a license is required pursuant to this title and no exception from practice restrictions applies. Such term shall not include a school district, board of cooperative educational services, municipality, state agency or other public entity. Nothing in this section shall be construed to require a child care institution that conducts multi-disciplinary evaluations or provides related services through an approved private nonresidential school operated by such child care institution to obtain a waiver, provided that such school obtains a waiver pursuant to this section.

b. "Early intervention agency" means an agency which is approved or is seeking approval in accordance with title two-A of article twenty-five of the public health law to deliver early intervention program multi-disciplinary evaluations, service coordination services and early intervention program services, and is lawfully operated as a sole proprietorship or by a partnership, not-for-profit corporation, education corporation, business corporation, a limited liability company or professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law.

c. "Early intervention program services" means early intervention services as defined in subdivision seven of section twenty-five hundred forty-one of the public health law that are provided under the early intervention program and authorized in an eligible child's individualized family services plan.

d. "Multi-disciplinary evaluation" for purposes of a special education school means a multi-disciplinary evaluation of a preschool child suspected of having a disability or a preschool child with a disability that is conducted pursuant to section forty-four hundred ten of this chapter or an evaluation of a school-age child suspected of having a disability or with a disability which is conducted by a child care institution that operates a special education school or the special education school operated by such institution pursuant to subdivision three of section four thousand two of this chapter or by an institution for the deaf or blind operating pursuant to article eighty-five of this chapter or an evaluation of a school-age child suspected of having a disability or with a disability that is authorized to be conducted by a special education school pursuant to any other provision of this chapter and the regulations of the commissioner for purposes of identification of the child as a child with a disability or the development of an individualized education program for the child.

e. "Multi-disciplinary evaluation" for purposes of the early intervention program means a professional, objective assessment conducted by appropriately qualified personnel in accordance with section twenty-five hundred forty-four of the public health law and its implementing regulations to determine a child's eligibility for early intervention program services.

f. "Related services" means related services as defined in paragraph g of subdivision two of section four thousand two, paragraph k of subdivision two of section forty-four hundred one, or paragraph j of subdivision one of section forty-four hundred ten of this chapter provided to a child with a disability pursuant to such child's individualized education program.

2. Waiver. a. No special education school may employ individuals licensed pursuant to this article to conduct components of a multi-disciplinary evaluation of a child with a disability or a child suspected of having a disability or to provide related services to children with disabilities enrolled in the school, and no special education school may provide such an evaluation component or related services by contract with an individual licensed or otherwise authorized to practice pursuant to this article or with an entity authorized by law to provide such professional services, unless such school obtains a waiver pursuant to this section. All special education schools approved by the commissioner as of the effective date of this section shall be deemed operating under a waiver pursuant to this section for a period commencing on such effective date and ending on July first, two thousand thirteen.

b. No early intervention agency may employ or contract with individuals licensed pursuant to this article or with a not-for-profit corporation, education corporation, business corporation, limited liability company, or a professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law, to conduct an early intervention program multi-disciplinary evaluation, provide service coordination services or early intervention program services unless such agency has obtained a waiver pursuant to this section and has been approved in accordance with title two-A of article twenty-five of the public health law as an early intervention program provider. All early intervention agencies approved as of the effective date of this section shall be deemed to be operating under a waiver pursuant to this section for a period commencing on such effective date and ending on July first, two thousand thirteen. Nothing in this section shall be construed to require an early intervention agency to operate under a waiver in accordance with this section provided that it is otherwise authorized by law to provide the applicable professional services.

3. Obtaining a waiver. a. A special education school and early

intervention agency shall obtain an application for a waiver on a form prescribed by the department. The department may issue a waiver on or after July first, two thousand thirteen to an entity which was created before, on or after the effective date of this section if there is demonstration of need of the entity's services satisfactory to the department. The application for an initial waiver shall be accompanied by a fee of three hundred forty-five dollars. Where the applicant simultaneously applies for a waiver as a special education school and early intervention agency the total waiver fee shall be three hundred forty-five dollars.

b. Within one hundred twenty days after the commissioner prescribes the application form and posts notice of its availability on the department's website, a special education school or early intervention agency must apply for a waiver. Upon submission of such application, the school or agency may continue to operate and provide services until the department shall either deny or approve the application. After the department renders a timely initial determination that the applicant has submitted the information necessary to verify that the requirements of paragraphs c, d and e of this subdivision are satisfied, applications for waivers shall be approved or denied within ninety days, provided however that if the waiver application is denied the school or agency shall cease providing services pursuant to this subdivision in the state of New York.

c. Such waiver shall provide that services rendered pursuant to this section, directly or indirectly, shall be provided only by a person appropriately licensed to provide such services, except as otherwise provided in law, to provide such services or by a professional services entity authorized by law to provide such services.

d. An application for a waiver to provide professional services pursuant to this section shall be on a form prescribed by the commissioner. Such application shall include: (i) the name of the special education school or early intervention agency; (ii) the names of the directors or trustees and officers of such school or agency; (iii) a listing of any other jurisdictions where such school or agency may

provide services; and (iv) an attestation made by an officer authorized by such school or agency to make such attestation that identifies the scope of services to be provided; includes a list of professions under this title in which professional services will be provided by such school or agency; includes a statement that, unless otherwise authorized by law, the school or agency shall only provide services authorized under this section; includes a statement that only a licensed professional, a person otherwise authorized to provide such services, or a professional services entity authorized by law to provide such services shall provide such services as authorized under this section; and attests to the adequacy of the school's or agency's fiscal and financial resources to provide such services. Such application shall also include any other information related to the application as may be required by the department. A school or agency with an approved waiver may apply, on a form prescribed by the commissioner, to amend the waiver to add additional professional services.

e. Each officer, trustee and director of such school or agency shall provide an attestation regarding his or her good moral character as required pursuant to paragraph g of this subdivision. The commissioner shall be further authorized to promulgate rules or regulations relating to the standards of the waiver for special education schools and early intervention agencies pursuant to this section. Such regulations shall include standards relating to the school's or agency's ability to provide services, the school's or agency's maintenance of student or client and business records, the school's or agency's fiscal policies, and such other standards as may be prescribed by the commissioner.

f. The special education school or early intervention agency operating pursuant to a waiver shall display, at each site where services are provided to the public, a certificate of such waiver issued by the department pursuant to this section, which shall contain the name of the school or agency and the address of the site. Such schools or agencies shall obtain from the department additional certificates for each site at which professional services are provided to the public. Each school or agency shall be required to re-apply for a waiver every three years. An early intervention agency's waiver shall not be renewed unless the

agency is approved to provide early intervention program multi-disciplinary evaluations, service coordination or early intervention program services in accordance with title two-A of article twenty-five of the public health law. Except as otherwise provided in subdivision four of this section, if any information supplied to the department regarding the school or agency shall change, the school or agency shall be required to provide such updated information to the department within sixty days.

g. All officers, trustees and directors of such schools or agencies shall be of good moral character. Schools or agencies operating pursuant to a waiver and their officers and directors shall be entitled to the same due process procedures as are provided to such individuals and professional services corporations. No waiver issued under this section shall be transferable or assignable; as such terms are defined in the regulations of the commissioner.

4. Renewal of waiver. A. All special education school and early intervention agency waivers shall be renewed on dates set by the department. The triennial waiver fee shall be two hundred sixty dollars or a pro-rated portion thereof as determined by the department. An early intervention agency's waiver shall not be renewed unless the agency is approved to provide early intervention program multi-disciplinary evaluations, service coordination nor early intervention program services in accordance with title two-A of article twenty-five of the public health law.

5. Change of location. In the event that a change in the location of the chief administrative offices of a special education school or early intervention agency is contemplated, the owner shall notify the office of professions of the department of the change of location at least thirty days prior to relocation.

6. Professional practice. a. Notwithstanding any other provision of law to the contrary, a special education school operating under a waiver may employ individuals licensed or otherwise authorized to practice any profession pursuant to this article to conduct components of a

multi-disciplinary evaluation of a child with a disability or a child suspected of having a disability or to provide related services to children with disabilities enrolled in the school or may provide components of such an evaluation or such related services by contract with an individual licensed or otherwise authorized to practice pursuant to this article or a not-for-profit corporation, education corporation, business corporation, limited liability company or professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law authorized by law to provide the applicable professional services.

b. Notwithstanding any other provision of law to the contrary, an early intervention agency operating under a waiver that is approved in accordance with title two-A of article twenty-five of the public health law may employ or contract with individuals licensed or otherwise authorized to practice any profession pursuant to this article or with a not-for-profit corporation, education corporation, business corporation, limited liability company or professional services organization established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law authorized to conduct early intervention program multi-disciplinary evaluations, provide service coordination services and early intervention program services.

c. A special education school or early intervention agency operating under a waiver shall not practice any profession licensed pursuant to this title or hold itself out to the public as authorized to provide professional services pursuant to this title except as authorized by this section or otherwise authorized by law.

7. Supervision of professional practice. A special education school or early intervention agency shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties. A special education school or early intervention agency operating under a waiver shall be subject to suspension, revocation or annulment of the waiver for cause, in the same

manner and to the same extent as is provided with respect to individuals and their licenses, certificates, and registrations in the provisions of this title relating to the applicable profession. Notwithstanding the provisions of this subdivision, a special education school or early intervention agency that conducts or contracts for a component of a multi-disciplinary evaluation that involves the practice of medicine shall be subject to the pre-hearing procedures and hearing procedures as is provided with respect to individual physicians and their licenses in title two-A of article two of the public health law. Notwithstanding any other provision of law to the contrary, upon revocation or other termination by the commissioner of approval of the special education school pursuant to article eighty-nine of this chapter and the regulations of the commissioner implementing such article or termination of the early intervention agency pursuant to title two-A of article twenty-five of the public health law and implementing regulations by the commissioner pursuant to subdivision eighteen of section forty-four hundred three of this chapter, the school's or early intervention agency's waiver pursuant to this section shall be deemed revoked and annulled.

§ 6504. Regulation of the professions. Admission to the practice of the professions (licensing) and regulation of such practice shall be supervised by the board of regents (section sixty-five hundred six) and administered by the education department (section sixty-five hundred seven), assisted by a state board for each profession (section sixty-five hundred eight).

§ 6505. Construction. No definition of the practice of a profession shall be construed to restrain or restrict the performance of similar acts authorized in the definition of other professions.

§ 6505-a. Professional referrals. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any association or society of professionals authorized to

practice under this title, or any employee, agent, or member thereof, for referring any person to a member of the profession represented by such association or society provided that such referral was made without charge as a service to the public, and without malice, and in the reasonable belief that such referral was warranted, based upon the facts disclosed.

§ 6505-b. Course work or training in infection control practices. Every dentist, registered nurse, licensed practical nurse, podiatrist, optometrist, athletic trainer, and dental hygienist practicing in the state shall, on or before July first, nineteen hundred ninety-four and every four years thereafter, complete course work or training appropriate to the professional's practice approved by the department regarding infection control, which shall include sepsis, and barrier precautions, including engineering and work practice controls, in accordance with regulatory standards promulgated by the department, in consultation with the department of health, which shall be consistent, as far as appropriate, with such standards adopted by the department of health pursuant to section two hundred thirty-nine of the public health law to prevent the transmission of HIV, HBV, HCV and infections that could lead to sepsis in the course of professional practice. Each such professional shall document to the department at the time of registration commencing with the first registration after July first, nineteen hundred ninety-four that the professional has completed course work or training in accordance with this section, provided, however that a professional subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of the public health law shall not be required to so document. The department shall provide an exemption from this requirement to anyone who requests such an exemption and who (i) clearly demonstrates to the department's satisfaction that there would be no need for him or her to complete such course work or training because of the nature of his or her practice or (ii) that he or she has completed course work or training deemed by the department to be equivalent to the course work or training approved by the department pursuant to this section. The department shall consult with organizations representative of professions, institutions and those with

expertise in infection control and HIV, HBV, HCV and infections that could lead to sepsis with respect to the regulatory standards promulgated pursuant to this section.

§ 6505-c. Articulation between military and civilian professional careers. 1. The commissioner shall develop, jointly with the commissioner of the department of veterans' services, a program to facilitate articulation between participation in the military service of the United States or the military service of the state and admission to practice of a profession. The commissioner and the commissioner of veterans' services shall identify, review and evaluate professional training programs offered through either the military service of the United States or the military service of the state which may, where applicable, be accepted by the department as equivalent education and training in lieu of all or part of an approved program. Particular emphasis shall be placed on the identification of military programs which have previously been deemed acceptable by the department as equivalent education and training, programs which may provide, where applicable, equivalent education and training for those professions which are critical to public health and safety and programs which may provide, where applicable, equivalent education and training for those professions for which shortages exist in the state of New York.

2. The commissioner and the director shall prepare a list of those military programs which have previously been deemed acceptable by the department as equivalent education and training in lieu of all or part of an approved program no later than the thirtieth of August, two thousand three. On and after such date, such list shall be made available to the public and applicants for admission to practice of a profession.

3. The commissioner and the director shall prepare a list of those military programs which may provide, where applicable, equivalent education and training for those professions which are critical to public health and safety, programs which may provide, where applicable, equivalent education and training for those professions for which

shortages exist in the state of New York and any other military programs which may, where applicable, be accepted by the department as equivalent education and training in lieu of all or part of an approved program no later than the thirty-first of October, two thousand three. On and after such date, such list shall be made available to the public and applicants for admission to practice of a profession.

4. Such lists shall be prepared annually no later than the thirtieth of June thereafter with additions and deletions made jointly by the commissioner and the director and made available to the public and applicants for admission to practice of a profession on such date.

§ 6505-d. Evaluation of prior disciplinary history for authorization to practice. An applicant seeking licensure, certification, or authorization pursuant to this title who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having engaged in legally protected health activity, as defined by section 570.17 of the criminal procedure law, shall not be denied such licensure, certification, or authorization, unless the department determines that such action would have constituted professional misconduct in this state. Provided however, that nothing in this section shall be construed as prohibiting the department from evaluating the conduct of such applicant and making a determination to be licensed, certified, or authorized to practice a profession under this title.

§ 6505-e. Provision of information related to coursework and training in nutrition. 1. The department, in consultation with the department of health, shall compile a list of continuing medical education courses and training opportunities regarding nutrition, which may include but not be limited to plant-based nutrition, clinically proven methods for the prevention, reversal, and treatment of diet-related illnesses, and informational resources regarding racial disparities in outcomes for diet-related diseases, that are publicly available, and shall distribute such compilation to physicians who are licensed to practice medicine in

the state.

2. The compiled list shall be made publicly available on the department's website and on the department of health's website, and shall be updated and redistributed no less frequently than every two years via email.

3. In compiling such resources, the department shall consult with organizations representative of professions, and institutions of higher education, and the department of health shall consult with those with expertise in nutrition and the prevention, reversal, and treatment of diet-related illnesses.

Subarticle 2. State management.

§ 6506. Supervision by the board of regents. The board of regents shall supervise the admission to and the practice of the professions. In supervising, the board of regents may:

(1) Promulgate rules, except that no rule shall be promulgated concerning article 131-A of this chapter;

(2) Establish by rule, high school, preprofessional, professional and other educational qualifications required for licensing in the professions regulated by this title;

(3) Charter schools offering educational programs for the professions regulated by this title, and no such school shall operate in this state without such a charter, except Columbia University, any school chartered by special act of the legislature prior to September one, nineteen hundred seventy-one, and schools specifically authorized to conduct such programs by the regents;

(4) Appoint such committees as it deems necessary and compensate members of such committees who are not members of the board of regents or the department up to one hundred dollars per day for each day devoted to committee functions, together with their necessary expenses;

(5) Waive education, experience and examination requirements for a professional license prescribed in the article relating to the

profession, provided the board of regents shall be satisfied that the requirements of such article have been substantially met;

(6) Indorse a license issued by a licensing board of another state or country upon the applicant fulfilling the following requirements:

(a) Application: file an application with the department;

(b) Education: meet educational requirements in accordance with the commissioner's regulations;

(c) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(d) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(e) Age: be at least twenty-one years of age;

(f) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(g) Character: be of good moral character as determined by the department; and

(h) Prior professional conduct: where an application is submitted for licensure endorsement in any profession regulated by this title and the board of regents determines that while engaged in practice in another jurisdiction the applicant: (i) has been subject to disciplinary action by a duly authorized professional disciplinary agency of such other jurisdiction, where the conduct upon which the disciplinary action was based would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, or (ii) has voluntarily or otherwise surrendered his or her professional license in another jurisdiction after a disciplinary action was instituted by a duly authorized professional disciplinary agency of such other jurisdiction, based on conduct that would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, the board of regents shall evaluate the conduct and may deny licensure endorsement to the applicant based on such conduct;

(7) Direct the department to remedy any error, omission, delay or other circumstance in the issuance or registration of a license;

(8) Designate a professional conduct officer, who shall be the chief administrative officer of the office of the professions, or his designee, in connection with professional licensing and misconduct proceedings and criminal matters, such officer to be empowered to issue subpoenas and administer oaths in connection with such proceedings;

(9) Establish by rule, standards of conduct with respect to advertising, fee splitting, practicing under a name other than that of the individual licensee (when not specifically authorized), proper use of academic or professional degrees or titles tending to imply professional status, and such other ethical practices as such board shall deem necessary, except that no rule shall be established concerning article 131-A of this chapter; and

(10) Delegate to department officers the disposition of any licensing matters pursuant to rules.

§ 6507. Administration by the education department. 1. The commissioner and the department shall administer the admission to and the practice of the professions.

2. In administering, the commissioner may:

a. Promulgate regulations, except that no regulations shall be promulgated concerning article 131-A of this chapter;

b. Conduct investigations;

c. Issue subpoenas;

d. Grant immunity from prosecution in accordance with section 50.20 of the criminal procedure law to anyone subpoenaed in any investigation or hearing conducted pursuant to this title; and

e. Excuse, for cause acceptable to the commissioner, the failure to register with the department. Such excuse shall validate and authorize

such practitioner's right to practice pending registration.

3. The department assisted by the board for each profession, shall:

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, dental hygienist, licensed behavior analyst, certified behavior analyst assistant, or athletic trainer shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with developmental disabilities and voluntary reporting of abused or neglected adults to the office for people with developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who

shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;

b. Review qualifications in connection with licensing requirements; and

c. Provide for licensing examinations and reexaminations.

4. The department shall:

a. Register or approve educational programs designed for the purpose of providing professional preparation which meet standards established by the department.

b. Issue licenses, registrations, and limited permits to qualified applicants;

c. (i) Issue a certificate of authority to a qualified professional service corporation being organized under section fifteen hundred three of the business corporation law or to a university faculty practice corporation being organized under section fourteen hundred twelve of the not-for-profit corporation law on payment of a fee of ninety dollars, (ii) require such corporations to file a certified copy of each certificate of incorporation and amendment thereto within thirty days after the filing of such certificate or amendment on payment of a fee of twenty dollars, (iii) require such corporations to file a triennial statement required by section fifteen hundred fourteen of the business corporation law on payment of a fee of one hundred five dollars.

d. Revoke limited permits on the recommendation of the committee on professional conduct for the profession concerned, except for limited permits issued to physicians, physician's assistants and specialist's assistants which shall be subject to sections two hundred thirty, two hundred thirty-a, two hundred thirty-b and two hundred thirty-c of the public health law;

e. Maintain public records of licenses issued and retain in its files identifying data concerning each person to whom a license has been issued;

e-1. Compile and make available to the New York city department of buildings in electronic form: (i) a list of all architects and professional engineers currently licensed by and registered with the department; (ii) a list of all architects and professional engineers who currently hold limited permits issued by the department, together with the conditions and limitations applicable to each such limited permit; and (iii) a list of all architects and professional engineers whose licenses have been revoked or suspended by the board of regents of the state of New York or who are currently on probation, together with the date of revocation or the date and duration of suspension or probation, as applicable. The New York city department of buildings shall not accept plans or other documents submitted in connection with applications for work permits under articles ten through seventeen of subchapter one of chapter one of title twenty-seven of the administrative code of the city of New York by any person representing that he or she is an architect or professional engineer without verifying, by means of such lists, that such person meets the qualifications established by law to practice as an architect or professional engineer in New York state.

f. Collect the fees prescribed by this title or otherwise provided by law;

g. Prepare an annual report for the legislature, the governor and other executive offices, the state boards for the professions, professional societies, consumer agencies and other interested persons. Such report shall include but not be limited to a description and analysis of the administrative procedures and operations of the department based upon a statistical summary relating to (i) new licensure, (ii) discipline, (iii) complaint, investigation, and hearing backlog, (iv) budget, and (v) the state boards for the professions. Information provided shall be enumerated by profession; and

h. Establish an administrative unit which shall be responsible for the investigation, prosecution and determination of alleged violations of professional conduct.

5. Where an application is submitted for licensure or a limited permit in any profession regulated by this title and the commissioner determines that while engaged in practice in another jurisdiction: (i) the applicant has been subject to disciplinary action by a duly authorized professional disciplinary agency of such other jurisdiction, where the conduct upon which the disciplinary action was based would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, or (ii) the applicant has voluntarily or otherwise surrendered his or her professional license in another jurisdiction after a disciplinary action was instituted by a duly authorized professional disciplinary agency of such other jurisdiction based on conduct that would, if committed in New York state, constitute practicing the profession beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion, or with negligence or incompetence on more than one occasion under the laws of New York state, the department shall evaluate the conduct and the commissioner may deny licensure or issuance of a limited permit to the applicant based on such conduct.

6. The commissioner and the department shall perform any other functions necessary to implement this title.

§ 6507-a. Registration fee surcharge. The commissioner is hereby authorized to impose and collect a fifteen percent surcharge, rounded upward to the nearest dollar, on any professional registration fee imposed under this title that is subject to deposit in the office of the professions account established pursuant to section ninety-seven-nnn of the state finance law. Such surcharge shall not be imposed on any such fee dedicated for deposit in the professional medical conduct account.

§ 6508. Assistance by state boards for the professions. 1. A board for each profession shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice, and conduct. The composition of each board shall be as prescribed in the article relating to each profession. Within each board a committee on licensing may be appointed by the board chairman.

Except as provided in paragraph (a) of this subdivision, the membership of each professional licensing board shall be increased by one member, and each such board shall have at least one public representative who shall be selected by the board of regents from the general public.

a. The membership of the professional licensing boards created under sections sixty-five hundred twenty-three, sixty-eight hundred four, sixty-nine hundred three, and seventy-four hundred three of this chapter shall be increased by two members, and each such board shall have at least two public representatives, who shall be selected by the board of regents from the general public.

b. For the purposes of this title, a "public representative" shall be a person who is a consumer of services provided by those licensed or otherwise supervised or regulated by the boards created hereunder, and shall not be, nor within five years immediately preceding appointment have been:

(i) a licensee or person otherwise subject to the supervision or regulation of the board to which appointed; or

(ii) a person maintaining a contractual relationship with a licensee of such board, which would constitute more than two percentum of the practice or business of any such licensee, or an officer, director, or representative of such person or group of persons.

2. Each board, or its committee on licensing, shall select or prepare examinations, may conduct oral and practical examinations and reexaminations, shall fix passing grades, and assist the department in

other licensing matters as prescribed by the board of regents.

3. Each board shall conduct disciplinary proceedings as prescribed in this article and shall assist in other professional conduct matters as prescribed by the board of regents.

4. Members of each board shall be appointed by the board of regents for five-year terms except that the terms of those first appointed shall be arranged so that as nearly as possible an equal number shall terminate annually. A vacancy occurring during a term shall be filled by an appointment by the board of regents for the unexpired term. Each state professional association or society may nominate one or more candidates for each appointment to be made to the board for its profession, but the board of regents shall not be required to appoint candidates so nominated. Former members of a board may be re-appointed by the board of regents, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license. In addition, each board shall establish a roster of auxiliary members from candidates nominated by professional associations or societies for appointment by the board of regents, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license.

5. Each member of a board shall receive a certificate of appointment, shall before beginning his term of office file a constitutional oath of office with the secretary of state, shall receive up to one hundred dollars as prescribed by the board of regents for each day devoted to board work, and shall be reimbursed for his necessary expenses. Any member may be removed from a board by the board of regents for misconduct, incapacity or neglect of duty.

6. Each board shall elect from its members a chairman and

vice-chairman annually, shall meet upon call of the chairman or the department, and may adopt bylaws consistent with this title and approved by the board of regents. A quorum for the transaction of business by the board shall be a majority of members but not less than five members.

7. An executive secretary to each board shall be appointed by the board of regents on recommendation of the commissioner. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers, duties and annual salary prescribed by the board of regents.

Subarticle 3. Professional misconduct.

§ 6509. Definitions of professional misconduct. Each of the following is professional misconduct, and any licensee found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten shall be subject to the penalties prescribed in section sixty-five hundred eleven:

(1) Obtaining the license fraudulently,

(2) Practicing the profession fraudulently, beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion,

(3) Practicing the profession while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability,

(4) Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects,

(5) (a) Being convicted of committing an act constituting a crime under:

(i) New York State law or,

(ii) Federal law or,

(iii) The law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law;

(b) Having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary

agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state;

(c) Having been found by the commissioner of health to be in violation of article thirty-three of the public health law.

(d) Having his license to practice medicine revoked, suspended or having other disciplinary action taken, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state.

(6) Refusing to provide professional service to a person because of such person's race, creed, color, or national origin,

(7) Permitting, aiding or abetting an unlicensed person to perform activities requiring a license,

(8) Practicing the profession while the license is suspended, or wilfully failing to register or notify the department of any change of name or mailing address, or, if a professional service corporation wilfully failing to comply with sections fifteen hundred three and fifteen hundred fourteen of the business corporation law or, if a university faculty practice corporation wilfully failing to comply with paragraphs (b), (c) and (d) of section fifteen hundred three and section fifteen hundred fourteen of the business corporation law,

(9) Committing unprofessional conduct, as defined by the board of regents in its rules or by the commissioner in regulations approved by the board of regents,

(10) A violation of section twenty-eight hundred three-d or twenty-eight hundred five-k of the public health law.

11. A violation of section six thousand five hundred five-b of this chapter by a professional other than a professional subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of the public health law.

(12) In the event that the department of environmental conservation has reported to the department alleged misconduct by an architect or professional engineer in making a certification under section nineteen of the tax law (relating to the green building tax credit) the board of regents, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.

(13) In the event that any agency designated pursuant to title four-B of article four of the real property tax law (relating to the green roof tax abatement) has reported to the department alleged misconduct by an architect or engineer in making a certification under such title, the board of regents, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.

(14) In the event that any agency designated pursuant to title four-C of article four of the real property tax law (relating to the solar electric generating system tax abatement) has reported to the department alleged misconduct by an architect or engineer in making a certification under such title, the board of regents, upon a hearing and a finding of willful misconduct, may revoke the license of such professional or prescribe such other penalty as it determines to be appropriate.

§ 6509-a. Additional definition of professional misconduct; limited application. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of articles one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred fifty-six, one hundred fifty-nine and one hundred sixty-four of this chapter may be revoked, suspended or annulled or such person may be subject to any other penalty provided in section sixty-five hundred eleven of this article in accordance with the provisions and procedure of this article for the following:

That any person subject to the above enumerated articles, has directly

or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting or refunding of a fee for, or has directly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity in connection with the furnishing of professional care, or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying or furnishing of clinical laboratory services or supplies, x-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies or equipment, devices for aid of hearing, drugs, medication or medical supplies or any other goods, services or supplies prescribed for medical diagnosis, care or treatment under this chapter, except payment, not to exceed thirty-three and one-third per centum of any fee received for x-ray examination, diagnosis or treatment, to any hospital furnishing facilities for such examination, diagnosis or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation or as a university faculty practice corporation nor from pooling fees and moneys received, either by the partnerships, professional corporations, university faculty practice corporations or groups by the individual members thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnerships, corporations or groups be prohibited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations or in groups or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to care and treatment under the workers' compensation law except as expressly authorized by the workers' compensation law. Nothing contained in this chapter shall prohibit a medical or dental expense indemnity corporation pursuant to its contract with the subscriber from prorationing a medical or dental expense indemnity allowance among two or more professionals in proportion to the

services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the medical or dental expense indemnity corporation and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

§ 6509-b. Additional definition of professional misconduct; arrears in payment of support; limited application. 1. The provisions of this section shall apply in all cases of licensee or registrant arrears in payment of child support or combined child and spousal support referred to the board of regents by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b of the family court act.

2. Upon receipt of an order from the court pursuant to one of the foregoing provisions of law, the board of regents, if it finds such person to be so licensed or registered, shall within thirty days of receipt of such order from the court, provide notice to the licensee or registrant of, and cause the regents review committee to initiate, a hearing which shall be held at least twenty days and no more than thirty days after the sending of such notice to the licensee or registrant. The hearing shall be held solely for the purpose of determining whether there exists as of the date of the hearing proof that full payment of all arrears of support established by the order of the court to be due from the licensee or registrant have been paid. Proof of such payment shall be a certified check showing full payment of established arrears or a notice issued by the court or by the support collection unit where the order is payable to the support collection unit designated by the appropriate social services district. Such notice shall state that full payment of all arrears of support established by the order of the court to be due have been paid. The licensee or registrant shall be given full opportunity to present such proof of payment at the hearing in person or by counsel. The only issue to be determined by the regents review committee as a result of the hearing is whether the arrears have been paid. No evidence with respect to the appropriateness of the court order or ability of the respondent party in arrears to comply with such order

shall be received or considered by the committee.

3. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of this title and/or subject to the provisions of title two-A of article two of the public health law shall be suspended if, at the hearing provided for by subdivision two of this section, the licensee or registrant fails to present proof of payment as required by such subdivision. Such suspension shall not be lifted unless the court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the regents review committee that full payment of all arrears of support established by the order of the court to be due have been paid.

4. The board of regents shall inform the court of all actions taken hereunder as required by law.

5. This section applies to support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of article three-A or section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five or five-A of the family court act.

6. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this section shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary.

§ 6509-c. Additional definition of professional misconduct; failure to comply in paternity or child support proceedings; limited application. 1. The provisions of this section shall apply in all cases of licensee or registrant failure after receiving appropriate notice, to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding referred to the board of regents

by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b or five hundred forty-eight-b of the family court act.

2. Upon receipt of an order from the court pursuant to one of the foregoing provisions of law, the board of regents, if it finds such person to be so licensed or registered, shall within thirty days of receipt of such order from the court, provide notice to the licensee or registrant that his or her license or registration shall be suspended in sixty days unless the conditions as set forth in subdivision three of this section are met.

3. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of this title and/or subject to the provisions of title two-A of article two of the public health law shall be suspended unless the court terminates its order to commence suspension proceedings. Such suspension shall not be lifted unless the court issues an order to the board of regents terminating its order to commence suspension proceedings.

4. The board of regents shall inform the court of all actions taken hereunder as required by law.

5. This section applies to paternity or child support proceedings commenced under, and support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five, five-A or five-B of the family court act.

6. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this section shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary.

§ 6509-d. Limited exemption from professional misconduct. Notwithstanding any other provision of law to the contrary, it shall not be considered professional misconduct pursuant to this sub-article for any person who is licensed under title eight of this chapter and who would otherwise be prohibited from prescribing or administering drugs pursuant to the article that licenses such individual, to administer an opioid antagonist in the event of an emergency.

§ 6509-e. Additional definition of professional misconduct; mental health professionals. 1. For the purposes of this section:

a. "Mental health professional" means a person subject to the provisions of article one hundred fifty-three, one hundred fifty-four or one hundred sixty-three of this title; or any other person designated as a mental health professional pursuant to law, rule or regulation.

b. "Sexual orientation change efforts" (i) means any practice by a mental health professional that seeks to change an individual's sexual orientation, including, but not limited to, efforts to change behaviors, gender identity, or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings towards individuals of the same sex and (ii) shall not include counseling for a person seeking to transition from one gender to another, or psychotherapies that: (A) provide acceptance, support and understanding of patients or the facilitation of patients' coping, social support and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

2. It shall be professional misconduct for a mental health professional to engage in sexual orientation change efforts upon any patient under the age of eighteen years, and any mental health professional found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of this subarticle shall be

subject to the penalties prescribed in section sixty-five hundred eleven of this subarticle.

§ 6509-f. Limited exemption from professional misconduct; legally protected health activity. 1. As used in this section, the term "health care practitioner" means a person who is licensed, certified, or authorized under this title and acting within their lawful scope of practice and includes, but is not limited to persons subject to articles one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-seven-A, one hundred thirty-nine, one hundred forty, one hundred fifty-three, one hundred fifty-four, one hundred fifty-six, one hundred fifty-nine, or one hundred sixty-three of this title or any other person designated as a health care practitioner by law, rule, or regulation.

2. Any legally protected health activity, as defined by section 570.17 of the criminal procedure law, by a health care practitioner acting within their scope of practice, shall not, by itself, constitute professional misconduct under this title, or any other law, rule or regulation governing the licensure, certification, or authorization of such practitioner, nor shall any license, certification, or authorization of a health care practitioner be revoked, suspended, or annulled, or otherwise subject to any other penalty or discipline provided in the public health law or this title solely on the basis that such health care practitioner engaged in legally protected health activity.

3. Nothing in this section shall be construed to expand the scope of practice of any individual licensed, certified, or authorized under this title, nor does this section give any such individual the authority to act outside their scope of practice, as defined in this title.

§ 6510. Proceedings in cases of professional misconduct. In cases of professional misconduct the proceedings shall be as follows:

1. Preliminary procedures.

a. Complaint. A complaint of a licensee's professional misconduct may be made by any person to the education department.

b. Investigation. The department shall investigate each complaint which alleges conduct constituting professional misconduct. The results of the investigation shall be referred to the professional conduct officer designated by the board of regents pursuant to section sixty-five hundred six of this article. If such officer decides that there is not substantial evidence of professional misconduct or that further proceedings are not warranted, no further action shall be taken. If such officer, after consultation with a professional member of the applicable state board for the profession, determines that there is substantial evidence of professional misconduct, and that further proceedings are warranted, such proceedings shall be conducted pursuant to this section. If the complaint involves a question of professional expertise, then such officer may seek, and if so shall obtain, the concurrence of at least two members of a panel of three members of the applicable board. The department shall cause a preliminary review of every report made to the department pursuant to section twenty-eight hundred three-e as added by chapter eight hundred sixty-six of the laws of nineteen hundred eighty and sections forty-four hundred five-b of the public health law and three hundred fifteen of the insurance law, to determine if such report reasonably appears to reflect conduct warranting further investigation pursuant to this subdivision.

b-1. Legally protected health activities. The department shall not charge a licensee, acting within their scope of practice, with professional misconduct as defined in section sixty-five hundred nine of this subarticle, or cause a complaint made by any person to the department to be investigated beyond a preliminary review, solely on the basis that such licensee engaged in legally protected health activity, as defined by section 570.17 of the criminal procedure law. Such preliminary review shall determine if such report reasonably appears to reflect conduct warranting further investigation pursuant to this paragraph.

c. Charges. In all disciplinary proceedings other than those terminated by an administrative warning pursuant to paragraph a of subdivision two of this section, the department shall prepare the charges. The charges shall state the alleged professional misconduct and shall state concisely the material facts but not the evidence by which the charges are to be proved.

d. Records and reports as public information. In all disciplinary proceedings brought pursuant to this section or in any voluntary settlement of a complaint between the licensee and the department, the department shall notify the licensee in writing that the record and reports of such disciplinary proceeding or of such voluntary settlement shall be considered matters of public information unless specifically excepted in this article, or in any other law or applicable rule or regulation.

e. Service of charges and notice of hearing. In order to commence disciplinary proceedings under this title, service of a copy of the charges and notice of hearing must be completed twenty days before the date of the hearing if by personal delivery, and must be completed twenty-five days before the date of the hearing if by any other method.

f. Service of charges and of notice of hearing upon a natural person. Personal service of the charges and notice of any hearing pursuant to subdivision two or three of this section upon a natural person shall be made by any of the following methods:

(1) by delivery within the state to the person to be served; or

(2) by delivery within the state to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and either: (i) by mailing by certified mail, return receipt requested, to the person to be served at his or her last known residence, or (ii) by mailing by certified mail, return receipt requested, to the person to be served at his or her last address on file with the division of licensing services of the department in an envelope bearing the legend "personal and confidential," provided that, in either case: such delivery and mailing

shall be effected within twenty days of each other; service pursuant to this subparagraph shall be complete ten days after either the delivery, or the mailing, whichever is later; and proof of service shall, among other things, identify such person of suitable age and discretion and state the date, time and place of such service; or

(3) where service under subparagraphs one and two of this paragraph cannot be made with due diligence, a copy of the charges and the notice of hearing shall be served by certified mail, return receipt requested, to the person's last known address on file with the division of licensing services of the department or by affixing the changes and the notice of hearing to the door of either the actual place of business, dwelling place or usual place of abode of the person to be served; provided that: service pursuant to this subparagraph shall be complete ten days after such mailing, and proof of service shall set forth the department's efforts of due diligence.

g. Service of charges and notice of hearing outside of the state. A natural person subject to the jurisdiction of the department may be served with a copy of the charges and the notice of hearing outside of the state in the same manner as service is made within the state, by any person authorized to make service within the state of New York or by any person authorized to make service by the laws of the state, territory, possession or country in which service is made or by any duly qualified attorney or equivalent in such jurisdiction.

2. Expedited procedures.

a. Violations. Violations involving professional misconduct of a minor or technical nature may be resolved by expedited procedures as provided in paragraph b or c of this subdivision. For purposes of this subdivision, violations of a minor or technical nature shall include, but shall not be limited to, isolated instances of violations concerning professional advertising or record keeping, and other isolated violations which do not directly affect or impair the public health, welfare or safety. The board of regents shall make recommendations to the legislature on or before June first, nineteen hundred eighty-one, for the further definition of violations of a minor or technical nature.

The initial instance of any violation of a minor or technical nature may be resolved by the issuance of an administrative warning pursuant to paragraph b of this subdivision. Subsequent instances of similar violations of a minor or technical nature within a period of three years may be resolved by the procedure set forth in paragraph c of this subdivision.

b. Administrative warning. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of professional misconduct but that it is an initial violation of a minor or technical nature which would not justify the imposition of a more severe disciplinary penalty, the matter may be terminated by the issuance of an administrative warning. Such warnings shall be confidential and shall not constitute an adjudication of guilt or be used as evidence that the licensee is guilty of the alleged misconduct. However, in the event of a further allegation of similar misconduct by the same licensee, the matter may be reopened and further proceedings instituted as provided in this section.

c. Determination of penalty on uncontested minor violations. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of a violation of a minor or technical nature, and of a nature justifying a penalty as specified in this paragraph, the department may prepare and serve charges either by personal service or by certified mail, return receipt requested. Such charges shall include a statement that unless an answer is received within twenty days denying the charges, the matter shall be referred to a violations committee consisting of at least three members of the state board for the profession, at least one of whom shall be a public representative, for determination. The violations panel shall be appointed by the executive secretary of the state board. The licensee shall be given at least fifteen days notice of the time and place of the meeting of the violations committee and shall have the right to appear in person and by an attorney and to make a statement to the committee in mitigation or explanation of the misconduct. The department may appear and make a statement in support of its position. The violations committee may issue

a censure and reprimand, and in addition, or in the alternative, may impose a fine not to exceed five hundred dollars for each specification of minor, or technical misconduct. If the fine is not paid within three months the matter may be reopened and shall be subject to the hearing and regents decision procedures of this section. The determination of the panel shall be final and shall not be subject to the regents decision procedures of this section. If an answer is filed denying the charges, the matter shall be processed as provided in subdivision three of this section.

d. Convictions of crimes or administrative violations. In cases of professional misconduct based solely upon a violation of subdivision five of section sixty-five hundred nine of this article, the professional conduct officer may prepare and serve the charges and may refer the matter directly to a regents review committee for its review and report of its findings, determination as to guilt, and recommendation as to the measure of discipline to be imposed. In such cases the notice of hearing shall state that the licensee may file a written answer, brief and affidavits; that the licensee may appear personally before the regents review committee, may be represented by counsel and may present evidence or sworn testimony on behalf of the licensee, and the notice may contain such other information as may be considered appropriate by the department. The department may also present evidence or sworn testimony at the hearing. A stenographic record of the hearing shall be made. Such evidence or sworn testimony offered at the meeting of the regents review committee shall be limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. The presiding officer at the meeting of the regents review committee may, in his or her discretion, reasonably limit the number of witnesses whose testimony will be received and the length of time any witness will be permitted to testify. In lieu of referring the matter to the board of regents, the regents review committee may refer any such matter for further proceedings pursuant to paragraph b or c of this subdivision or subdivision three of this section.

3. Adversary proceedings. Contested disciplinary proceedings and other

disciplinary proceedings not resolved pursuant to subdivision two of this section shall be tried before a hearing panel of the appropriate state board as provided in this subdivision.

a. Notice of hearing. The department shall set the time and place of the hearing and shall prepare the notice of hearing. The notice of hearing shall state (1) the time and place of the hearing, (2) that the licensee may file a written answer to the charges prior to the hearing, (3) that the licensee may appear personally at the hearing and may be represented by counsel, (4) that the licensee shall have the right to produce witnesses and evidence in his behalf, to cross-examine witnesses and examine evidence produced against him, and to issue subpoenas in accordance with the provisions of the civil practice law and rules, (5) that a stenographic record of the hearing will be made, and (6) such other information as may be considered appropriate by the department.

b. Hearing panel. The hearing shall be conducted by a panel of three or more members, at least two of whom shall be members of the applicable state board for the profession, and at least one of whom shall be a public representative who is a member of the applicable state board or of the state board for another profession licensed pursuant to this title. The executive secretary for the applicable state board shall appoint the panel and shall designate its chairperson. After the commencement of a hearing, no panel member shall be replaced. A determination by the administrative officer of a need to disqualify or remove any panel member will result in the disqualification or removal of the panel and cause a new panel to be appointed. In addition to said panel members, the department shall designate an administrative officer, admitted to practice as an attorney in the state of New York, who shall have the authority to rule on all motions, procedures and other legal objections and shall draft a report for the hearing panel which shall be subject to the approval of and signature by the panel chairperson on behalf of the panel. The administrative officer shall not be entitled to a vote.

c. Conduct of hearing. The evidence in support of the charges shall be presented by an attorney for the department. The licensee shall have the

rights required to be stated in the notice of hearing. The panel shall not be bound by the rules of evidence, but its determination of guilt shall be based on a preponderance of the evidence. A hearing which has been initiated shall not be discontinued because of the death or incapacity to serve of one member of the hearing panel.

d. Results of hearing. The hearing panel shall render a written report which shall include (1) findings of fact, (2) a determination of guilty or not guilty on each charge, and (3) in the event of a determination of guilty, a recommendation of the penalty to be imposed. For the panel to make a determination of guilty, a minimum of two of the voting members of the panel must vote for such a determination. A copy of the report of the hearing panel shall be transmitted to the licensee.

4. Regents decision procedures.

a. Regents review committee. The transcript and report of the hearing panel shall be reviewed at a meeting by a regents review committee appointed by the board of regents. The regents review committee shall consist of three members, at least one of whom shall be a regent.

b. Regents review committee meetings. The review shall be based on the transcript and the report of the hearing panel. The licensee may appear at the meeting, and the regents review committee may require the licensee to appear. The licensee may be represented by counsel. The department shall notify the licensee at least seven days before the meeting (1) of the time and place of the meeting, (2) of his right to appear, (3) of his right to be represented by counsel, (4) whether or not he is required to appear, and (5) of such other information as may be considered appropriate. After the meeting, the regents review committee shall transmit a written report of its review to the board of regents. In cases referred directly to the regents review committee pursuant to paragraph d of subdivision two of this section, the review shall be based upon the charges, the documentary evidence submitted by the department, any answer, affidavits or brief the licensee may wish to submit, and any evidence or sworn testimony presented by the licensee or the department at the hearing, pursuant to the procedures described by

paragraph d of subdivision two of this section.

c. Regents decision and order. The board of regents (1) shall consider the transcript, the report of the hearing panel, and the report of the regents review committee, (2) shall decide whether the licensee is guilty or not guilty on each charge, (3) shall decide what penalties, if any, to impose as prescribed in section sixty-five hundred eleven of this article, and (4) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board of regents. If the board of regents disagrees with the hearing panel's determination of not guilty, it shall remand the matter to the original panel for reconsideration or to a new panel for a new hearing. The panel's determination of not guilty on reconsideration or a new hearing shall be final. The order shall be served upon the licensee personally or by certified mail to the licensee's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The licensee shall deliver to the department the license and registration certificate which has been revoked, annulled, suspended, or surrendered within five days after the effective date of the service of the order. If the license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, the licensee shall submit an affidavit to that effect, and shall deliver such license or certificate to the department when located.

5. Court review procedures. The decisions of the board of regents may be reviewed pursuant to the proceedings under article seventy-eight of the civil practice law and rules. Such proceedings shall be returnable before the appellate division of the third judicial department, and such decisions shall not be stayed or enjoined except upon application to such appellate division after notice to the department and to the attorney general and upon a showing that the petitioner has a substantial likelihood of success.

5-a. At any time, if the professional conduct officer or his or her designee designated to investigate a complaint of professional misconduct of a licensed health care provider or licensed mental health

care provider determines that there is a reasonable belief that an act that constitutes a sex offense identified in paragraph (h) of subdivision three of section 130.05 of the penal law has been committed by the licensee against a client or patient during a treatment session, consultation, interview, or examination, the professional conduct officer or the office of professional discipline shall notify the appropriate law enforcement official or authority.

6. The provisions of subdivisions one through four of this section shall not be applicable to proceedings in cases of professional misconduct involving the medical profession, except as provided in paragraph m of subdivision ten of section two hundred thirty of the public health law.

7. Notwithstanding any other provision of law, persons who assist the department as consultants or expert witnesses in the investigation or prosecution of alleged professional misconduct, licensure matters, restoration proceedings, or criminal prosecutions for unauthorized practice, shall not be liable for damages in any civil action or proceeding as a result of such assistance, except upon proof of actual malice. The attorney general shall defend such persons in any such action or proceeding, in accordance with section seventeen of the public officers law.

8. The files of the department relating to the investigation of possible instances of professional misconduct, or the unlawful practice of any profession licensed by the board of regents, or the unlawful use of a professional title or the moral fitness of an applicant for a professional license or permit, shall be confidential and not subject to disclosure at the request of any person, except upon the order of a court in a pending action or proceeding. The provisions of this subdivision shall not apply to documents introduced in evidence at a hearing held pursuant to this chapter and shall not prevent the department from sharing information concerning investigations with other duly authorized public agencies responsible for professional regulation or criminal prosecution.

9. A disciplinary proceeding under subdivision three or four of this section shall be treated in the same manner as an action or proceeding in supreme court for the purpose of any claim by counsel of actual engagement.

§ 6510-b. Temporary surrender of licenses during treatment for drug or alcohol abuse. 1. The license and registration of a licensee who may be temporarily incapacitated for the active practice of a profession licensed pursuant to title eight of this chapter, except professionals licensed pursuant to article one hundred thirty-one or article one hundred thirty-one-b thereof, and whose alleged incapacity is the result of a problem of drug or alcohol abuse which has not resulted in harm to a patient or client, may be voluntarily surrendered to the department, which may accept and hold such license during the period of such alleged incapacity or the department may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license. The department shall give written notification of such surrender to the licensing authorities of any other state or country in which the licensee is authorized to practice. In addition to the foregoing, the department shall also give written notification of such surrender, for professionals licensed pursuant to articles one hundred thirty-two, one hundred thirty-three, one hundred thirty-five, one hundred thirty-seven, one hundred thirty-nine and one hundred forty-one of this chapter to the commissioner of health or his designee, and where appropriate to each hospital at which the professional has privileges, is affiliated, or is employed. The licensee whose license is so surrendered shall notify all persons who request professional services that he or she has temporarily withdrawn from the practice of the profession. The department may provide for similar notification of patients or clients and of other interested parties, as appropriate under the circumstances of the professional practice and responsibilities of the licensee. The licensure status of such licensee shall be "inactive" and he or she shall not be authorized to practice the profession and shall refrain from practice in this state or in any other state or country. The voluntary surrender shall not be deemed to be an admission of disability or of professional misconduct, and shall

not be used as evidence of a violation of subdivision three or four of section sixty-five hundred nine of this chapter, unless the licensee practices while the license is "inactive"; and any such practice shall constitute a violation of subdivision eight of said section. The surrender of a license under this subdivision shall not bar any disciplinary action except action based solely upon the provisions of subdivision three or four of section sixty-five hundred nine of this chapter, and only if no harm to a patient has resulted; and shall not bar any civil or criminal action or proceeding which might be brought without regard to such surrender. A surrendered license shall be restored upon a showing to the satisfaction of the department that the licensee is not incapacitated for the active practice of the profession, provided that the department may, by order of the commissioner, impose reasonable conditions on the licensee, if it determines that because of the nature and extent of the licensee's former incapacity, such conditions are necessary to protect the health, safety and welfare of the public. Prompt written notification of such restoration shall be given to all licensing bodies which were notified of the temporary surrender of the license.

2. There shall be appointed within the department, by the board of regents, a committee on drug and alcohol abuse, which shall advise the board of regents on matters relating to practice by professional licensees with drug or alcohol abuse problems, and which shall administer the provisions of this section. The board of regents shall determine the size, composition, and terms of office of such committee, a majority of the members of which shall be persons with expertise in problems of drug or alcohol abuse. The committee shall recommend to the board of regents such rules as are necessary to carry out the purposes of this section, including but not limited to procedures for the submission of applications for the surrender of a license and for the referral of cases for investigation or prosecution pursuant to section sixty-five hundred ten of this article if a licensee fails to comply with the conditions of an approved program of treatment. There shall be an executive secretary appointed by the board of regents to assist the committee. The executive secretary shall employ, or otherwise retain, the services of a registered professional nurse with appropriate

qualifications in substance abuse and addiction to assist in the implementation of the program authorized by section six thousand five hundred ten-c of this article. Determinations by the committee relating to licensees shall be made by panels of at least three members of the committee designated by the executive secretary, who shall also designate a member of the state board for the licensee's profession as the ex-officio non voting member of each panel. In the case of a determination relating to a licensed nurse, at least one panel member must be a registered professional nurse licensed by the state.

3. Application for the surrender of a license pursuant to this section shall be submitted to the committee, and shall identify a proposed treatment or rehabilitation program, and shall include a consent to the release of all information concerning the licensee's treatment to the committee. All information concerning an application, other than the fact of the surrender of the license and the participation in the program and the successful completion or failure of or withdrawal from the program, shall be strictly confidential, and may not be released by the committee to any person or body without the consent of the licensee. The immunity from disciplinary action conferred by this section shall be conditioned upon the approval of the treatment or rehabilitation program by the committee and its successful completion by the applicant and the elimination of the incapacity to practice. Approval of a treatment or rehabilitation program by the committee shall not constitute a representation as to the probability of success of the program or any assumption of financial responsibility for its costs.

4. The immunity from disciplinary action conferred by this section may be revoked by the committee upon a finding that the licensee has failed to successfully complete the program or that the incapacity to practice has not been eliminated. Such revocation shall be made only after notice and an opportunity to be heard, but no adjudicatory hearing shall be required. The matter shall be referred for appropriate proceedings pursuant to section sixty-five hundred ten of this chapter. The license must be returned unless charges are served pursuant to section sixty-five hundred ten within thirty days after the revocation of the approval of the special treatment afforded by this section.

5. The commissioner is authorized to adopt regulations to carry out the purposes of this section, including but not limited to the notice of temporary inactive status to be required in different professions and practice situations and the measures required upon temporary withdrawal from practice.

6. No individual who serves as a member of a committee whose purpose is to confront and refer either to treatment or to the department licensees who are thought to be suffering from alcoholism or drug abuse shall be liable for damages to any person for any action taken by such individual provided such action was taken without malice and within the scope of such individual's function as a member of such committee, and provided further that such committee has been established by and functions under the auspices of an association or society of professionals authorized to practice under this title.

7. In addition to the provisions of section two thousand eight hundred three-e of the public health law, any entity licensed pursuant to articles thirty-six, forty and forty-four of the public health law, and any mental hygiene facilities, and correctional, occupational, school and college health services shall provide a report to the office of professional discipline when there is a suspension, restriction, termination, curtailment or resignation of employment or privileges in any way related to a licensed nurse that is impaired when the impairment is alleged to have been caused by a drug-related problem. Any person, facility, or corporation which makes a report pursuant to this section in good faith shall have immunity from any liability, civil or criminal, for having made such a report except where the conduct constitutes negligence, gross negligence or intentional misconduct. For the purpose of any proceeding, civil or criminal, the good faith of any person, facility or corporation required to make a report shall be presumed. Such presumption may be rebutted by any competent evidence.

8. Notwithstanding any other provision of law, the license and registration of a licensed dentist or pharmacist who may be temporarily incapacitated for the active practice of their profession licensed

pursuant to articles one hundred thirty-three and one hundred thirty-seven of this title and whose alleged incapacity is the result of a problem of drug or alcohol abuse which has not resulted in harm to a patient or client, may be voluntarily surrendered to, or voluntarily offered for any alternative disposition with the department, which may accept and hold such license or make any other disposition regarding such license deemed appropriate under the circumstances, if the department determines the health and safety of the public will be adequately protected thereby, during the period of such alleged incapacity. The department may accept the surrender of such license after agreement to conditions to be met prior to the restoration of the license or the department may treat the license as not surrendered and may impose conditions to allow the licensee to retain the license. All other provisions of this section shall be applied to the professions of dentistry and pharmacy in conformity with this subdivision.

§ 6510-c. Nurse peer assistance programs. 1. As used in this section:

a. "Drug-related problem" means a problem or problems that are related to the use, misuse or addiction to drugs or alcohol.

b. "Participant" means an individual licensed pursuant to article one hundred thirty-nine of this title who has or may have a drug-related problem.

c. "Approved nurse peer assistance program" means a program operated by the New York State Nurses Association or a statewide professional association of nurses which has experience in providing peer assistance services to nurses who have drug-related problems which are designed to help a participant or a licensee's employer and has been approved by the department in accordance with criteria established in regulations of the commissioner.

d. "Peer assistance services" includes assessing the needs of a participant, including early identification of drug-related problems, and providing information, support, and advice as requested by a

participant.

2. a. The department shall provide funds, including but not limited to a portion of the funds made available pursuant to the provisions of this section, for services provided by an approved nurse peer assistance program. Funds used to provide services shall not be used for the treatment of participants. Funded services shall include, but not be limited to:

(1) providing peer assistance services for nurses with drug-related problems;

(2) maintaining a toll-free telephone information line for anonymous nurses, their employers, and others to provide assistance in the identification of services and information for nurses dealing with drug-related problems;

3. training monitors for the professional assistance program;

4. arranging for mental health consultants to assess nurses for the professional assistance program, as needed; and

5. preparing written assessments of nurses who have been referred from the professional assistance program.

b. An additional fee of fifteen dollars shall be paid at the time of application for licensure and first registration and every registration by those licensed pursuant to article one hundred thirty-nine of this title for the purpose of implementing this program. The funds made available under this provision shall be deposited in the office of professions special revenue account for its purposes in implementing this section. The department may use a portion of this amount for its administrative expenses incurred in implementing this program including, but not limited to, employment of personnel, the costs of approving and contracting with a peer assistance program as required by this section and outreach activities to promote this program.

3. No approved nurse peer assistance program or individual who serves in an approved nurse peer assistance program shall be liable in damages

to any person for any action taken or not taken or recommendations made unless, based on the facts disclosed by a participant, the conduct of the program or person with respect to the person asserting liability constituted negligence, gross negligence, or intentional misconduct.

4. All information concerning a participant gathered by the approved nurse peer assistance program shall be strictly confidential and may not be released to any person or body without the consent of the participant, except upon the order of a court in a pending action or proceeding. Aggregate data may be released to the committee on drug and alcohol abuse.

§ 6510-d. Voluntary non-disciplinary surrender of a license. A professional who is licensed pursuant to article one hundred thirty-nine of this title may voluntarily surrender a license to the committee on drug and alcohol abuse when such licensee requests to be monitored and/or receive peer support services in relation to the use, misuse or addiction to drugs. The committee shall accept such voluntary non-disciplinary surrender of a license and provide for expedited reinstatement of the license if the licensee meets criteria set by the committee. Such criteria will include, but not be limited to, confidence that the licensee's use of drugs and/or alcohol has not resulted in harm to a patient or client and the licensee is not incapacitated, unfit for practice or a threat to the health, safety and welfare of the public. Such voluntary surrender, if accepted by the committee, shall result in an immediate reinstatement of the license and shall provide immunity from a violation of subdivision three or four of section six thousand five hundred nine of this article and cannot be deemed an admission or used as evidence in professional misconduct. Acceptance by the committee shall not require a report to the department of health or to any employer or licensing authority of another jurisdiction, nor require any disclosure to patients or to the public that such license has been temporarily surrendered, except if it is subsequently determined by the department that a participant being monitored by the department is found to have used drugs and/or alcohol which has resulted in harm to a patient or client.

§ 6510-e. Nurses' refusal of overtime work. The refusal of a licensed practical nurse or a registered professional nurse to work beyond said nurse's regularly scheduled hours of work shall not solely constitute patient abandonment or neglect except under the circumstances provided for under subdivision three of section one hundred sixty-seven of the labor law.

§ 6511. Penalties for professional misconduct. The penalties which may be imposed by the board of regents on a present or former licensee found guilty of professional misconduct (under the definitions and proceedings prescribed in sections sixty-five hundred nine and sixty-five hundred ten of this article) are: (1) censure and reprimand, (2) suspension of license, (a) wholly, for a fixed period of time; (b) partially, until the licensee successfully completes a course of retraining in the area to which the suspension applies; (c) wholly, until the licensee successfully completes a course of therapy or treatment prescribed by the regents; (3) revocation of license, (4) annulment of license or registration, (5) limitation on registration or issuance of any further license, (6) a fine not to exceed ten thousand dollars, upon each specification of charges of which the respondent is determined to be guilty, (7) a requirement that a licensee pursue a course of education or training, and (8) a requirement that a licensee perform up to one hundred hours of public service, in a manner and at a time and place as directed by the board. The board of regents may stay such penalties in whole or in part, may place the licensee on probation and may restore a license which has been revoked, provided, in the case of licensees subject to section two hundred thirty of the public health law, notice that the board is considering such restoration is given to the office of professional medical conduct at least thirty days before the date on which such restoration shall be considered. Upon the recommendation of the office of professional medical conduct, the board of regents may deny such restoration. Any fine imposed pursuant to this section or pursuant to subdivision two of section sixty-five hundred ten of this article may be sued for and recovered in the name of the people of the

state of New York in an action brought by the attorney general. In such action the findings and determination of the board of regents or of the violations committee shall be admissible evidence and shall be conclusive proof of the violation and the penalty assessed.

Subarticle 4. Unauthorized acts.

Section 6512. Unauthorized practice a crime.
6513. Unauthorized use of a professional title a crime.
6514. Criminal proceedings.
6515. Restraint of unlawful acts.
6516. Civil enforcement proceedings and civil penalties.

§ 6512. Unauthorized practice a crime. 1. Anyone not authorized to practice under this title who practices or offers to practice or holds himself out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who practices any profession as an exempt person during the time when his professional license is suspended, revoked or annulled, or who aids or abets an unlicensed person to practice a profession, or who fraudulently sells, files, furnishes, obtains, or who attempts fraudulently to sell, file, furnish or obtain any diploma, license, record or permit purporting to authorize the practice of a profession, shall be guilty of a class E felony.

2. Anyone who knowingly aids or abets three or more unlicensed persons to practice a profession or employs or holds such unlicensed persons out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who knowingly aids or abets three or more persons to practice any profession as exempt persons during the time when the professional licenses of such persons are suspended, revoked or annulled, shall be guilty of a class E felony.

§ 6513. Unauthorized use of a professional title a crime. 1. Anyone not authorized to use a professional title regulated by this title, and

who uses such professional title, shall be guilty of a class A misdemeanor.

2. Anyone who knowingly aids or abets three or more persons not authorized to use a professional title regulated by this title, to use such professional title, or knowingly employs three or more persons not authorized to use a professional title regulated by this title, who use such professional title in the course of such employment, shall be guilty of a class E felony.

§ 6514. Criminal proceedings. 1. All alleged violations of sections sixty-five hundred twelve or sixty-five hundred thirteen of this article shall be reported to the department which shall cause an investigation to be instituted. All alleged violations of section sixty-five hundred thirty-one of the education law shall be reported to the department of health which shall cause an investigation to be instituted. If the investigation substantiates that violations exist, such violations shall be reported to the attorney general with a request for prosecution.

2. The attorney general shall prosecute such alleged offenses in the name of the state, provided, however, in the event of alleged violations of article one hundred fifty-five of this title, a district attorney may prosecute such alleged offenses in the name of the state provided, however, that any district attorney may prosecute such offenses where they are incidental to a criminal prosecution instituted by him under other statutes.

3. All criminal courts having jurisdiction over misdemeanors are hereby empowered to hear, try and determine alleged violations under this title, which constitute misdemeanors, without indictment and to impose applicable punishment of fines or imprisonments or both. It shall be necessary to prove in any prosecution under this title only a single prohibited act or a single holding out without proving a general course of conduct.

4. A proceeding before a committee on professional conduct shall not

be deemed to be a criminal proceeding within the meaning of this section.

§ 6515. Restraint of unlawful acts. Where a violation of this title is alleged to have occurred, the attorney general, the department or, in the event of alleged violations of article one hundred fifty-five of this title occurring in cities having a population of one million or more, the corporation counsel may apply to the supreme court within the judicial district in which such violation is alleged to have occurred for an order enjoining or restraining commission or continuance of the unlawful acts complained of. The remedy provided in this section shall be in addition to any other remedy provided by law or to the proceedings commenced against a licensee under this title.

§ 6516. Civil enforcement proceedings and civil penalties. 1. Issuance of cease and desist order. Whenever the department has reasonable cause to believe that any person has violated any provision of section sixty-five hundred twelve or sixty-five hundred thirteen of this article, the department may issue and serve upon such person a notice to cease and desist from such violation. Such cease and desist order shall be served personally by the department. If personal service can not be made after due diligence and such fact is certified under oath, a copy of the order shall be made by certified mail, return receipt requested, to the person's last known address by the department.

2. Contents of cease and desist order. The cease and desist order shall be in writing and shall describe with particularity the nature of the violation, including a reference of the specific provision or provisions of law alleged to have been violated and an order to the respondent to cease any unlawful activity. The cease and desist order shall advise the respondent (a) of the right to contest the order by requesting a hearing within thirty days of the service of the cease and desist order before a hearing officer designated by the department (b) of the right to request a stay of the cease and desist order at the time a hearing is requested and (c) shall set forth the respondent's rights

at such a hearing pursuant to subdivision five of this section.

3. Civil penalties. Civil penalties up to five thousand dollars may be imposed for each violation and the respondent may be ordered to make restitution to any person who has an interest in any money or property, either real or personal, acquired by the respondent as a result of a violation. Whenever the department concludes that civil penalties and/or restitution may be warranted because of the egregiousness of the unlawful activity, it may serve, along with the cease and desist order, a notice of a hearing on the allegations of unlawful activity and the department's intention to order the respondent to make restitution and/or impose a civil penalty. The notice should specify the civil penalty sought for each violation.

4. Request for hearing. If the respondent to a cease and desist order contests the cease and desist order, the respondent shall request a hearing conducted by the department within thirty days of the receipt of the cease and desist order. Such a hearing shall be scheduled, and the requesting party notified of the date, within fifteen days of the receipt of the request for a hearing. If the respondent requests a stay of the cease and desist order, the hearing officer shall determine whether the cease and desist order should be stayed in whole or in part within five working days of the request for a stay. The respondent may file a written answer to the cease and desist order prior to the hearing. A stenographic record of the hearing shall be made.

5. Conduct of hearing. The evidence in support of the cease and desist order shall be presented by an attorney for the department. The respondent may appear personally and may be represented by counsel at the hearing, may produce witnesses and evidence in his or her behalf at the hearing, may cross-examine witnesses and examine evidence produced against him or her at the hearing, and may issue subpoenas in accordance with section three hundred four of the state administrative procedure act. The hearing officer shall not be bound by the rules of evidence, but his or her determination that a violation of section sixty-five hundred twelve or sixty-five hundred thirteen of this article has occurred shall be based on a preponderance of the evidence. A hearing

which has been initiated shall not be discontinued because of the death or incapacity of the hearing officer. In the event of a hearing officer's death or incapacity to serve, a new hearing officer shall be designated by the department to continue the hearing. The new hearing officer shall affirm in writing that he or she has read and considered evidence and transcripts of the prior proceedings.

6. Results of hearing. The hearing officer designated by the department shall render a written report which shall include (a) findings of fact, (b) a determination on each violation alleged in the cease and desist order, (c) a determination as to whether to accept, reject, or modify any of the terms of the cease and desist order in whole or in part, and (d) the civil penalty imposed, if any. A copy of the hearing officer's written report shall be served upon the respondent with a notice setting forth the respondent's rights to an administrative appeal within ten days of the conclusion of the hearing.

7. Appeals. The decision of the hearing officer shall be final, except that it may be appealed to a regents review committee within twenty days of the receipt of the hearing officer's report. The initiation of an appeal shall not in and of itself affect the validity or terms of the cease and desist order. The regents review committee shall consist of three members, at least one of whom shall be a regent. The review shall be based on the transcript and the report of the hearing officer. The respondent may appear at the meeting, and the regents review committee may require the respondent to appear. The respondent may be represented by counsel. The department shall notify the respondent at least ten days before the meeting (a) of the time and place of the meeting, (b) of the right to appear, (c) of the right to be represented by counsel, (d) whether or not the respondent is required to appear, and (e) of such other information as may be considered appropriate. After the meeting, the regents review committee shall transmit a written report of its review to the board of regents. The board of regents (i) shall consider the transcript, the report of the hearing officer, and the report of the regents review committee, (ii) shall decide whether the respondent has violated each charge in the cease and desist order, (iii) shall decide what penalties, if any, to impose as prescribed in this section, and

(iv) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board of regents. The order shall be served upon the respondent personally or by certified mail to the respondent's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The decisions of the board of regents under this section may be reviewed in a proceeding pursuant to article seventy-eight of the civil practice law and rules brought in the supreme court, Albany county. Such decisions shall not be stayed or enjoined except upon application to such supreme court pursuant to article sixty-three of the civil practice law and rules with notice to the department and to the attorney general.

8. General enforcement of cease and desist order. In any case where the cease and desist order is confirmed by the board of regents or where the respondent does not request an administrative hearing within the allotted time or does not appeal the decision of the hearing officer within the allotted time, an action or proceeding may be filed in the name of the state of New York seeking a restraining order, injunction, appropriate writ, or judgment against any person who violates the terms of the cease and desist order.

9. Special enforcement of civil monetary penalties. Provided that no appeal is pending on the imposition of such civil penalty, in the event such civil penalty imposed by the department remains unpaid, in whole or in part, more than forty-five days after written demand for payment has been sent by first class mail to the address of the respondent, a notice of impending default judgment shall be sent by first class mail to the respondent. The notice of impending default judgment shall advise the respondent: (a) that a civil penalty was imposed on the respondent; (b) the date the penalty was imposed; (c) the amount of the civil penalty; (d) the amount of the civil penalty that remains unpaid as of the date of the notice; (e) the violations for which the civil penalty was imposed; and (f) that a judgment by default will be entered in the supreme court, Albany county unless the department receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment. If full payment shall not have been

received by the department within thirty days of mailing of the notice of impending default judgment, the department shall proceed to enter with such court a statement of the default judgment containing the amount of the penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law.

ARTICLE 131

MEDICINE

Section 6520. Introduction.
6521. Definition of practice of medicine.
6522. Practice of medicine and use of title "physician".
6523. State board for medicine.
6524. Requirements for a professional license.
6525. Limited permits.
6526. Exempt persons.
6527. Special provisions.
6528. Qualification of certain applicants for licensure.
6529. Power of board of regents regarding certain physicians.

§ 6520. Introduction. This article applies to the profession of medicine. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6521. Definition of practice of medicine. The practice of the profession of medicine is defined as diagnosing, treating, operating or prescribing for any human disease, pain, injury, deformity or physical

condition.

§ 6522. Practice of medicine and use of title "physician". Only a person licensed or otherwise authorized under this article shall practice medicine or use the title "physician".

§ 6523. State board for medicine. A state board for medicine shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than twenty physicians licensed in this state for at least five years, two of whom shall be doctors of osteopathy. To the extent such physician appointees are available for appointment, at least one of the physician appointees to the state board for medicine shall be an expert on reducing health disparities among demographic subgroups, and one shall be an expert on women's health. The board shall also consist of not less than two physician's assistants licensed to practice in this state. The participation of physician's assistant members shall be limited to matters relating to article one hundred thirty-one-B of this chapter. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be either a physician licensed in this state or a non-physician, deemed qualified by the commissioner and board of regents.

§ 6524. Requirements for a professional license. To qualify for a license as a physician, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a degree of doctor of medicine, "M.D.", or doctor of osteopathy, "D.O.", or equivalent degree in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age; however, the commissioner may waive the age requirement for applicants who have attained the age of eighteen and will be in a residency program until the age of twenty-one;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States; provided, however that the board of regents may grant a three year waiver for a noncitizen physician to practice in an area which has been designated by the department as medically underserved, except that the board of regents may grant an additional extension not to exceed six years to a noncitizen physician to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued; and provided further that the board of regents may grant an additional three year waiver, and at its expiration, an extension for a period not to exceed six additional years, for the holder of an H-1b visa, an O-1 visa, or an equivalent or successor visa thereto;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred sixty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred seventy-five dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of five hundred seventy dollars for any biennial registration period commencing August first, nineteen hundred ninety-six and thereafter. The comptroller is hereby authorized and directed to deposit the fee for each biennial registration period into the special revenue funds-other entitled "professional medical conduct account" for the purpose of offsetting any expenditures made pursuant to section two hundred thirty of the public health law in relation to the operation of the office of professional medical conduct within the department of health, provided that for each biennial registration fee paid by the licensee using a credit card, the amount of the administrative fee incurred by the department in processing such credit card transaction

shall be deposited by the comptroller in the office of the professions account established by section ninety-seven-nnn of the state finance law. The amount of the funds expended as a result of such increase shall not be greater than such fees collected over the registration period.

(9) For every license or registration issued after the effective date of this subdivision, an additional fee of thirty dollars shall be paid and deposited in the special revenue fund entitled "the professional medical conduct account" for the purpose of offsetting any expenditures made pursuant to subdivision fifteen of section two hundred thirty of the public health law. The amount of such funds expended for such purpose shall not be greater than such additional fees collected over the licensure period or for the duration of such program if less than the licensure period.

(10) A physician shall not be required to pay any fee under this section if he or she certifies to the department that for the period of registration or licensure, he or she shall only practice medicine without compensation or the expectation or promise of compensation. The following shall not be considered compensation for the purposes of this subdivision: (a) nominal payment solely to enable the physician to be considered an employee of a health care provider, or (b) providing liability coverage to the physician relating to the services provided.

(11) No physician may be re-registered unless he or she, as part of the re-registration application, includes an attestation made under penalty of perjury, in a form prescribed by the commissioner, that he or she has, within the six months prior to submission of the re-registration application, updated his or her physician profile in accordance with subdivision four of section twenty-nine hundred ninety-five-a of the public health law.

§ 6525. Limited permits. Permits limited as to eligibility, practice and duration, shall be issued by the department to eligible applicants, as follows:

1. Eligibility: The following persons shall be eligible for a limited permit:

(1) A person who fulfills all requirements for a license as a

physician except those relating to the examination and citizenship or permanent residence in the United States;

(2) A foreign physician who holds a standard certificate from the educational council for foreign medical graduates or who has passed an examination satisfactory to the state board for medicine and in accordance with the commissioner's regulations; or

(3) A foreign physician or a foreign intern who is in this country on a non-immigration visa for the continuation of medical study, pursuant to the exchange student program of the United States department of state.

2. Limit of practice. A permittee shall be authorized to practice medicine only under the supervision of a licensed physician and only in a public, voluntary, or proprietary hospital.

3. Duration. A limited permit shall be valid for two years. It may be renewed biennially at the discretion of the department.

4. Fees. The fee for each limited permit and for each renewal shall be one hundred five dollars.

§ 6526. Exempt persons. The following persons under the following limitations may practice medicine within the state without a license:

1. Any physician who is employed as a resident in a public hospital, provided such practice is limited to such hospital and is under the supervision of a licensed physician;

2. Any physician who is licensed in a bordering state and who resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and provided such physician does not maintain an office or place to meet patients or receive calls within this state;

3. Any physician who is licensed in another state or country and who is meeting a physician licensed in this state, for purposes of

consultation, provided such practice is limited to such consultation;

4. Any physician who is licensed in another state or country, who is visiting a medical school or teaching hospital in this state to receive medical instruction for a period not to exceed six months or to conduct medical instruction, provided such practice is limited to such instruction and is under the supervision of a licensed physician;

5. Any physician who is authorized by a foreign government to practice in relation to its diplomatic, consular or maritime staffs, provided such practice is limited to such staffs;

6. Any commissioned medical officer who is serving in the United States armed forces or public health service or any physician who is employed in the United States Veterans Administration, provided such practice is limited to such service or employment;

7. Any intern who is employed by a hospital and who is a graduate of a medical school in the United States or Canada, provided such practice is limited to such hospital and is under the supervision of a licensed physician; or

8. Any medical student who is performing a clinical clerkship or similar function in a hospital and who is matriculated in a medical school which meets standards satisfactory to the department, provided such practice is limited to such clerkship or similar function in such hospital.

9. Any dentist or dental school graduate eligible for licensure in the state who administers anesthesia as part of a hospital residency program established for the purpose of training dentists in anesthesiology.

10. (a) Any physician who is licensed and in good standing in another state or territory, and who has a written agreement to provide medical services to athletes and team personnel of a United States sports team recognized by the United States Olympic committee or an out-of-state secondary school, institution of postsecondary education, or

professional athletic organization sports team, may provide medical services to such athletes and team personnel at a discrete sanctioned team sporting event in this state as defined by the commissioner in regulations, provided such services are provided only to such athletes and team personnel at the discrete sanctioned team sporting event. Any such medical services shall be provided only five days before through three days after each discrete sanctioned team sporting event.

(b) Any person practicing as a physician in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents and the state board for professional medical conduct established pursuant to section two hundred thirty of the public health law as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with applicable provisions of this title, the public health law, the rules of the board of regents, the state board for professional medical conduct established pursuant to section two hundred thirty of the public health law, and the regulations of the commissioner and the commissioner of health, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

§ 6527. Special provisions. 1. A not-for-profit medical or dental expense indemnity corporation or a hospital service corporation organized under the insurance law may employ licensed physicians and enter into contracts with partnerships or medical corporations organized under article forty-four of the public health law, health maintenance organizations possessing a certificate of authority pursuant to article forty-four of the public health law, professional corporations organized under article fifteen of the business corporation law or other groups of physicians to practice medicine on its behalf for persons insured under its contracts or policies.

2. Notwithstanding any inconsistent provision of any general, special or local law, any licensed physician who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a

hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such physician. Nothing in this subdivision shall be deemed or construed to relieve a licensed physician from liability for damages for injuries or death caused by an act or omission on the part of a physician while rendering professional services in the normal and ordinary course of his practice.

3. No individual who serves as a member of (a) a committee established to administer a utilization review plan of a hospital, including a hospital as defined in article twenty-eight of the public health law or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or (b) a committee having the responsibility of the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law or the evaluation and improvement of the quality of care rendered in a hospital as defined in article twenty-eight of the public health law or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or (c) any medical review committee or subcommittee thereof of a local, county or state medical, dental, podiatry or optometrical society, any such society itself, a professional standards review organization or an individual when such committee, subcommittee, society, organization or individual is performing any medical or quality assurance review function including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, either described in clauses (a) and (b) of this subdivision, required by law, or involving any controversy or dispute between (i) a physician, dentist, podiatrist or optometrist or hospital administrator and a patient concerning the diagnosis, treatment or care of such patient or the fees or charges therefor or (ii) a physician, dentist, podiatrist or optometrist or hospital administrator and a provider of medical, dental, podiatric or optometrical services concerning any medical or health charges or fees of such physician,

dentist, podiatrist or optometrist, or (d) a committee appointed pursuant to section twenty-eight hundred five-j of the public health law to participate in the medical and dental malpractice prevention program, or (e) any individual who participated in the preparation of incident reports required by the department of health pursuant to section twenty-eight hundred five-l of the public health law, or (f) a committee established to administer a utilization review plan, or a committee having the responsibility of evaluation and improvement of the quality of care rendered, in a health maintenance organization organized under article forty-four of the public health law or article forty-three of the insurance law, including a committee of an individual practice association or medical group acting pursuant to a contract with such a health maintenance organization, shall be liable in damages to any person for any action taken or recommendations made, by him within the scope of his function in such capacity provided that (a) such individual has taken action or made recommendations within the scope of his function and without malice, and (b) in the reasonable belief after reasonable investigation that the act or recommendation was warranted, based upon the facts disclosed.

Neither the proceedings nor the records relating to performance of a medical or a quality assurance review function or participation in a medical and dental malpractice prevention program nor any report required by the department of health pursuant to section twenty-eight hundred five-l of the public health law described herein, including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, shall be subject to disclosure under article thirty-one of the civil practice law and rules except as hereinafter provided or as provided by any other provision of law. No person in attendance at a meeting when a medical or a quality assurance review or a medical and dental malpractice prevention program or an incident reporting function described herein was performed, including the investigation of an incident reported pursuant to section 29.29 of the mental hygiene law, shall be required to testify as to what transpired thereat. The prohibition relating to discovery of testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject matter of

which was reviewed at such meeting.

4. This article shall not be construed to affect or prevent the following:

a. The furnishing of medical assistance in an emergency;

b. The practice of the religious tenets of any church;

c. A physician from refusing to perform an act constituting the practice of medicine to which he is conscientiously opposed by reason of religious training and belief.

d. The organization of a medical corporation under article forty-four of the public health law, the organization of a university faculty practice corporation under section fourteen hundred twelve of the not-for-profit corporation law or the organization of a professional service corporation under article fifteen of the business corporation law.

e. The physician's use of whatever medical care, conventional or non-conventional, which effectively treats human disease, pain, injury, deformity or physical condition.

5. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society, or other entity on account of the communication of information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the qualifications, fitness, or professional conduct or practices of a physician, to any governmental agency, medical or specialists society, a hospital as defined in article twenty-eight of the public health law, a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law, or a health maintenance organization organized under article forty-four of the public health law or article forty-three of the insurance law, including a committee of an individual practice association or medical group acting pursuant to a contract with a health

maintenance organization. The foregoing shall not apply to information which is untrue and communicated with malicious intent.

6. A licensed physician may prescribe and order a non-patient specific regimen to a registered professional nurse, pursuant to regulations promulgated by the commissioner, and consistent with the public health law, for:

(a) administering immunizations.

(b) the emergency treatment of anaphylaxis.

(c) administering purified protein derivative (PPD) tests or other tests to detect or screen for tuberculosis infections.

(d) administering tests to determine the presence of the human immunodeficiency virus.

(e) administering tests to determine the presence of the hepatitis C virus.

(f) the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose.

(g) screening of persons at increased risk of syphilis, gonorrhea and chlamydia.

* (h) administering tests to determine the presence of COVID-19 or its antibodies or influenza virus.

* NB Repealed July 1, 2030

(i) administering electrocardiogram tests to detect signs and symptoms of acute coronary syndrome.

(j) administering point-of-care blood glucose tests to evaluate acute mental status changes in persons with suspected hypoglycemia.

(k) administering tests and intravenous lines to persons that meet severe sepsis and septic shock criteria.

(l) administering tests to determine pregnancy.

7. A licensed physician may prescribe and order a patient specific order or non-patient specific regimen to a licensed pharmacist, pursuant to regulations promulgated by the commissioner, and consistent with the public health law, for: (a) administering immunizations to prevent influenza and COVID-19 to patients two years of age or older; and (b) administering immunizations to prevent pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps,

rubella, varicella, meningococcal, tetanus, diphtheria or pertussis disease and medications required for emergency treatment of anaphylaxis to patients eighteen years of age or older; and (c) administering other immunizations for patients eighteen years of age or older if the commissioner of health in consultation with the commissioner determines that an immunization: (i) (A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York state; or (ii) is a recommended immunization for such patients who: (A) meet age requirements, (B) lack documentation of such immunization, (C) lack evidence of past infection, or (D) have an additional risk factor or another indication. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

7-a. A licensed physician may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis for the purpose of preventing human immunodeficiency virus infection following a potential human immunodeficiency virus exposure.

8. Nothing in this article shall prohibit the provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this title to the extent permissible within the scope of practice of medicine, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering such psychotherapy services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

9. (a) Nothing in this article shall be construed to affect or prevent a person in training or trained and deemed qualified by a supervising licensed physician, to assist the licensed physician in the care of a

patient for the purpose of instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, provided that the person instilling such eye drops is:

(i) under the on-site supervision of a supervising licensed physician;

(ii) at least eighteen years of age; and

(iii) complies with standards issued by the department.

(b) The supervising licensed physician shall submit a form prescribed by the department detailing the identity of each person instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, under his or her supervision, attesting to compliance with the above requirements.

(c) The supervising licensed physician's use of any such person pursuant to the terms of this subdivision shall be undertaken with professional judgment in order to ensure the safety and well-being of the patient. Such use shall subject the licensed physician to the full disciplinary and regulatory authority of the office of professional medical conduct and the board of regents. The licensed physician must notify the patient or the patient's designated health care surrogate that the licensed physician may utilize the services of an individual to administer certain eye drops and must provide the patient or the patient's designated health care surrogate the opportunity to refuse the licensed physician's plan to utilize such person.

10. A licensed physician may prescribe and order a non-patient-specific regimen to a licensed pharmacist, for insulin and related supplies pursuant to section sixty-eight hundred one of this title.

11. A licensed physician may prescribe and order a non-patient specific order to a pharmacist licensed and located in the state, pursuant to regulations promulgated by the commissioner, and consistent with section sixty-eight hundred one of this title, for dispensing self-administered hormonal contraceptives as defined in section sixty-eight hundred two of this title.

§ 6528. Qualification of certain applicants for licensure. (a) Notwithstanding any other provisions of this article or any law to the contrary, an individual who at the time of his enrollment in a medical school outside the United States is a resident of the United States shall be eligible for licensure in this state if he has satisfied the requirements of subdivisions one, five, six, seven and eight of section sixty-five hundred twenty-four of this chapter and:

(1) has studied medicine in a medical school located outside the United States which is recognized by the World Health Organization;

(2) has completed all of the formal requirements of the foreign medical school except internship and/or social service;

(3) has attained a score satisfactory to a medical school approved by the Liaison Committee on Medical Education on a qualifying examination acceptable to the state board for medicine, and has satisfactorily completed one academic year of supervised clinical training under the direction of such medical school;

(4) has completed the post-graduate hospital training required by the Board of all applicants for licensure; and

(5) has passed the examination required by the Board of all applicants for licensure.

(b) Satisfaction of the requirements of paragraphs (1), (2), and (3) of subdivision (a) of this section shall be in lieu of the completion of any foreign internship and/or social service requirements, and no such requirements shall be a condition of licensure as a physician in this State.

(c) Satisfaction of the requirements of paragraphs (1), (2), and (3) of subdivision (a) of this section shall be in lieu of certification by the Educational Council for Foreign Medical Graduates, and such certification shall not be a condition of licensure as a physician in this State for candidates who have completed the requirements of subdivision (a) of this section.

(d) No hospital licensed by this State, or operated by the State or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who has satisfied the requirements of paragraphs (1), (2), and (3) of subdivision (a) of this section, and who at the time of his enrollment

in a medical school outside the United States is a resident of the United States, to satisfy any further education or examination requirements prior to commencing an internship or residency.

(e) A document granted by a medical school located outside the United States which is recognized by the World Health Organization issued after the completion of all the formal requirements of such foreign medical school except internship and/or social service shall, upon certification by the medical school in which such training was received of satisfactory completion by the person to whom such document was issued of the requirements listed in paragraph (3) of subdivision (a) of this section, be deemed the equivalent of a degree of doctor of medicine for purposes of licensure and practice as a physician in this State.

§ 6529. Power of board of regents regarding certain physicians. Notwithstanding any provision of law to the contrary, the board of regents is authorized, in its discretion, to confer the degree of doctor of medicine (M.D.) upon physicians who are licensed pursuant to section sixty-five hundred twenty-four or sixty-five hundred twenty-eight of this chapter. Each applicant shall pay a fee of three hundred dollars to the education department for the issuance of such degree.

ARTICLE 131-A

DEFINITIONS OF PROFESSIONAL MISCONDUCT APPLICABLE TO PHYSICIANS, PHYSICIAN'S ASSISTANTS AND SPECIALIST'S ASSISTANTS

Section 6530. Definitions of professional misconduct.
6531. Additional definition of professional misconduct, limited application.
6531-a. Additional definition of professional misconduct; mental health professionals.
6531-b. Exceptions; reproductive health services.
6532. Enforcement, administration and interpretation of this article.

§ 6530. Definitions of professional misconduct. Each of the following

is professional misconduct, and any licensee found guilty of such misconduct under the procedures prescribed in section two hundred thirty of the public health law shall be subject to penalties as prescribed in section two hundred thirty-a of the public health law except that the charges may be dismissed in the interest of justice:

1. Obtaining the license fraudulently;

2. Practicing the profession fraudulently or beyond its authorized scope;

3. Practicing the profession with negligence on more than one occasion;

4. Practicing the profession with gross negligence on a particular occasion;

5. Practicing the profession with incompetence on more than one occasion;

6. Practicing the profession with gross incompetence;

7. Practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability;

8. Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice;

9. (a) Being convicted of committing an act constituting a crime under:
(i) New York state law or,
(ii) federal law or,
(iii) the law of another jurisdiction and which, if committed within

this state, would have constituted a crime under New York state law;

(b) Having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state;

(c) Having been found guilty in an adjudicatory proceeding of violating a state or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to this section;

(d) Having his or her license to practice medicine revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New York state, constitute professional misconduct under the laws of New York state;

(e) Having been found by the commissioner of health to be in violation of article thirty-three of the public health law;

10. Refusing to provide professional service to a person because of such person's race, creed, color or national origin;

11. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license;

12. Practicing the profession while the license is suspended or inactive as defined in subdivision thirteen of section two hundred thirty of the public health law, or willfully failing to register or notify the department of education of any change of name or mailing address, or, if a professional service corporation, willfully failing to

comply with sections fifteen hundred three and fifteen hundred fourteen of the business corporation law or, if a university faculty practice corporation wilfully failing to comply with paragraphs (b), (c) and (d) of section fifteen hundred three and section fifteen hundred fourteen of the business corporation law;

13. A willful violation by a licensee of subdivision eleven of section two hundred thirty of the public health law;

14. A violation of section twenty-eight hundred three-d, twenty-eight hundred five-k or subparagraph (ii) of paragraph (h) of subdivision ten of section two hundred thirty of the public health law; or

15. Failure to comply with an order issued pursuant to subdivision seven, paragraph (a) of subdivision ten, and subdivision seventeen of section two hundred thirty of the public health law;

16. A willful or grossly negligent failure to comply with substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine;

17. Exercising undue influence on the patient, including the promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the licensee or of a third party;

18. Directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or in connection with the performance of professional services;

19. Permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice medicine, or a legally authorized trainee practicing under the supervision of a licensee. This prohibition shall include any arrangement or agreement whereby the amount received in payment for

furnishing space, facilities, equipment or personnel services used by a licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to article twenty-eight of the public health law or article thirteen of the mental hygiene law;

20. Conduct in the practice of medicine which evidences moral unfitness to practice medicine;

21. Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, or willfully impeding or obstructing such filing, or inducing another person to do so;

22. Failing to make available to a patient, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;

23. Revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patient, except as authorized or required by law;

24. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;

25. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them.

25-a. With respect to any non-emergency treatment, procedure or

surgery which is expected to involve local or general anesthesia, failing to disclose to the patient the identities of all physicians, except medical residents in certified training programs, podiatrists and dentists, reasonably anticipated to be actively involved in such treatment, procedure or surgery and to obtain such patient's informed consent to said practitioners' participation;

26. Performing professional services which have not been duly authorized by the patient or his or her legal representative;

27. Advertising or soliciting for patronage that is not in the public interest. (a) Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that: (i) is false, fraudulent, deceptive, misleading, sensational, or flamboyant;

(ii) represents intimidation or undue pressure;

(iii) uses testimonials;

(iv) guarantees any service;

(v) makes any claim relating to professional services or products or the costs or price therefor which cannot be substantiated by the licensee, who shall have the burden of proof;

(vi) makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; or

(vii) offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.

(b) The following shall be deemed appropriate means of informing the public of the availability of professional services: (i) informational advertising not contrary to the foregoing prohibitions; and

(ii) the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.

(c)(i) All licensees placing advertisements shall maintain, or cause

to be maintained, an exact copy of each advertisement, transcript, tape or video tape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the department of health;

(ii) A licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;

(d) No demonstrations, dramatizations or other portrayals of professional practice shall be permitted in advertising on radio or television;

28. Failing to respond within thirty days to written communications from the department of health and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct. The period of thirty days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from the department of health by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of thirty days shall commence on the date of delivery to the licensee, as indicated by the return receipt;

29. Violating any term of probation or condition or limitation imposed on the licensee pursuant to section two hundred thirty of the public health law;

30. Abandoning or neglecting a patient under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;

31. Willfully harassing, abusing, or intimidating a patient either physically or verbally;

32. Failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient, provided, however, that a physician who transfers an original mammogram to a medical institution, or to a physician or health care provider of the patient, or to the patient directly, as otherwise provided by law, shall have no obligation under this section to maintain the original or a copy thereof. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of eighteen years;

33. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee;

34. Guaranteeing that satisfaction or a cure will result from the performance of professional services;

35. Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;

36. Claiming or using any secret or special method of treatment which the licensee refused to divulge to the department of health;

37. Failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to this chapter, while practicing as an employee or operator of a hospital, clinic, group practice or multi-professional facility, or at a commercial establishment offering health services to the public;

38. Entering into an arrangement or agreement with a pharmacy for the compounding and/or dispensing of coded or specially marked prescriptions;

39. With respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article twenty-eight of the public health law or article thirteen of the mental

hygiene law, failing to post conspicuously at the site of such practice the name and licensure field of all of the principal professional licensees engaged in the practice at that site (i.e., principal partners, officers or principal shareholders);

40. Failing to provide access by qualified persons to patient information in accordance with the standards set forth in section eighteen of the public health law as added by chapter 497 of the laws of 1986;

41. Knowingly or willfully performing a complete or partial autopsy on a deceased person without lawful authority;

42. Failing to comply with a signed agreement to practice medicine in New York state in an area designated by the commissioner of education as having a shortage of physicians or refusing to repay medical education costs in lieu of such required service, or failing to comply with any provision of a written agreement with the state or any municipality within which the licensee has agreed to provide medical service, or refusing to repay funds in lieu of such service as consideration of awards made by the state or any municipality thereof for his or her professional education in medicine, or failing to comply with any agreement entered into to aid his or her medical education;

43. Failing to complete forms or reports required for the reimbursement of a patient by a third party. Reasonable fees may be charged for such forms or reports, but prior payment for the professional services to which such forms or reports relate may not be required as a condition for making such forms or reports available;

44. In the practice of psychiatry, (a) any physical contact of a sexual nature between licensee and patient except the use of films and/or other audiovisual aids with individuals or groups in the development of appropriate responses to overcome sexual dysfunction and (b) in therapy groups, activities which promote explicit physical sexual contact between group members during sessions; and

45. In the practice of ophthalmology, failing to provide a patient, upon request, with the patient's prescription including the name, address, and signature of the prescriber and the date of the prescription.

46. A violation of section two hundred thirty-nine of the public health law by a professional.

47. Failure to use scientifically accepted barrier precautions and infection control practices as established by the department of health pursuant to section two hundred thirty-a of the public health law.

48. A violation of section two hundred thirty-d of the public health law or the regulations of the commissioner of health enacted thereunder.

49. Except for good cause shown, failing to provide within one day any relevant records or other information requested by the state or local department of health with respect to an inquiry into a report of a communicable disease as defined in the state sanitary code, or HIV/AIDS.

50. Performing a pelvic examination or supervising the performance of a pelvic examination in violation of subdivision seven of section twenty-five hundred four of the public health law.

51. A violation of article twenty-eight-F of the public health law and/or regulations promulgated thereunder.

§ 6531. Additional definition of professional misconduct, limited application. Notwithstanding any inconsistent provision of this article or any other provisions of law to the contrary, the license or registration of a person subject to the provisions of this article and article one hundred thirty-one-B of this chapter may be revoked, suspended, or annulled or such person may be subject to any other penalty provided in section two hundred thirty-a of the public health law in accordance with the provisions and procedures of this article for the following:

That any person subject to the above-enumerated articles has directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting, or refunding of a fee for, or has directly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity, in connection with the furnishing of professional care or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying, or furnishing of clinical laboratory services or supplies, x-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies, or equipment, devices for aid of hearing, drugs, medication, or medical supplies, or any other goods, services, or supplies prescribed for medical diagnosis, care, or treatment under this chapter, except payment, not to exceed thirty-three and one-third percent of any fee received for x-ray examination, diagnosis, or treatment, to any hospital furnishing facilities for such examination, diagnosis, or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation or as a university faculty practice corporation, nor from pooling fees and moneys received, either by the partnerships, professional corporations, or university faculty practice corporations or groups by the individual members thereof, for professional services furnished by an individual professional member, or employee of such partnership, corporation, or group, nor shall the professionals constituting the partnerships, corporations or groups be prohibited from sharing, dividing, or apportioning the fees and moneys received by them or by the partnership, corporation, or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations, or groups, or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to and treatment under the workers' compensation law. Nothing contained in this chapter shall prohibit a corporation licensed pursuant to article forty-three of the insurance law pursuant to its contract with the subscribed from prorationing a medical or

dental expenses indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the corporation licensed pursuant to article forty-three of the insurance law and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

§ 6531-a. Additional definition of professional misconduct; mental health professionals. 1. Definitions. For the purposes of this section:

a. "Mental health professional" means a person subject to the provisions of article one hundred thirty-one of this title.

b. "Sexual orientation change efforts" (i) means any practice by a mental health professional that seeks to change an individual's sexual orientation, including, but not limited to, efforts to change behaviors, gender identity, or gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings towards individuals of the same sex; and (ii) shall not include counseling for a person seeking to transition from one gender to another, or psychotherapies that: (A) provide acceptance, support and understanding of patients or the facilitation of patients' coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and (B) do not seek to change sexual orientation.

2. It shall be professional misconduct for a mental health professional to engage in sexual orientation change efforts upon any patient under the age of eighteen years, and any mental health professional found guilty of such misconduct under the procedures prescribed in title two-A of article two of the public health law shall be subject to the penalties prescribed in section two hundred thirty-a of the public health law, as added by chapter six hundred six of the laws of nineteen hundred ninety-one.

§ 6531-b. Exceptions; reproductive health services. 1. As used in this section, the following terms shall have the following meanings:

(a) "Reproductive health care" shall mean and include all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and the laws of this state, whether provided in person or by means of telehealth or telehealth services, which includes, but is not limited to, all services, care, and products relating to pregnancy, assisted reproduction, contraception, miscarriage management or abortion, including but not limited to care an individual provides to themself.

(b) "Health care practitioner" means a person who is licensed, certified, or authorized under this title and acting within their lawful scope of practice.

(c) "Gender-affirming care" means any type of care provided to an individual to affirm their gender identity or gender expression, including but not limited to care an individual provides to themself; provided that surgical interventions on minors with variations in their sex characteristics that are not sought and initiated by the individual patient are not gender-affirming care.

2. Any legally protected health activity, as defined by section 570.17 of the criminal procedure law, by a health care practitioner acting within their scope of practice, shall not, by itself, constitute professional misconduct under this title, or title two-A of article two of the public health law, or any other law, rule or regulation governing the licensure, certification, or authorization of such practitioner, nor shall any license, certification or authorization of a health care practitioner be revoked, suspended, or annulled or otherwise subject to any other penalty or discipline provided in the public health law or this title solely on the basis that such health care practitioner engaged in legally protected health activity, as defined by section 570.17 of the criminal procedure law.

3. Nothing in this section shall be construed to expand the scope of practice of any individual licensed, certified or authorized under this title, nor does this section give any such individual the authority to act outside their scope of practice, as defined in this title.

§ 6532. Enforcement, administration and interpretation of this article. The board of professional medical conduct and the department of health shall enforce, administer and interpret this article. Before issuing a declaratory ruling pursuant to section two hundred four of the state administrative procedure act with respect to this article, the department of health shall fully consult with the department of education. Neither the commissioner of education, the board of regents nor the commissioner of health may promulgate any rules or regulations concerning this article.

ARTICLE 131-B

PHYSICIAN ASSISTANTS

Section 6540. Definitions.
6541. Requirements for license.
6542. Performance of medical services.
6543. Construction.
6544. Regulations.
6545. Emergency services rendered by physician assistant.
6546. Limited permits.

§ 6540. Definitions. As used in this article: 1. Physician assistant. The term "physician assistant" means a person who is licensed as a physician assistant pursuant to this article.

2. Physician. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to article one hundred thirty-one of this chapter.

3. Approved program. The term "approved program" means a program for

the education of physician assistants which has been formerly approved by the department.

4. Hospital. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of the public health law and authorized to employ physician assistants in accordance with rules and regulations of the public health and health planning council.

§ 6541. Requirements for license. 1. To qualify for a license as a physician assistant, each person shall pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination, a fee of forty-five dollars for each reexamination and a fee of seventy dollars for persons not requiring admission to a department conducted examination and shall also submit satisfactory evidence, verified by oath or affirmation, that he or she:

(a) at the time of application is at least twenty-one years of age;

(b) is of good moral character;

(c) has received an education including a bachelor's or equivalent degree in accordance with the commissioner's regulations;

(d) has satisfactorily completed an approved program for the training of physician assistants. The approved program for the training of physician assistants shall include not less than forty weeks of supervised clinical training and thirty-two credit hours of classroom work. Applicants for a license as a physician assistant who have completed an approved program leading to a bachelor's degree or equivalent in physician assistant studies shall be deemed to have satisfied this paragraph. The commissioner is empowered to determine whether an applicant possesses equivalent education and training, such as experience as a nurse or military corpsman, which may be accepted in lieu of all or part of an approved program; and

(e) in the case of an applicant for a license as a physician assistant, has obtained a passing score on an examination acceptable to the department.

2. The department shall furnish to each person applying for a license

pursuant to this section an application form calling for such information as the department deems necessary and shall issue to each applicant who satisfies the requirements of subdivision one of this section a license as a physician assistant in a particular medical specialty for the period expiring December thirty-first of the first odd-numbered year terminating subsequent to the issuance of such license.

3. Every licensee shall apply to the department for a renewal of his or her license. The department shall mail to every licensed physician assistant an application form for renewal, addressed to the licensee's post office address on file with the department. Upon receipt of such application properly executed, together with evidence of satisfactory completion of such continuing education requirements as may be established by the commissioner of health pursuant to section thirty-seven hundred one of the public health law, the department shall issue a renewal. Renewal periods shall be triennial and the renewal fee shall be forty-five dollars.

§ 6542. Performance of medical services. 1. Notwithstanding any other provision of law, a physician assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to such physician assistant are within the scope of practice of such supervising physician.

2. Supervision shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed.

3. No physician shall employ or supervise more than six physician assistants in such physician's private practice at one time.

4. Nothing in this article shall prohibit a hospital from employing physician assistants, provided that they work under the supervision of a physician designated by the hospital and not beyond the scope of practice of such physician. The numerical limitation of subdivision

three of this section shall not apply to services performed in a hospital.

5. Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of corrections and community supervision under contract from supervising no more than eight physician assistants in such physician's practice for the department of corrections and community supervision at one time.

6. Notwithstanding any other provision of law, a trainee in an approved program may perform medical services when such services are performed within the scope of such program.

7. A physician assistant may prescribe and order a non-patient specific regimen to a registered professional nurse, pursuant to regulations promulgated by the commissioner, and consistent with the public health law, for:

(a) administering immunizations.

(b) the emergency treatment of anaphylaxis.

(c) administering purified protein derived (PPD) tests or other tests to detect or screen for tuberculosis infections.

(d) administering tests to determine the presence of the human immunodeficiency virus.

(e) administering tests to determine the presence of the hepatitis C virus.

(f) the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose.

(g) screening of persons at increased risk of syphilis, gonorrhea, and chlamydia.

(h) administering electrocardiogram tests to detect signs and symptoms of acute coronary syndrome.

(i) administering point-of-care blood glucose tests to evaluate acute mental status changes in persons with suspected hypoglycemia.

(j) administering tests and intravenous lines to persons that meet severe sepsis and septic shock criteria.

(k) administering tests to determine pregnancy.

* (l) administering tests to determine the presence of COVID-19 or its

antibodies or influenza virus.

* NB Repealed July 1, 2030

8. Nothing in this article, or in article thirty-seven of the public health law, shall be construed to authorize physician assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as allied health professionals under the public health law or this chapter.

§ 6543. Construction. Only a person licensed as a physician assistant by the department may use the title "physician assistant" or the letters "P.A." after his or her name.

§ 6544. Regulations. The commissioner may promulgate such other regulations as are necessary to carry out the purposes of this article.

§ 6545. Emergency services rendered by physician assistant. Notwithstanding any inconsistent provision of any general, special or local law, any physician assistant properly licensed in this state who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such physician assistant. Nothing in this section shall be deemed or construed to relieve a licensed physician assistant from liability for damages for injuries or death caused by an act or omission on the part of a physician assistant while rendering professional services in the normal and ordinary course of his or her practice.

§ 6546. Limited permits. Permits limited as to eligibility, practice and duration, shall be issued by the department to eligible applicants, as follows:

1. Eligibility. A person who fulfills all requirements to be licensed as a physician assistant except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. A permittee shall be authorized to practice as a physician assistant only under the direct supervision of a physician.

3. Duration. A limited permit shall expire one year from the date of issuance or upon notice to the permittee by the department that the application for a license has been denied. A limited permit shall be extended upon application for one additional year, provided that the permittee's request for such extension is endorsed by a physician who either has supervised or will supervise the permittee, except that such extension may be denied by the department for cause which shall be stated in writing. If the permittee is awaiting the results of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the permittee of the result of such examination.

4. Fees. The fee for each limited permit shall be one hundred five dollars.

ARTICLE 131-C
SPECIALIST ASSISTANTS

Section 6547. Definitions.
6548. Registration.
6549. Performance of medical services.
6549-a. Construction.
6549-b. Regulations.

§ 6547. Definitions. As used in this article:

1. Specialist assistant. The term "specialist assistant" means a person who is registered pursuant to this article as a specialist assistant for a particular medical specialty as defined by regulations promulgated by the commissioner of health pursuant to section thirty-seven hundred eleven of the public health law.

2. Physician. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to article one hundred thirty-one of this chapter.

3. Approved program. The term "approved program" means a program for the education of specialist assistants which has been approved by the department.

4. Hospital. The term "hospital" means an institution or facility possessing a valid operating certificate issued pursuant to article twenty-eight of the public health law and authorized to employ specialist assistants in accordance with rules and regulations of the public health and health planning council.

§ 6548. Registration. 1. To qualify for registration as a specialist assistant, each person shall pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination, a fee of forty-five dollars for each reexamination and a fee of seventy dollars for persons not requiring admission to a department conducted examination and shall also submit satisfactory evidence, verified by oath or affirmation, that he or she:

(a) at the time of application is at least twenty-one years of age;

(b) is of good moral character;

(c) has successfully completed a four-year course of study in a secondary school approved by the board of regents or has passed an equivalency test; and

(d) has satisfactorily completed an approved program for the training

of specialist assistants.

2. The department shall furnish to each person applying for registration hereunder an application form calling for such information as the department deems necessary and shall issue to each applicant who satisfies the requirements of subdivision one of this section a certificate of registration as specialist assistant in a particular medical specialty for the period expiring December thirty-first of the first odd-numbered year terminating subsequent to such registration.

3. Every registrant shall apply to the department for a certificate of registration. The department shall mail to every registered specialist assistant an application form for registration, addressed to the registrant's post office address on file with the department. Upon receipt of such application properly executed, together with evidence of satisfactory completion of such continuing education requirements as may be established by the commissioner of health pursuant to section thirty-seven hundred eleven of the public health law, the department shall issue a certificate of registration. Registration periods shall be triennial and the registration fee shall be forty-five dollars.

§ 6549. Performance of medical services. 1. Notwithstanding any other provision of law, a specialist assistant may perform medical services, but only when under the supervision of a physician and only when such acts and duties as are assigned to him or her are related to the designated medical speciality for which he or she is registered and are within the scope of practice of his or her supervising physician.

2. Supervision shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed.

3. No physician shall employ or supervise more than two specialist assistants in his or her private practice.

4. Nothing in this article shall prohibit a hospital from employing

specialist assistants provided they work under the supervision of a physician designated by the hospital and not beyond the scope of practice of such physician. The numerical limitation of subdivision three of this section shall not apply to services performed in a hospital.

5. Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of correctional services under contract from supervising no more than four specialist assistants in his or her practice for the department of corrections and community supervision.

6. Notwithstanding any other provision of law, a trainee in an approved program may perform medical services when such services are performed within the scope of such program.

7. Nothing in this article or in article thirty-seven-A of the public health law, shall be construed to authorize specialist assistants to perform those specific functions and duties specifically delegated by law to those persons licensed as allied health professionals under the public health law or this chapter.

§ 6549-a. Construction. Only a person registered as a specialist assistant by the department may use the title "registered specialist assistant" or the letters "R.S.A." after his or her name.

§ 6549-b. Regulations. The commissioner may promulgate such other regulations as are necessary to carry out the purposes of this article.

ARTICLE 132
CHIROPRACTIC

Section 6550. Introduction.
6551. Definition of practice of chiropractic.
6552. Practice of chiropractic and use of title

"chiropractor".
6553. State board for chiropractic.
6554. Requirements for a professional license.
6554-a. Mandatory continuing education for chiropractors.
6555. Exempt persons.
6556. Special provisions.

§ 6550. Introduction. This article applies to the profession of chiropractic. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6551. Definition of practice of chiropractic. 1. The practice of the profession of chiropractic is defined as detecting and correcting by manual or mechanical means structural imbalance, distortion, or subluxations in the human body for the purpose of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column.

2. a. A license to practice as a chiropractor shall not permit the holder thereof to use radio-therapy, fluoroscopy, or any form of ionizing radiation except X-ray which shall be used for the detection of structural imbalance, distortion, or subluxations in the human body.

b. The requirements and limitations with respect to the use of X-ray by chiropractors shall be enforced by the state commissioner of health and he is authorized to promulgate rules and regulations after conferring with the board to carry out the purposes of this subdivision.

c. Chiropractors shall retain for a period of three years all X-ray films taken in the course of their practice, together with the records pertaining thereto, and shall make such films and records available to the state commissioner of health or his representative on demand.

3. A license to practice chiropractic shall not permit the holder

thereof to treat for any infectious diseases such as pneumonia, any communicable diseases listed in the sanitary code of the state of New York, any of the cardio-vascular-renal or cardio-pulmonary diseases, any surgical condition of the abdomen such as acute appendicitis, or diabetes, or any benign or malignant neoplasms; to operate; to reduce fractures or dislocations; to prescribe, administer, dispense or use in his practice drugs or medicines; or to use diagnostic or therapeutic methods involving chemical or biological means except diagnostic services performed by clinical laboratories which services shall be approved by the board as appropriate to the practice of chiropractic; or to utilize electrical devices except those devices approved by the board as being appropriate to the practice of chiropractic. Nothing herein shall be construed to prohibit a licensed chiropractor who has successfully completed a registered doctoral program in chiropractic, which contains courses of study in nutrition satisfactory to the department, from using nutritional counseling, including the dispensing of food concentrates, food extracts, vitamins, minerals, and other nutritional supplements approved by the board as being appropriate to, and as a part of, his or her practice of chiropractic. Nothing herein shall be construed to prohibit an individual who is not subject to regulation in this state as a licensed chiropractor from engaging in nutritional counseling.

§ 6552. Practice of chiropractic and use of title "chiropractor". Only a person licensed or exempt under this article shall practice chiropractic or use the title "chiropractor".

§ 6553. State board for chiropractic. A state board for chiropractic shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven members, including at least four licensed chiropractors, one licensed physician who is a doctor of medicine, one licensed physician who is a doctor of

osteopathy, and one educator who holds a doctorate or equivalent degree in either anatomy, physiology, pathology, chemistry or microbiology. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 6554. Requirements for a professional license. To qualify for a license as a chiropractor, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including two years of preprofessional college study and completion of a four-year resident program in chiropractic, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations:

(4) Examination: pass examinations satisfactory to the board and in accordance with the commissioner's regulations, in clinical chiropractic analysis, the practice of chiropractic, X-ray as it relates to chiropractic analysis, and examinations satisfactory to the department in anatomy, physiology, pathology, chemistry, microbiology, diagnosis, and the use and effect of X-ray;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 6554-a. Mandatory continuing education for chiropractors. 1. (a) Each chiropractor licensed pursuant to this article, required to register triennially with the department to practice in this state, shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (b) and (c) of this subdivision. Chiropractors who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

(b) Chiropractors shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed chiropractor not engaged in chiropractic practice as an individual practitioner, a partner or a partnership, a shareholder of a professional service corporation, as an employee of such practice units, or as an employee of a facility operating pursuant to article twenty-eight of the public health law, or as otherwise determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the public practice of chiropractic during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be promulgated by regulation of the commissioner in consultation with the board.

(d) Nothing in this section shall be construed as enabling or authorizing the department or state board for chiropractic to require or implement continuing competency testing or continued competency certification for chiropractors.

2. During each triennial registration period an applicant for registration shall complete thirty-six hours of acceptable formal continuing education, a maximum of twelve hours of which may be

self-instructional coursework as approved by the department in consultation with the board. Any chiropractor whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand four, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand four up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section. Continuing education hours taken during one triennium may not be carried over or otherwise credited or transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to complete the required continued education and who continues to practice chiropractic without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which are sponsored or presented by a New York state chiropractic professional organization, national chiropractic professional organization or higher educational institution, and which meet the following requirements: contain subject matter which contributes to the enhancement of professional and clinical skills of the chiropractor and is approved as acceptable continuing

education by a chiropractic college recognized by the Commission on Accreditation of the Council of Chiropractic Education to fulfill the mandatory continuing education requirements, and which meets the standards prescribed by regulations of the commissioner in consultation with the board to fulfill the mandatory continuing education requirement.

5. Chiropractors shall certify at each triennial registration as to having satisfied the mandatory continuing education requirements of this section, shall maintain adequate documentation of completion of acceptable formal continuing education to support such certification and shall provide such documentation to the department upon request. Failure to provide such documentation upon request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be in addition to the triennial registration fee required by section sixty-five hundred fifty-four of this article.

§ 6555. Exempt persons. Nothing in this article shall be construed to affect or prevent a student enrolled in a college of chiropractic in this state from engaging in all phases of clinical practice under supervision of a licensed chiropractor or physician in a curriculum registered by the department.

§ 6556. Special provisions. 1. Any chiropractor who holds a license stating that the holder is not authorized to use X-ray in his practice shall on each registration, continue to obtain a license so marked. Any chiropractor holding such a license may obtain a license permitting the use of X-ray provided he first passes an examination in the use and effect of X-ray satisfactory to the board and the department.

2. An applicant who graduated from a school of chiropractic prior to January first, nineteen hundred sixty-eight need not meet the two-year preprofessional college study requirement provided for in subdivision two of section sixty-five hundred fifty-four.

ARTICLE 133

DENTISTRY, DENTAL HYGIENE, AND REGISTERED DENTAL ASSISTING

Section 6600. Introduction.
6601. Definition of practice of dentistry.
6602. Practice of dentistry and use of title "dentist".
6603. State board for dentistry.
6604. Requirements for a license as a dentist.
6604-a. Mandatory continuing education for dentists.
6604-b. Restricted dental faculty license.
6605. Limited permits.
6605-a. Dental anesthesia certificate.
6605-b. Dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate.
6606. Definition of practice of dental hygiene.
6607. Practice of dental hygiene and use of title "dental hygienist".
6608. Definition of practice of registered dental assisting.
6608-a. Practice of registered dental assisting and use of title "registered dental assistant".
6608-b. Requirements for certification as a registered dental assistant.
6608-c. Exempt persons.
6608-d. Limited permits.
6609. Requirements for a license as a dental hygienist.
6609-a. Mandatory continuing education for dental hygienists.
6609-b. Limited permit to practice dental hygiene.
6610. Exempt persons.
6611. Special provisions.
6612. Identification of removable full or partial prosthetic devices.
6613. Nitrous oxide equipment.

§ 6600. Introduction. This article applies to the professions of dentistry, dental hygiene, and registered dental assisting. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6601. Definition of practice of dentistry. The practice of the profession of dentistry is defined as diagnosing, treating, operating, or prescribing for any disease, pain, injury, deformity, or physical condition of the oral and maxillofacial area related to restoring and maintaining dental health. The practice of dentistry includes the prescribing and fabrication of dental prostheses and appliances. The practice of dentistry may include performing physical evaluations in conjunction with the provision of dental treatment.

§ 6602. Practice of dentistry and use of title "dentist". Only a person licensed or otherwise authorized to practice under this article shall practice dentistry or use the title "dentist".

§ 6603. State board for dentistry. A state board for dentistry shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than thirteen dentists licensed in this state for at least five years, not less than three dental hygienists licensed in this state for at least five years, and not less than one registered dental assistant licensed in this state for at least one year. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a dentist licensed in this state.

§ 6604. Requirements for a license as a dentist. To qualify for a license as a dentist, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a doctoral degree in dentistry, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations, provided that such experience shall consist of satisfactory completion of a postdoctoral general practice or specialty dental residency program, of at least one year's duration, in a hospital or dental facility accredited for teaching purposes by a national accrediting body approved by the department, provided, further that any such residency program shall include a formal outcome assessment evaluation of the resident's competence to practice dentistry acceptable to the department;

(4) Examination: pass a written examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States; provided, however, that the board of regents may grant a three year waiver for a noncitizen to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to a noncitizen to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

§ 6604-a. Mandatory continuing education for dentists. 1. (a) Each dentist, licensed pursuant to this article, required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (b) and (c) of this subdivision. Dentists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

(b) Dentists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed dentist not engaged in public practice as an individual practitioner, a partner of a partnership, a shareholder of a professional service corporation, or an employee of such practice units, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the public practice of dentistry during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of sixty hours of acceptable formal continuing education, a maximum of eighteen hours of which may be self-instructional coursework as approved by the department. Beginning with the first registration renewal period for any dentist occurring on or after January first, two thousand two, and before the occurrence of the second registration renewal period following that date, a dentist shall have completed on a one-time basis, as part of the sixty hours of

acceptable formal continuing education required by this section, no fewer than two hours of coursework and training regarding the chemical and related effects and usage of tobacco and tobacco products and the recognition, diagnosis, and treatment of the oral health effects, including but not limited to cancers and other diseases, caused by tobacco and tobacco products, provided that any dentist who provides written proof satisfactory to the department that the dentist has completed, at any time subsequent to the effective date of this section, an approved mandatory continuing education course of not less than two hours in the same or substantially similar subject matter shall be deemed to have met this requirement, and further provided that dentists who are exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed shall also be exempt from this requirement for that period. Any dentist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight and before July first, two thousand eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. For any registration period beginning before July first, two thousand eight and ending on or after such date, each dentist shall complete continuing education hours on a pro rata basis at a rate of one and one-quarter hours per month for the period ending June thirtieth, two thousand eight and at a rate of one and two-thirds hours per month for the period beginning July first, two thousand eight up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education

requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dentistry without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors having at least one full-time employee and the facilities, equipment, and financial and physical resources to provide continuing education courses, approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section six thousand six hundred four of this article.

6. On or after the effective date of this subdivision, and no later than the end of the first registration period commencing on or after such date during which he or she is required to comply with the continuing education requirements of this section, each dentist shall have completed on a one-time basis, as part of the mandatory hours of acceptable formal continuing education required by this section, no fewer than three hours in a course approved by the department in dental jurisprudence and ethics, which shall include the laws, rules, regulations and ethical principles relating to the practice of dentistry in New York state, provided that postgraduate dental students enrolled

in New York state dental residency programs may satisfy the requirements of this subdivision by taking such an approved course during the period of their dental residency prior to their initial licensure.

§ 6604-b. Restricted dental faculty license. 1. The department may issue a restricted dental faculty license to a full-time faculty member employed at an approved New York state school of dentistry. The holder of such restricted dental faculty license shall have the authority to practice dentistry, as defined in this article, but such practice of dentistry shall be limited to the school's facilities or the school's clinics, or facilities or clinics with relationships to the school confirmed by formal affiliation agreements. Nothing in this section shall be construed to authorize such holder of a restricted dental faculty license to engage in the private practice of dentistry at any other site.

2. To qualify for a restricted dental faculty license the applicant shall present satisfactory evidence of the following:

(a) The completion of a total of no less than six academic years of pre-professional and professional education, including:

i. courses in general chemistry, organic chemistry, biology or zoology and physics; and

ii. not less than four academic years of professional dental education satisfactory to the department culminating in a degree, diploma or certificate in dentistry recognized by the appropriate civil authorities of the jurisdiction in which the school is located as acceptable for entry into practice in the jurisdiction in which the school is located.

(b) Within the last five years, have two years of satisfactory practice as a dentist or have satisfactorily completed an advanced education program in general dentistry or in a dental specialty, provided such program is accredited by an organization accepted by the department as a reliable authority for the purpose of accrediting such programs (such as the commission on dental accreditation); and

(c) Possesses good moral character as determined by the department.

3. The dean of the dental school shall notify the department in writing upon the submission of an initial license application and yearly thereafter that the holder of the dental faculty license is employed full-time at the dental school. Full-time employment means the holder of such dental faculty license devotes at least four full working days per week in teaching or patient care, research or administrative duties at the dental school where employed. The dean of the dental school and the holder of such dental faculty license shall each notify the department in writing within thirty days of the termination of full-time employment.

4. In order to continue to practice dentistry, the holder of a restricted dental faculty license shall apply for and hold a current triennial registration which shall be subject to the same registration requirements as apply to holders of unrestricted dental licenses, except that such registration shall be issued only upon the submission of documentation satisfactory to the department of the holder's continued status as a full-time dental faculty member, provided that such registration shall immediately terminate and the holder shall no longer be authorized to practice if the holder ceases to be a full-time dental faculty member at an approved New York state school of dentistry.

5. The holder of this restricted dental faculty license shall be subject to the professional misconduct provisions set forth in article one hundred thirty of this chapter and in the rules of the board of regents and the regulations of the commissioner.

6. The fee for each restricted dental faculty license shall be three hundred dollars, and the fee for initial registration and each subsequent re-registration shall be three hundred dollars.

7. In order to be eligible for a restricted dental faculty license an applicant must be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States; provided, however, that the department may grant a three year waiver for a noncitizen who otherwise meets all other requirements for a restricted

dental faculty license except that the department may grant an additional extension not to exceed six years to a noncitizen to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued. No current faculty member shall be displaced by the holder of a restricted dental faculty license.

§ 6605. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to a graduate of a dental college who meets the educational qualifications for admission to the licensing examination in dentistry for employment in a hospital or dental facility approved by an appropriate agency, while under the direction or supervision of a licensed dentist. No such permit shall be issued or renewed unless such graduate has a bona fide offer of a position in such a hospital or dental facility.

2. On recommendation of the board, the department may issue a limited permit for instructing in dentistry to a dentist not licensed under this article to be employed by a registered school of dentistry or dental hygiene to instruct and supervise clinical dentistry or dental hygiene for students in such a registered school in the state, and in so doing to practice dentistry as defined in this article, but only on the premises of such registered school or such other premises as may be used for instruction in the program of education conducted by such institution. No person shall be permitted or authorized to instruct and supervise clinical dentistry for students unless such person is licensed in this state or holds the foregoing limited permit for instructing in dentistry.

3. The holder of a limited permit under this section may practice dentistry, as defined in this article, but only in the performance of duties required by the position for which the limited permit is issued. Nothing in this section shall be construed to authorize such unlicensed dentist to engage in the private practice of dentistry.

4. A limited permit under this section shall be valid for one year or until ten days after notification of denial of an application for

license. A limited permit may be renewed for one year, except if the applicant is serving in a residency program in a hospital or school of dentistry in this state. A limited permit may be renewed annually for the duration of such residency program. The fee for each limited permit and for each renewal shall be one hundred five dollars.

5. Notwithstanding subdivision one of this section, dental school graduates who meet the license requirement for education pursuant to subdivision two of section sixty-six hundred four of this article shall be deemed to be exempt persons pursuant to section sixty-six hundred ten of this article and shall not be required to obtain a limited permit, provided that they are employed in an approved residency program for the purpose of fulfilling initial licensure requirements pursuant to section sixty-six hundred four of this article. Not later than sixty days after entry into an approved residency program, the dental resident shall register on a form acceptable to the commissioner and pay to the department a residency registration fee established by the department, which residency registration fee shall be reasonable and shall not exceed the limited permit fee specified in subdivision four of this section. All persons deemed exempt pursuant to this section shall be subject to all provisions of article one hundred thirty of this title, including but not limited to having disciplinary action taken against their residency registration status.

§ 6605-a. Dental anesthesia certificate. 1. A licensed dentist shall not employ conscious sedation, deep sedation or general anesthesia in the practice of dentistry, at any location other than a general hospital, without a dental anesthesia certificate issued by the department.

2. The commissioner shall promulgate regulations, establishing standards and procedures for the issuance of certificates. Such standards shall require completion of an educational program and/or course of training or experience sufficient to ensure that a dentist is specifically trained in the use and administration of conscious sedation, deep sedation or general anesthesia and in the possible

effects of such use, and in the recognition of and response to possible emergency situations. Such regulations may also establish standards and safeguards for the use of conscious sedation, deep sedation or general anesthesia.

3. Nothing in this section shall limit a dentist's use of local anesthesia, a dentist's use of nitrous oxide, or a dentist's use of any other substance or agent for a purpose other than achieving deep sedation, conscious sedation, or general anesthesia.

4. The fee for a dental anesthesia certificate shall be one hundred dollars and shall be paid on a triennial basis upon renewal of such certificate. A certificate may be suspended or revoked in the same manner as a license to practice dentistry.

§ 6605-b. Dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate. 1. A dental hygienist shall not administer or monitor nitrous oxide analgesia or local infiltration anesthesia in the practice of dental hygiene without a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate and except under the personal supervision of a dentist and in accordance with regulations promulgated by the commissioner. Personal supervision, for purposes of this section, means that the supervising dentist remains in the dental office where the local infiltration anesthesia or nitrous oxide analgesia services are being performed, personally authorizes and prescribes the use of local infiltration anesthesia or nitrous oxide analgesia for the patient and, before dismissal of the patient, personally examines the condition of the patient after the use of local infiltration anesthesia or nitrous oxide analgesia is completed. It is professional misconduct for a dentist to fail to provide the supervision required by this section, and any dentist found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of this title shall be subject to the penalties prescribed in section sixty-five hundred eleven of this title.

2. The commissioner shall promulgate regulations establishing standards and procedures for the issuance of such certificate. Such standards shall require completion of an educational program and/or course of training or experience sufficient to ensure that a dental hygienist is specifically trained in the administration and monitoring of nitrous oxide analgesia and local infiltration anesthesia, the possible effects of such use, and in the recognition of and response to possible emergency situations.

3. The fee for a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate shall be twenty-five dollars and shall be paid on a triennial basis upon renewal of such certificate. A certificate may be suspended or revoked in the same manner as a license to practice dental hygiene.

*** § 6606. Definition of practice of dental hygiene.** 1. The practice of the profession of dental hygiene is defined as the performance of dental services which shall include removing calcareous deposits, accretions and stains from the exposed surfaces of the teeth which begin at the epithelial attachment and applying topical agents indicated for a complete dental prophylaxis, removing cement, placing or removing rubber dam, removing sutures, placing matrix band, providing patient education, applying topical medication, placing and exposing diagnostic dental X-ray films, performing topical fluoride applications and topical anesthetic applications, polishing teeth, taking medical history, charting caries, taking impressions for study casts, placing and removing temporary restorations, administering and monitoring nitrous oxide analgesia and administering and monitoring local infiltration anesthesia, subject to certification in accordance with section sixty-six hundred five-b of this article, and any other function in the definition of the practice of dentistry as may be delegated by a licensed dentist in accordance with regulations promulgated by the commissioner. The practice of dental hygiene may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done either under the supervision of a licensed dentist or, in the case of a registered dental hygienist

working for a hospital as defined in article twenty-eight of the public health law, pursuant to a collaborative arrangement with a licensed and registered dentist who has a formal relationship with the same hospital in accordance with regulations promulgated by the department in consultation with the department of health. Such collaborative arrangement shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist. When dental hygiene services are provided pursuant to a collaborative agreement, such dental hygienist shall instruct individuals to visit a licensed dentist for comprehensive examination or treatment.

2. The commissioner shall promulgate regulations defining the functions a dental hygienist may perform that are consistent with the training and qualifications for a license as a dental hygienist.

* NB Effective until June 19, 2027

* § 6606. Definition of practice of dental hygiene. 1. The practice of the profession of dental hygiene is defined as the performance of dental services which shall include removing calcareous deposits, accretions and stains from the exposed surfaces of the teeth which begin at the epithelial attachment and applying topical agents indicated for a complete dental prophylaxis, removing cement, placing or removing rubber dam, removing sutures, placing matrix band, providing patient education, applying topical medication, placing and exposing diagnostic dental X-ray films, performing topical fluoride applications and topical anesthetic applications, polishing teeth, taking medical history, charting caries, taking impressions for study casts, placing and removing temporary restorations, administering and monitoring nitrous oxide analgesia and administering and monitoring local infiltration anesthesia, subject to certification in accordance with section sixty-six hundred five-b of this article, and any other function in the definition of the practice of dentistry as may be delegated by a licensed dentist in accordance with regulations promulgated by the commissioner. The practice of dental hygiene may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but shall be done either under the supervision of a licensed dentist or may be performed by a registered dental hygienist

designated as a registered dental hygienist, collaborative practice in collaboration with a licensed dentist provided such services are performed in accordance with a written practice agreement and written practice protocols to be known as a collaborative practice agreement. Under a collaborative practice agreement, dental hygienists may perform all services which are designated in regulation under general supervision without prior evaluation of a dentist or medical professional and may be performed without supervision in an authorized setting as defined in subdivision four of this section. Such collaborative agreements shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist.

2. The collaborative practice agreement shall:

(a) be signed and maintained by the dentist, the dental hygienist and authorized setting;

(b) be reviewed annually by the dentist and dental hygienist;

(c) include consideration for medically compromised patients, specific medical conditions, and age- and procedure-specific practice protocols, including, but not limited to recommended intervals for the performance of dental hygiene services and a periodicity in which an examination by a dentist should occur; and

(d) be made available to the department and other interested parties upon request.

3. Before performing services pursuant to a collaborative practice agreement, a dental hygienist, collaborative practice shall provide the patient with a written statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. If the dental hygienist makes any referrals to the patient for further procedures, the dental hygienist shall fill out a referral form and provide a copy of the form to the collaborating dentist.

4. The performance of services pursuant to a collaborative agreement is authorized in the following settings: a hospital as defined in article twenty-eight of the public health law, a voluntary foster care

agency health facility licensed pursuant to article twenty-nine-I of the public health law, an appropriately equipped school, a federally qualified health center, a long-term care facility, a group home servicing people with intellectual and developmental disabilities, a facility serving veterans, a temporary housing facility, a prison, a drug treatment facility, a domestic violence shelter, and appropriate settings in which homebound residents are unable to be relocated for necessary treatment.

5. A registered dental hygienist, collaborative practice shall have no more than one collaborative agreement with a dentist at one time.

6. A dentist shall not have a collaborative agreement with more than six registered dental hygienists, collaborative practice at one time. The department may grant an exception to such limitation for public health settings on a case-by-case basis.

7. A dental hygienist shall file an application with the department to practice as a registered dental hygienist, collaborative practice and pay a fee determined by the department. As a condition of collaborative practice, the dental hygienist shall have been engaged in practice for three years with a minimum of four thousand five hundred practice hours and shall complete an eight-hour continuing education program that includes instruction in medical emergency procedures, risk management, dental hygiene jurisprudence and professional ethics.

8. The commissioner shall promulgate regulations defining the functions a dental hygienist may perform that are consistent with the training and qualifications for a license as a dental hygienist.

* NB Effective June 19, 2027

§ 6607. Practice of dental hygiene and use of title "dental hygienist". Only a person licensed under section sixty-six hundred nine of this article or exempt shall practice dental hygiene or use the title "dental hygienist".

*** § 6608. Definition of practice of registered dental assisting.** The practice of registered dental assisting is defined as providing supportive services to a dentist in such dentist's performance of dental services authorized under this article. Such support shall include providing patient education, taking preliminary medical histories and vital signs to be reviewed by the dentist, placing and removing rubber dams, selecting and prefitting provisional crowns, selecting and prefitting orthodontic bands, removing orthodontic arch wires and ligature ties, placing and removing matrix bands, taking impressions for study casts or diagnostic casts, removing periodontal dressings, placing and removing temporary restorations, application of topical fluoride varnish, and such other dental supportive services authorized by the dentist consistent with regulations promulgated by the commissioner, provided that such functions are performed under the direct personal supervision of a licensed dentist in the course of the performance of dental services. Such services shall not include diagnosing and/or performing surgical procedures, irreversible procedures or procedures that would alter the hard or soft tissue of the oral and maxillofacial area or any other procedures determined by the department. The practice of registered dental assisting may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done under the direct personal supervision of a licensed dentist. Direct personal supervision, for purposes of this section, means supervision of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, who remains the responsibility of the licensed dentist, evaluates the services performed by the registered dental assistant. Nothing herein authorizes a registered dental assistant to perform any of the services or functions defined as part of the practice of dental hygiene in accordance with the provisions of subdivision one of section sixty-six hundred six of this article, except those functions authorized pursuant to this section. All dental supportive services provided in this section may be performed by currently registered dental hygienists either under a dentist's

supervision, as defined in regulations of the commissioner, or, in the case of a registered dental hygienist working for a hospital as defined in article twenty-eight of the public health law, pursuant to a collaborative arrangement with a licensed dentist in accordance with subdivision one of section sixty-six hundred six of this article. Such collaborative arrangement shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist.

* NB Effective until June 19, 2027

* § 6608. Definition of practice of registered dental assisting. The practice of registered dental assisting is defined as providing supportive services to a dentist in such dentist's performance of dental services authorized under this article. Such support shall include providing patient education, taking preliminary medical histories and vital signs to be reviewed by the dentist, placing and removing rubber dams, selecting and prefitting provisional crowns, selecting and prefitting orthodontic bands, removing orthodontic arch wires and ligature ties, placing and removing matrix bands, taking impressions for study casts or diagnostic casts, removing periodontal dressings, placing and removing temporary restorations, application of topical fluoride varnish, and such other dental supportive services authorized by the dentist consistent with regulations promulgated by the commissioner, provided that such functions are performed under the direct personal supervision of a licensed dentist in the course of the performance of dental services. Such services shall not include diagnosing and/or performing surgical procedures, irreversible procedures or procedures that would alter the hard or soft tissue of the oral and maxillofacial area or any other procedures determined by the department. The practice of registered dental assisting may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done under the direct personal supervision of a licensed dentist. Direct personal supervision, for purposes of this section, means supervision of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, who remains the

responsibility of the licensed dentist, evaluates the services performed by the registered dental assistant. Nothing herein authorizes a registered dental assistant to perform any of the services or functions defined as part of the practice of dental hygiene in accordance with the provisions of subdivision one of section sixty-six hundred six of this article, except those functions authorized pursuant to this section. All dental supportive services provided in this section may be performed by currently registered dental hygienists either under a dentist's supervision, as defined in regulations of the commissioner, or, in the case of a registered dental hygienist performing services in a practice setting authorized under subdivision four of section sixty-six hundred six of this article, pursuant to a collaborative arrangement with a licensed dentist in accordance with section sixty-six hundred six of this article. Such collaborative arrangement shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist.

* NB Effective June 19, 2027

§ 6608-a. Practice of registered dental assisting and use of title "registered dental assistant". Only a person certified under section sixty-six hundred eight-b of this article or exempt pursuant to section sixty-six hundred ten of this article shall practice registered dental assisting. Only a person certified pursuant to section sixty-six hundred eight-b of this article shall use the title "registered dental assistant".

§ 6608-b. Requirements for certification as a registered dental assistant. To qualify for certification as a registered dental assistant, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Age: be at least eighteen years of age;

(3) Fees: pay a fee of forty-five dollars to the department for initial certification and a fee of fifty dollars for each triennial registration period;

(4) Education and experience: (A) have received a high school diploma,

or its equivalent, and (B) have successfully completed, in accordance with the commissioner's regulations, (i) an approved one-year course of study in dental assisting in a degree-granting institution or a board of cooperative educational services program which includes at least two hundred hours of clinical experience, or an equivalent approved course of study in dental assisting in a non-degree granting institution which shall not be a professional association or professional organization or (ii) an alternate course of study in dental assisting acceptable to the department which shall be provided by a degree-granting institution or a board of cooperative educational services program which includes at least one thousand hours of relevant work experience;

(5) Examination: pass an examination in dental assisting given by an organization which administers such examinations and which is acceptable to the department; and

(6) Character: be of good moral character as determined by the department.

§ 6608-c. Exempt persons. Nothing in this article shall be construed to affect or prevent a student from engaging in any procedure authorized under section sixty-six hundred eight of this article in clinical practice as part of a course of study approved by the department pursuant to subdivision four of section sixty-six hundred eight-b of this article.

§ 6608-d. Limited permits. The department shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination. All practice under a limited permit shall be under the direct personal supervision of a licensed dentist. Limited permits shall be for one year and may be renewed at the discretion of the department for one additional year. The fee for each limited permit and for each renewal shall be forty dollars.

§ 6609. Requirements for a license as a dental hygienist. To qualify for a license as a dental hygienist, an applicant shall fulfill the

following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including high school graduation and completion of a program in dental hygiene, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least seventeen years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States; provided, however, that the board of regents may grant a three year waiver for a noncitizen to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to a noncitizen to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of fifty dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

§ 6609-a. Mandatory continuing education for dental hygienists. 1. (A) Each dental hygienist, licensed pursuant to this article and required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (B) and (C) of this subdivision. Dental hygienists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional

registration certificate.

(B) Dental hygienists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the Armed Forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(C) A licensed dental hygienist not engaged in the practice of dental hygiene shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of dental hygiene during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of twenty-four hours of acceptable formal continuing education including currently mandated child abuse reporting instruction and infection control training as approved by the department. Of these twenty-four hours a maximum of ten hours may be self-instructional coursework as approved by the department. Any dental hygienist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dental hygiene without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee of thirty dollars shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-six hundred nine of this article.

§ 6609-b. Limited permit to practice dental hygiene. 1. A limited permit to practice dental hygiene may be granted to an individual who has, to the satisfaction of the department, met all the requirements of section six thousand six hundred nine of this article, but has not yet passed the examination required by subdivision four of such section.

2. A limited permit shall authorize the holder to practice dental hygiene as defined in section sixty-six hundred six of this article, but only under the personal supervision of a licensed dentist, as defined in

regulations promulgated by the commissioner.

3. Limited permits shall be issued for a period of one year and may be renewed at the discretion of the department for one additional year.

4. The fee for a limited permit and for each renewal shall be fifty dollars.

§ 6610. Exempt persons. Nothing in this article shall be construed to affect or prevent:

1. An unlicensed person from performing solely mechanical work upon inert matter in a dental office or on a dental laboratory prescription of a dentist holding a license or limited permit;

2. A student from engaging in clinical practice as part of a registered program operated by a school of dentistry under supervision of a dentist holding a license or limited permit for instructing in dentistry in a school of dentistry:

3. A student from engaging in any procedure authorized under section sixty-six hundred six of this article in clinical practice as part of a registered program in dental hygiene under supervision of a dentist holding a license or a limited permit for instructing in dentistry in a school of dental hygiene;

4. An employee of a federal agency from using the title of and practicing as a dentist or dental hygienist insofar as such activities are required by his salaried position;

5. A dentist or a dental hygienist licensed in some other state or country from making a teaching clinical demonstration before a regularly organized dental or medical society or group, or from meeting licensed dentists in this state for consultation, provided such activities are limited to such demonstration or consultation.

6. A dentist licensed in another state or country who is employed on a full-time basis by a registered dental school as a faculty member with the rank of assistant professor or higher from conducting research and clinical demonstrations as a part of such employment, under the supervision of a licensed dentist and on the premises of the school. No fee may be charged for the practice of dentistry authorized by this subdivision.

7. A dentist licensed in another state or country who is visiting an approved dental school or any other entity operating a residency program that has been accredited by a national accrediting body approved by the department to receive dental instruction for a period not to exceed ninety days from engaging in clinical practice, provided such practice is limited to such instruction and is under the direct supervision of a licensed dentist.

8. Any student matriculated in an accredited dental school located outside New York state from engaging in appropriately supervised clinical practice as part of the school's dental program in a teaching hospital which has a teaching affiliation agreement with the student's dental school.

§ 6611. Special provisions. 1. Except upon the written dental laboratory prescription of a licensed dentist and except by the use of impressions or casts made by a licensed dentist, no dental laboratory shall furnish, supply, construct, reproduce, place, adjust, or repair any dental prosthesis, device, or appliance. A dental laboratory prescription shall be made out in duplicate. It shall contain such data as may be prescribed by the commissioner's regulations. One copy shall be retained by the practitioner of dentistry for a period of one year. The other copy shall be issued to the person, firm or corporation engaged in filling dental laboratory prescriptions, who or which shall each retain and file in their respective offices or places of business their respective copies for a period of one year.

2. The department is empowered to inspect and to have access to all

places, including the office or offices of a licensed dentist, where copies of dental laboratory prescriptions issued by him are retained as required by this section, and to all places where dental laboratory prescriptions are filled or to any workroom or workrooms in which prosthetic restorations, prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for natural teeth or tissue or for the correction of malocclusion or deformities are made, repaired or altered, with power to subpoena and examine records of dental laboratory prescriptions. A person who fails to grant access to such places or who fails to maintain prescriptions as required by this section shall be guilty of a class A misdemeanor.

3. The department may arrange for the conduct of clinical examinations in the clinic of any school of dentistry or dental hygiene within or outside the state for dental or dental hygiene candidates.

4. A not-for-profit dental or medical expense indemnity corporation or hospital service corporation organized under the insurance law or pursuant to special legislation may enter into contracts with dentists or partnerships of dentists to provide dental care on its behalf for persons insured under its contracts or policies.

5. Legally incorporated dental corporations existing and in operation prior to January first, nineteen hundred sixteen, may continue to operate through licensed dentists while conforming to the provisions of this title. Any such corporation which shall be dissolved or cease to exist or operate for any reason whatsoever shall not be permitted to resume operations. No such corporation shall change its name or sell its franchise or transfer its corporate rights directly or indirectly, by transfer of capital stock control or otherwise, to any person or to another corporation without permission from the department, and any corporation so changing its name or so transferring its franchise or corporate rights without such permission shall be deemed to have forfeited its rights to exist and may be dissolved by an action brought by the attorney general.

6. Notwithstanding any inconsistent provision of any general, special

or local law, any licensed dentist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such dentist. Nothing in this subdivision shall be deemed or construed to relieve a licensed dentist from liability for damages for injuries or death caused by an act or omission on the part of a dentist while rendering professional services in the normal and ordinary course of practice.

7. Any dentist or dental hygienist, who in the performance of dental services, x-rays the mouth or teeth of a patient shall during the performance of such x-rays shield the torso and thyroid area of such patient including but not limited to the gonads and other reproductive organs with a lead apron thyroid collar, or other similar protective garment or device. Notwithstanding the provisions of this subdivision, if in the dentist's professional judgment the use of a thyroid collar would be inappropriate under the circumstances, because of the nature of the patient, the type of x-ray being taken, or other factors, the dentist or dental hygienist need not shield the thyroid area.

8. An unlicensed person may provide supportive services to a dentist incidental to and concurrent with such dentist personally performing a service or procedure. Nothing in this subdivision shall be construed to allow an unlicensed person to provide any service which constitutes the practice of dentistry or dental hygiene as defined in this article.

9. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society, or other entity on account of the communication of information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the

qualifications, fitness, or professional conduct or practices of a dentist, to any governmental agency, dental or specialists society, or hospital as defined in article twenty-eight of the public health law. The foregoing shall not apply to information which is untrue and communicated with malicious intent.

10. Each dentist and registered dental hygienist working for a hospital as defined in article twenty-eight of the public health law who practices in collaboration with a licensed dentist shall become certified in cardiopulmonary resuscitation (CPR) from an approved provider and thereafter maintain current certification, which shall be included in the mandatory hours of continuing education acceptable for dentists to the extent provided in the commissioner's regulations. In the event the dentist or registered dental hygienist cannot physically perform CPR, the commissioner's regulations shall allow the dentist or registered dental hygienist to make arrangements for another individual in the office to administer CPR. All dental facilities shall have an automatic external defibrillator or other defibrillator at the facility.

§ 6612. Identification of removable full or partial prosthetic devices. 1. Except as provided herein, every dentist licensed in this state making or directing to be made a removable prosthetic denture, bridge, appliance or other structure to be used and worn as a substitute for natural teeth, shall offer to the patient for whom the prosthesis is intended the opportunity to have such prosthesis marked with the patient's name or initials. Such markings shall be accomplished at the time the prosthesis is made and the location and methods used to apply or implant them shall be determined by the dentist or the person acting on behalf of the dentist. Such marking shall be permanent, legible and cosmetically acceptable.

2. Notwithstanding the foregoing, if in the judgment of the dentist or the person making the prosthesis, such identification is not practicable or clinically safe, the identification marks may be omitted entirely.

3. The commissioner shall adopt rules and regulations and provide

standards necessary to carry out the provisions of this section.

§ 6613. Nitrous oxide equipment. Any machine used in a dental office for the administration of nitrous oxide to a patient shall be equipped with a scavenging system that appropriately minimizes leakage of nitrous oxide.

ARTICLE 134

LICENSED PERFUSIONISTS

Section 6630. Definitions.
6631. Practice of perfusion and use of title "licensed perfusionist".
6632. Requirements for licensure as a perfusionist.
6633. Special provisions.
6634. State committee for perfusion.
6635. Limited permits.
6636. Exempt persons.

§ 6630. Definitions. As used in this article: 1. The term "perfusionist" means a person who is licensed to practice perfusion pursuant to this article.

2. The term "registered program" means a program for the education of perfusionists which has been registered by the department or determined by the department to be the substantial equivalent.

3. The term "perfusion" means the provision of extracorporeal or intracorporeal patient care services to support or replace the circulatory or respiratory function of a patient, including the administration of pharmacological and therapeutic agents, and blood products, and the management, treatment and monitoring of the physiological status of a patient during the operation of extracorporeal circulation equipment or intracorporeal equipment that replaces or support circulatory or respiratory functions.

All perfusion services shall be pursuant to the order and direction of a physician. Perfusion services may be performed in a general hospital licensed pursuant to article twenty-eight of the public health law or during the transport of patients or organs supported by extracorporeal or intracorporeal equipment.

4. The term "committee" means the state committee for perfusion created by section sixty-six hundred thirty-four of this article.

§ 6631. Practice of perfusion and use of title "licensed perfusionist". Only a person licensed or exempt under this article shall practice perfusion. Only persons licensed as perfusionists may use the title "licensed perfusionist".

§ 6632. Requirements for licensure as a perfusionist. To qualify for licensure as a "licensed perfusionist", an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education:

a. has successfully completed a baccalaureate or higher degree in perfusion registered by the department, or the substantial equivalent as determined by the department; or

b. has completed a baccalaureate or higher degree and a credit bearing certificate program in perfusion acceptable to the department; or

c. until two years from the effective date of this article, has completed a baccalaureate or higher degree and an accredited training program in perfusion acceptable to the department pursuant to regulations.

3. examination: has obtained a passing score on an examination acceptable to the department;

4. age: at the time of application is at least twenty-one years of age;

5. character: be of good moral character as determined by the department;

6. Fee: pay a fee determined by the department for an initial license and for each triennial registration period.

§ 6633. Special provisions. An individual who meets the requirements for a license as a licensed perfusionist except for examination, experience and education and who meets the requirements enumerated under subdivisions one or two of this section may be licensed without meeting additional requirements provided that such individual submits an application to the department within two years of the effective date of this section:

1. Applicants may be licensed if they have been practicing as a perfusionist for five years in the past ten years in an inpatient unit that provides cardiac surgery services in a hospital approved by the department of health or a substantially equivalent accrediting body acceptable to the committee and the department at least three of such years of experience having occurred during the past five years;

2. Applicants who possess certification from a national certification organization acceptable to the committee and the department may be licensed if they have been employed as a perfusionist for three of the past five years.

§ 6634. State committee for perfusion. 1. A state committee for perfusion shall be appointed by the board of regents upon the recommendation of the commissioner as a committee of the board for

medicine to advise solely in matters relating to perfusion and shall assist on matters of licensure and professional conduct.

2. The committee shall consist of no fewer than eight individuals, to be composed of a minimum of the following:

a. four licensed perfusionists;

b. two licensed physicians and

c. two representatives of the public at large.

§ 6635. Limited permits. 1. Eligibility. A person who fulfills all requirements for licensure as a perfusionist except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. A permittee shall be authorized to practice as a perfusionist only under the supervision of a licensed perfusionist and pursuant to the order and direction of a physician.

3. Duration. A limited permit shall expire one year from the date of issuance. A limited permit may be extended for one additional year for good cause as determined by the department.

4. Fees. The fee for each limited permit shall be one hundred five dollars.

§ 6636. Exempt persons. This article shall not prohibit:

1. The practice of perfusion by any student who is engaged in clinical training in a general hospital licensed pursuant to article twenty-eight of the public health law or during the transport of patients or organs supported by extracorporeal or intracorporeal equipment and who is enrolled in a perfusion program approved by the department, provided such practice is limited to such clinical training which shall be

carried out under the direct supervision of a licensed perfusionist and pursuant to the order and direction of a physician; or

2. The performance of any of the tasks or responsibilities included in the definition of perfusion by any other person licensed under this title, provided that such tasks or responsibilities are authorized by the article governing the profession pursuant to which said person is licensed; or

3. The practice of perfusion by any legally qualified perfusionist of any other state or territory who is serving in the armed forces or the public health service of the United States or who is employed by the veterans administration, while engaged in the performance of his or her duties.

ARTICLE 135

VETERINARY MEDICINE AND ANIMAL HEALTH TECHNOLOGY

Section 6700. Introduction.
6701. Definition of practice of veterinary medicine.
6702. Practice of veterinary medicine and use of title "veterinarian".
6703. State board for veterinary medicine.
6704. Requirements for a professional license as a veterinarian.
6704-a. Mandatory continuing education for veterinarians.
6705. Exempt persons.
6705-a. Emergency veterinarian service; limited liability.
6706. Corporate practice.
6707. Limited permits to engage in the practice of veterinary medicine.
6708. Definition of practice of veterinary technology.
6709. Practice of veterinary technology and use of title "veterinary technician".
6711. Requirements for a professional license as an veterinary technician.
6711-a. Limited permits to engage in the practice of veterinary

technology.
6711-b. Mandatory continuing education for veterinary technicians.
6712. Exempt persons.
6713. Special provisions.
6714. Treatment records.
6715. Dispensing information to be provided by veterinarians.

§ 6700. Introduction. This article applies to the profession of veterinary medicine and veterinary technology. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6701. Definition of practice of veterinary medicine. The practice of the profession of veterinary medicine is defined as diagnosing, treating, operating, or prescribing for any animal disease, pain, injury, deformity or dental or physical condition, or the subcutaneous insertion of a microchip intended to be used to identify an animal. "Animal" includes every living creature except a human being. Notwithstanding the foregoing provisions of this section, no provisions of this section shall be construed to include the floating of equine teeth as being within the practice of veterinary medicine.

§ 6702. Practice of veterinary medicine and use of title "veterinarian". 1. Only a person licensed or exempt under this article shall practice veterinary medicine or use the title "veterinarian".

2. A licensed veterinarian or a professional service corporation organized for the practice of veterinary medicine may employ veterinary technicians to assist them in the practice of their profession in such capacities as are prescribed by law and as from time to time may be set by the commissioner or the state board of veterinary medicine. A veterinarian or professional service corporation may not employ veterinary technicians in a ratio exceeding three technicians per

supervising licensed veterinarian. Nothing in this section shall be construed as prohibiting a veterinarian from employing unlicensed lay persons for the performance of non-technical duties.

§ 6703. State board for veterinary medicine. A state board for veterinary medicine shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven veterinarians licensed in the state and not more than two veterinary technicians licensed in the state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner. The participation of the licensed veterinary technicians shall be limited to issues concerning the licensure of veterinary technology including but not limited to qualifications, employment, scope of practice, and discipline.

§ 6704. Requirements for a professional license as a veterinarian. To qualify for a license as a veterinarian, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a doctoral degree in veterinary medicine, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States; provided, however that the board of regents may grant a one-time three-year waiver for a veterinarian who otherwise meets the requirements of this article and who has accepted an offer to practice

veterinary medicine in a county in the state which the department has certified as having a shortage of qualified applicants to fill existing vacancies in veterinary medicine, and provided further that the board of regents may grant an extension of such three-year waiver of not more than one year;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred sixty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred thirty-five dollars for each reexamination, a fee of one hundred thirty dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

§ 6704-a. Mandatory continuing education for veterinarians. 1. (a) Each veterinarian, licensed pursuant to this article, required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (b) and (c) of this subdivision. Veterinarians who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

(b) Veterinarians shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance. Veterinarians engaged on a full-time basis in the teaching of veterinary medicine at a veterinary education program registered by the department or accredited or approved by an acceptable accrediting organization shall be exempt from the requirements of this section.

(c) A licensed veterinarian not engaged in professional practice shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of veterinary medicine shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. (a) During each triennial registration period an applicant for registration shall complete a minimum of forty-five hours of acceptable formal continuing education, a maximum of twenty-two and one-half hours of which may be self-instructional coursework acceptable to the department.

(i) Self-instructional coursework may include free spaying and neutering and other veterinary services in conjunction with a municipality, duly incorporated not-for-profit society for the prevention of cruelty to animals, duly incorporated humane society, or duly incorporated animal protection association or persons who would otherwise be eligible under paragraph (a) of subdivision three of section one hundred seventeen-a of the agriculture and markets law, provided that such services be administered at practices, facilities and properties that are appropriately equipped and staffed to provide such services.

(ii) The department may offset up to three hours of the requisite number of hours of continuing education required pursuant to this paragraph by the number of free spaying and neutering services rendered by an applicant, at a rate of one-half of one hour of continuing education for each hour of free spaying and neutering services, provided that a veterinarian shall be required to provide follow-up service for any post-operative complications related to the surgery that arise within twenty-four hours of performing the surgery, and shall also be required to complete the core requirements established by the department.

(b) Any veterinarian whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand twelve, shall complete continuing education hours on a prorated basis at the

rate of one and one-quarter hours per month for the period beginning January first, two thousand twelve up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section, or until he or she has otherwise met the requirements of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices veterinary medicine without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice of veterinary medicine which are offered by sponsors of veterinary continuing education approved by the department, in consultation with the state board for veterinary medicine, to fulfill the mandatory continuing education requirement. Sponsors of veterinary continuing education shall include state or national professional associations established to further the veterinary professions, and shall include any affiliates of such associations including local veterinary medical societies and generally recognized state, national and international veterinary conferences at which professional continuing education is a major component of such conferences, as well

as universities and colleges offering programs leading to licensure in the veterinary medical professions. Sponsors of veterinary medicine continuing education shall file an application with the department and pay a fee of nine hundred dollars.

5. The mandatory continuing education fee shall be established by the department, and shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-seven hundred four of this article.

§ 6705. Exempt persons. The following persons under the following limitations may practice veterinary medicine within the state without a license:

1. Any commissioned veterinary medical officer serving in the United States armed forces or in the United States Agricultural Research Service while so commissioned, provided such practice is limited to such service;

2. Any person rendering gratuitous services in cases of emergency;

3. Any veterinarian who is licensed in another state or country and who is meeting a veterinarian licensed in this state for purposes of consultation provided such practice is limited to such consultation;

4. Any veterinarian who is licensed in a bordering state and who resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and provided such veterinarian does not maintain an office or place to meet patients or receive calls within this state;

5. Any intern or resident who practices veterinary medicine in any college in this state offering a program in veterinary medicine registered by the department, and who is a graduate of a school of veterinary medicine accredited in any state or country, provided such

practice is limited to such duties as intern or resident and is under the supervision of a licensed or otherwise authorized veterinarian.

6. Any faculty member who is a graduate of a school of veterinary medicine accredited in any state or country and whose practice of veterinary medicine is incidental to his or her course of instruction while serving as a faculty member in a veterinary college offering a program registered by the department;

7. Any student who engages in clinical practice under supervision of a licensed or otherwise authorized veterinarian in a school of veterinary medicine in this state registered by the department.

8. Any dentist duly licensed in this state who provides dental care to an animal at the request and under the immediate personal supervision of a licensed veterinarian.

9. Any student enrolled and in good standing in a school of veterinary medicine approved by the commissioner, who practices under the general supervision of a veterinarian licensed and registered under this article; provided however, that only such students who have completed at least two and one-half years in an approved veterinary program and completed all core didactic training may assist in diagnosis, treatment and surgery in such practice, subject to the following requirements: (a) assisting in diagnosis and surgery be under the immediate personal supervision of such veterinarian; (b) assisting in treatment be under the direct supervision of such veterinarian; and (c) only one such student shall be supervised, as specified in clauses (a) and (b) of this subdivision, by one such veterinarian.

10. Any employee of a not-for-profit pound, shelter, duly incorporated society for the prevention of cruelty to animals, humane society or dog or cat protective association may insert a microchip for the purposes of identification of any animal being held for adoption by such organization.

11. A veterinary graduate of an approved program engaging in clinical

practice under the supervision, but not necessarily direct personal supervision, of a licensed veterinarian, provided the graduate has passed the required state licensing examination and applied and paid a fee for the licensing. This exemption shall not extend beyond sixty days after graduation.

12. A physician duly licensed to practice medicine in this state, who is board certified in an area of human medicine equivalent to the required veterinary specialty in cases in which a veterinary specialist in the area of medicine required for such animal's care does not exist, is not available, or cannot be procured in a timely fashion, who provides medical care to a gibbon or siamang (Hylobatidae, Hylobates sp.), orangutan (Hominidae Pongindae, Pongo sp.), chimpanzee (Hominidae, Homininae Pan. sp.), gorilla (Hominidae, Homininae, Gorilla sp.), macaque (Cercopithecidea, Cercopithecinae, Macaca sp.), baboon (Cercopithecidae, Cercopithecinae, Papio sp., Theropithecus sp., Mandrillus sp.), langur (Cercopithecidae, Colobinac, Presbytis sp., Trachypithecus sp.), colobus monkey (Cercopithecidae, Colobinae, Colobus sp.) or guenon (Cercopithecidae, Cercopithecinae, Cercopithecus sp.) held by a facility accredited by the American Zoo and Aquarium Association at the request of and under the immediate personal supervision of a licensed veterinarian who has personally diagnosed the condition to be treated or who has specifically delegated such duties to the physician and who evaluates the services provided by such physician.

13. Any person certified and currently registered as a certified euthanasia technician pursuant to subdivision three of section three hundred seventy-four of the agriculture and markets law or any person undergoing training for such certification where such training is conducted in accordance with the requirements of such section, provided that such practice is limited to such certification or training.

14. A veterinarian who is licensed in another state, and who is in good standing in such state, providing services directly in connection with an investigation by law enforcement of an alleged violation of federal or state animal fighting or animal cruelty laws, within the scope of the investigation and/or any related judicial proceedings,

subject to the following requirements: (a) an official invitation has been extended to the veterinarian for a specified period of time by the law enforcement authority with jurisdiction over the investigation; and (b) such law enforcement authority determines that the veterinarian possesses skills, training, or experience necessary and relevant to such investigation of alleged incidents of animal fighting or animal cruelty. Such exemption shall not extend beyond the time period specified by the law enforcement authority with jurisdiction over such investigation. The law enforcement authority shall notify the state veterinarian of any investigation conducted pursuant to this subdivision for the purposes of facilitating appropriate animal disease control measures, if necessary, pursuant to articles five and twenty-six of the agriculture and markets law. Any person practicing as a veterinarian in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with applicable provisions of the rules of the board of regents, and the regulations of the commissioner, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

15. A veterinarian who is licensed in another state, and who is in good standing in such state, providing services during an emergency or natural disaster within the scope and location of assigned veterinary medical duties of the response efforts if: (a) an official declaration of the disaster or emergency has been made by the governor or the delegated state official; and (b) an official invitation has been extended to the veterinarian for a specified time by the authority that has jurisdiction for coordinating the animal/agricultural issues in the state during emergencies either within or outside the emergency management assistance compact (EMAC). Any person practicing as a veterinarian in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with applicable provisions of the rules of the board of regents, and the regulations of the commissioner,

relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

§ 6705-a. Emergency veterinarian service; limited liability. Notwithstanding any inconsistent provision of any general, special or local law, any licensed veterinarian who voluntarily, and without the expectation of monetary compensation, renders first aid or emergency treatment to an animal that is ill or injured at the scene of an accident or other emergency, outside of an animal hospital, clinic, veterinarian's office or other place having proper and necessary equipment for the practice of veterinary medicine, shall not be liable for damages for injuries alleged to have been sustained by such animal or for damages for the death of such animal alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such veterinarian. Nothing in this section shall be deemed or construed to relieve a licensed veterinarian from liability for damages for injuries or death caused by an act or omission on the part of a veterinarian while rendering professional services in the normal and ordinary course of his or her business.

§ 6706. Corporate practice. 1. No business corporation, other than a professional service corporation organized under the business corporation law, shall hereafter be organized for the practice of veterinary medicine; no business corporation, other than a professional service corporation, hereafter organized shall be granted a license to practice veterinary medicine; and no business corporation, other than a professional service corporation, hereafter organized shall provide veterinary medical services.

2. Any not-for-profit corporation may own property in connection with an animal hospital or shelter provided that all veterinary practice conducted in such facilities shall be performed by a veterinarian licensed and registered under this article.

§ 6707. Limited permits to engage in the practice of veterinary medicine. Permits limited as to eligibility, practice, and duration, shall be issued by the department to eligible applicants as follows:

1. Eligibility. The following persons shall be eligible for a limited permit:

(1) A person who fulfills all requirements for a license as a veterinarian except those relating to the examination and citizenship or permanent residence in the United States;

(2) A foreign veterinarian who is in this country on a non-immigration visa for the continuation of veterinary medical study in a college of veterinary medicine.

2. Limit of practice. A permittee shall be authorized to practice veterinary medicine only under the supervision of a licensed veterinarian in accordance with regulations of the commissioner. A licensed veterinarian shall supervise one permittee.

3. Duration. A limited permit issued pursuant to paragraph one of subdivision one of this section shall be valid for one year or until the individual has had the opportunity to take the state veterinarian licensing examination and receive the results of this examination, whichever shall occur first. It may be renewed once at the discretion of the department if the permit holder has not had a reasonable opportunity to take the state veterinarian licensing examination during the period for which such limited permit was originally issued. A limited permit may also be issued or extended for not more than one year to afford an applicant or permit holder a second opportunity to successfully complete such examination if such applicant or permit holder has successfully completed the written subjects and all except one of the practical subjects of such examination. A limited permit issued pursuant to paragraph two of subdivision one of this section shall be valid for one year, and may be renewed at the discretion of the department so long as the permit holder is a bona fide student at a college of veterinary medicine, in this state.

4. Fees. The fee for each limited permit and for each renewal shall be one hundred five dollars.

§ 6708. Definition of practice of veterinary technology. 1. The practice of the profession of veterinary technology is defined as the performance of services within the field of veterinary medicine by a person who, for compensation or personal profit, is employed by or under the supervision of a veterinarian to perform such duties as are required in carrying out medical orders as prescribed by a licensed veterinarian requiring an understanding of veterinary science, but not requiring professional service as set forth in section sixty-seven hundred one of this article.

2. The commissioner shall promulgate regulations defining the functions an veterinary technician may perform that are consistent with the training and qualifications for a license as an veterinary technician. The commissioner may further require that a licensee may practice within an area of specialization only upon the successful completion of an examination established for the purpose of establishing competence in a specific area of practice in the field of veterinary technology.

§ 6709. Practice of veterinary technology and use of title "veterinary technician". Only a person licensed under sections sixty-seven hundred eleven and sixty-seven hundred eleven-a of this article or exempted from its provisions by section sixty-seven hundred twelve shall practice veterinary technology or use the title "veterinary technician".

§ 6711. Requirements for a professional license as an veterinary technician. To qualify for licensure as an veterinary technician, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have successfully completed a four-year course of study in a secondary school approved by the board of regents or its equivalent;

3. Have completed a college-level course of study in, and hold a diploma from a school of veterinary science technology for the training of animal health technicians, giving a course of not less than eighteen months, registered by the department as maintaining at the time, a satisfactory standard, or has completed a college-level course of study determined by the department to be the equivalent thereof;

4. Any person who submits an application prior to January first, nineteen hundred eighty-three and who submits evidence of employment by a veterinarian or a veterinary facility prior to that date may be licensed on the basis of this experience if acceptable in the discretion of the board in accordance with the commissioner's regulations and upon the successful completion of the licensing examination required by this section;

5. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

6. Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States; provided, however that the board of regents may grant a one-time three-year waiver for an animal health technician who otherwise meets the requirements of this article and provided further that the board of regents may grant an extension of such three-year waiver of not more than one year;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee to the department for admission to the examination and for initial licensure of eighty-five dollars, for each reexamination forty-five dollars, and a fee of eighty dollars for each triennial

registration period.

§ 6711-a. Limited permits to engage in the practice of veterinary technology. Permits limited as to eligibility, practice, and duration, shall be issued by the department to eligible applicants as follows:

1. Eligibility. Persons shall be eligible for a limited permit who fulfill all requirements for a license as a veterinary technician except those relating to the examination and citizenship or permanent residence in the United States.

2. Duration. A limited permit issued pursuant to subdivision one of this section shall be valid for one year or until the individual has had the opportunity to take the state veterinary technician licensing examination and receive the results of this examination, whichever shall occur first. It may be renewed once at the discretion of the department if the permit holder has not had a reasonable opportunity to take the state veterinary technician licensing examination during the period for which such limited permit was originally issued.

3. Fees. The fee for each limited permit and for each renewal shall be fifty dollars.

§ 6711-b. Mandatory continuing education for veterinary technicians. 1. (a) Each veterinary technician, licensed pursuant to this article, required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (b) and (c) of this subdivision. Veterinary technicians who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirement and have been issued a registration or conditional registration certificate.

(b) Veterinary technicians shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of

this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance. Veterinary technicians engaged on a full-time basis in the teaching of veterinary medicine at a veterinary education program registered by the department or an accrediting organization acceptable to the department shall be exempt from the requirements of this section.

(c) A licensed veterinary technician, not engaged in professional practice shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of veterinary technology shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of twenty-four hours of acceptable formal continuing education, a maximum of twelve hours of which may be self-instructional coursework acceptable to the department. Any veterinary technician whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand twelve, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, two thousand twelve up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section, or until he or she has otherwise met the requirements of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional

registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices veterinary technology without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice of veterinary technology which are offered by sponsors of veterinary technician continuing education approved by the department, in consultation with the state board for veterinary medicine, to fulfill the mandatory continuing education requirement. Sponsors of veterinary technician continuing education shall include state or national professional associations established to further the veterinary professions and shall include any affiliates of such associations including local veterinary medical societies and local veterinary technician societies and generally recognized state, national and international veterinary and veterinary technician conferences at which professional continuing education is a major component of such conferences, as well as universities and colleges offering programs leading to licensure in the veterinary medical professions. Sponsors of veterinary technician continuing education shall file an application with the department and pay a fee of nine hundred dollars.

5. The mandatory continuing education fee shall be established by the department, and shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-seven hundred eleven of this article.

§ 6712. Exempt persons. Nothing in this article shall be construed to affect or prevent the following persons under the following limitations from practicing veterinary technology within the state without a license:

1. Technicians in the performance of more technical procedures in a research facility, on animals owned by that institution when such work is under the direct supervision of a qualified professional;

2. Technicians in the military or naval service of the United States, United States Department of Agriculture, the United States Veterans Administration or the United States Public Health Service, in the practice of such technical procedures in obedience to the requirements of the laws of the United States, while engaged in the performance of the actual duties prescribed under the appropriate statutes of the United States;

3. Any student engaging in clinical practice under the supervision of a licensed veterinarian in pursuance of an approved program for the training of veterinary technology;

4. A technician who is licensed in another state, and who is in good standing in such state, providing veterinary technology services otherwise permissible pursuant to this article directly in connection with an investigation by law enforcement of an alleged violation of federal or state animal fighting or animal cruelty laws, within the scope of the investigation and/or any related judicial proceedings, subject to the following requirements: (a) an official invitation has been extended to the technician for a specified period of time by the law enforcement authority with jurisdiction over the investigation; and (b) such law enforcement authority determines that the technician possesses skills, training, or experience necessary and relevant to such investigation of alleged incidents of animal fighting or animal cruelty. Such exemption shall not extend beyond the time period specified by the law enforcement authority with jurisdiction over such investigation. The law enforcement authority shall notify the state veterinarian of any

investigation conducted pursuant to this section for the purposes of facilitating appropriate animal disease control measures, if necessary, pursuant to articles five and twenty-six of the agriculture and markets law. Any person practicing as a veterinary technician in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with applicable provisions of the rules of the board of regents, and the regulations of the commissioner, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

5. A technician who is licensed in another state, and who is in good standing in such state, providing veterinary technology services otherwise permissible pursuant to this article during an emergency or natural disaster within the scope and location of assigned veterinary technician duties of the response efforts if: (a) an official declaration of the disaster or emergency has been made by the governor or the delegated state official; and (b) an official invitation has been extended to the technician for a specified time by the authority that has jurisdiction for coordinating the animal/agricultural issues in the state during emergencies either within or outside the emergency management assistance compact (EMAC). Any person practicing as a veterinary technician in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with applicable provisions of the rules of the board of regents, and the regulations of the commissioner, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

§ 6713. Special provisions. 1. An unlicensed person may provide supportive services to a veterinarian, including but not limited to administering oral or topical medications, incidental to and/or

concurrent with such veterinarian personally performing a service or procedure, provided such supportive services do not require a knowledge of veterinary science.

2. A certified emergency medical technician may perform endotracheal intubation on an animal under the immediate personal supervision of a licensed veterinarian or a licensed veterinary technician acting under the direct supervision of a veterinarian, in lieu of the licensed veterinarian personally performing the procedure, provided:

a. the emergency medical technician is enrolled in a course in advanced emergency medical technology approved under article thirty of the public health law in which pediatric endotracheal intubation training is included;

b. the procedure is performed as part of pediatric endotracheal intubation training in that course, after didactic and manikin training in human intubation, and instruction in animal anatomy and the proper method of animal intubation have been received;

c. the procedure is medically indicated as part of treating or operating for any non-emergency disease, pain, injury, deformity, or physical condition of the animal;

d. the procedure is performed only when the animal is properly sedated or anesthetized;

e. the procedure is performed no more than once per animal by no more than one certified emergency medical technician;

f. the animal owner, or where such owner is unknown, the person having lawful charge or custody of the animal, consents in writing to the performance of the procedure by a person meeting the qualifications of this subdivision; and

g. records kept by the commissioner of health on courses in advanced emergency medical technology meeting the requirements of this

subdivision indicate whether pediatric endotracheal intubation training conducted in accordance with the provisions of this subdivision was part of a course in advanced emergency medical technology; provided, however, that this subdivision shall not be construed to require endotracheal intubation on animals, and the commissioner of health shall have discretion to determine whether endotracheal intubation training on animals shall be required for accreditation of such courses or for certification of advanced emergency medical technicians.

§ 6714. Treatment records. 1. Upon written request from the owner of an animal which has received treatment from or under the supervision of a veterinarian, such veterinarian shall provide to such owner within a reasonable time period a copy of all records relating to the treatment of such animal. For the purposes of this section, the term "records" shall mean all information concerning or related to the examination or treatment of the animal kept by the veterinarian in the course of his or her practice. A veterinarian may impose a reasonable charge for providing copies of such records. A veterinarian may make available to the owner either the original or a copy of such record or document including x-rays, electrocardiograms and other diagnostic tests and may impose a reasonable fee for the reproduction of such copies.

2. A veterinarian licensed pursuant to this article, may disclose records, as defined in this section, concerning a companion animal as defined in section three hundred fifty of the agriculture and markets law which has received treatment by such veterinarian without the consent of the companion animal's owner under the following circumstances:

(a) When a veterinarian reasonably and in good faith suspects that a companion animal's injury, illness or condition is the result of animal cruelty in violation of section three hundred fifty-one, three hundred fifty-three or three hundred fifty-three-a of the agriculture and markets law, the veterinarian shall report the incident and disclose records concerning the companion animal's condition and treatment to any officer or agent authorized pursuant to sections three hundred seventy-one and three hundred seventy-three of the agriculture and

markets law to respond to and investigate complaints of animal cruelty. The identity of such veterinarian making a report pursuant to this paragraph shall only be made available to an officer or agent authorized pursuant to section three hundred seventy-one or three hundred seventy-three of the agriculture and markets law.

(b) When a veterinarian reasonably believes that disclosure of records as defined in this section, is necessary to protect the health or welfare of a companion animal, a person or the public, the veterinarian may disclose such records to any officer or agent authorized pursuant to sections three hundred seventy-one and three hundred seventy-three of the agriculture and markets law to respond to and investigate complaints of animal cruelty. The identity of such veterinarian making a disclosure of records pursuant to this paragraph shall only be made available to an officer or agent authorized pursuant to section three hundred seventy-one or three hundred seventy-three of the agriculture and markets law.

(c) Any such veterinarian who reports an incident or discloses records concerning a companion animal's condition and treatment pursuant to paragraph (a) or (b) of this subdivision shall be entitled to receive and be provided with, at no cost to such veterinarian, written or electronic documentation of such report by the agent or officer to whom such report was made. Such report shall include but not be limited to the date such report was made, the identity of the individual against whom such report was made, the species and description of the animal about which such report was made, the nature of the injuries to the animal and the name and license number of the veterinarian who made such report.

3. A veterinarian acts in good faith within the meaning of this section when he or she reasonably believes that his or her actions are necessary to protect the health and welfare of the companion animal or the public.

4. A veterinarian who reasonably and in good faith reports or discloses records in accordance with this section shall be immune from liability in the form of damages in any civil or criminal proceeding on account of such reporting or disclosure.

§ 6715. Dispensing information to be provided by veterinarians. 1. Each time a veterinarian initially prescribes or dispenses a drug to a dog, cat, or rabbit for use outside the office, the veterinarian shall provide to the owner of such animal, or his or her agent, the following information:

(a) the name and description of the drug;

(b) directions for use, including, if applicable, any actions to be taken in the event of a missed dose;

(c) if available, manufacturer instructions for proper storage;

(d) any common reasonably anticipated adverse effects associated with the use of such drug; and

(e) if available, manufacturer precautions and relevant warnings.

2. The provisions of paragraphs (d) and (e) of subdivision one of this section shall only apply when the manufacturer has made available information for the specific animal species to which such drug is prescribed or dispensed pursuant to subdivision one of this section.

3. The information to be provided pursuant to subdivision one of this section shall be provided in writing or orally and the method of disclosure shall be noted in the patient medical record.

ARTICLE 136

PHYSICAL THERAPY AND PHYSICAL THERAPIST ASSISTANTS

Section 6730. Introduction.
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6732. Practice of physical therapy and the use of title "physical therapist".
6733. State board for physical therapy.
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6735. Limited permits.
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6738. Definition of physical therapist assistant.
6739. Duties of physical therapist assistants and the use of title "physical therapist assistant".
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6741-a. Limited permits.
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§ 6730. Introduction. This article applies to the profession of physical therapy and provides for the licensing of physical therapists and for the certification of physical therapist assistants. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6731. Definition of physical therapy. Physical therapy is defined as:

a. The evaluation, treatment or prevention of disability, injury, disease, or other condition of health using physical, chemical, and mechanical means including, but not limited to heat, cold, light, air, water, sound, electricity, massage, mobilization, and therapeutic exercise with or without assistive devices, and the performance and interpretation of tests and measurements to assess pathophysiological, pathomechanical, and developmental deficits of human systems to determine treatment, and assist in diagnosis and prognosis.

b. The use of roentgen rays or radium, or the use of electricity for surgical purposes such as cauterization shall not be included in the practice of physical therapy.

c. Such treatment shall be rendered pursuant to a referral which may be directive as to treatment by a licensed physician, dentist,

podiatrist, nurse practitioner or licensed midwife, each acting within his or her lawful scope of practice, and in accordance with their diagnosis, except as provided in subdivision d of this section.

d. Such treatment may be rendered by a licensed physical therapist for ten visits or thirty days, whichever shall occur first, without a referral from a physician, dentist, podiatrist, nurse practitioner or licensed midwife provided that:

(1) The licensed physical therapist has practiced physical therapy on a full time basis equivalent to not less than three years.

(2) Each physical therapist licensed pursuant to this article shall provide written notice to each patient receiving treatment absent a referral from a physician, dentist, podiatrist, nurse practitioner or licensed midwife that physical therapy may not be covered by the patient's health care plan or insurer without such a referral and that such treatment may be a covered expense if rendered pursuant to a referral. The physical therapist shall keep on file with the patient's records a form attesting to the patient's notice of such advice. Such form shall be in duplicate, with one copy to be retained by the patient, signed and dated by both the physical therapist and the patient in such form as prescribed pursuant to regulations promulgated by the commissioner.

§ 6732. Practice of physical therapy and the use of title "physical therapist". Only a person licensed or otherwise authorized under this article shall practice physical therapy or use the title "physical therapist", "physiotherapist" or "mechanotherapist" or the abbreviation of "P.T." in connection with his or her name or with any trade name in the conduct of his profession. Only a person licensed or otherwise authorized under this article to practice physical therapy, and who has obtained a doctorate in physical therapy may use the title "doctor of physical therapy" or abbreviation "D.P.T." in connection with his or her name or with any trade name to indicate or imply that the person is licensed or otherwise authorized to practice physical therapy.

§ 6733. State board for physical therapy. A state board for physical therapy shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eight licensed physical therapists and not less than one public representative. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 6734. Requirements for a professional license. To qualify for a license as a physical therapist, an applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. Education: have received an education, including a doctoral degree in physical therapy or determined to be equivalent, in accordance with the commissioner's regulations;

c. Experience: have experience satisfactory to the board in accordance with the commissioner's regulations;

d. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

e. Age: be at least twenty-one years of age;

f. Character: be of good moral character as determined by the department; and

g. Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license; a fee of eighty-five dollars for each reexamination; a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination; and a fee

of one hundred fifty-five dollars for each triennial registration period.

§ 6735. Limited permits. a. The department of education shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination.

b. All practice under a limited permit shall be under the supervision of a licensed physical therapist in a public hospital, an incorporated hospital or clinic, a licensed proprietary hospital, a licensed nursing home, a public health agency, a recognized public or non-public school setting, the office of a licensed physical therapist, or in the civil service of the state or political subdivision thereof.

c. Limited permits shall be for six months and the department may for justifiable cause renew a limited permit provided that no applicant shall practice under any limited permit for more than a total of one year.

d. Supervision of a permittee by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision except that such supervision need not be on-site when the supervising physical therapist has determined, through evaluation, the setting of goals and the establishment of a treatment plan, that the program is one of maintenance as defined pursuant to title XVIII of the federal social security act.

e. The fee for each limited permit and for each renewal shall be seventy dollars.

§ 6736. Exempt persons. a. This article shall not be construed to affect or prevent the administration of physical therapy or the use of modalities by a person employed by a licensed physician or physical therapist in his office, or in the civil service of the state or any political subdivision thereof, or in a hospital or clinic, or in an

infirmary maintained by a person, firm or corporation employing one or more full-time licensed physicians or physical therapists, provided that such person was so employed for a period of at least two years prior to April tenth, nineteen hundred fifty, and has been issued a written authorization by the department.

b. This article shall not be construed to affect or prevent:

(1) a physical therapy student from engaging in clinical practice under the supervision of a licensed physical therapist as part of a program conducted in an approved school of physical therapy or in a clinical facility or health care agency affiliated with the school of physical therapy and supervision of a physical therapy student by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision;

(2) a physical therapist graduate of an approved program from engaging in clinical practice under the on-site, but not necessarily direct personal supervision of a licensed physical therapist provided the graduate has: (a) applied and paid a fee for the licensing and examination, (b) applied and paid a fee for the temporary permit. This exemption shall not extend beyond ninety days after graduation;

(3) a physical therapist licensed in another state or country from conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or post-graduate education in an approved school of physical therapy or in its affiliated clinical facility or health care agency, or before a group of licensed physical therapists who are members of a professional society;

(4) a physical therapist who is serving in the armed forces or the public health service of the United States or is employed by the veterans administration from practicing the profession of physical therapy, provided such practice is limited to such service or employment.

§ 6737. Non-liability of licensed physical therapists for first aid or emergency treatment. Notwithstanding any inconsistent provision of any general, special or local law, any licensed physical therapist who

voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary physical therapy equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such physical therapist. Nothing in this section shall be deemed or construed to relieve a licensed physical therapist from liability for damages for injuries or death caused by an act or omission on the part of a physical therapist while rendering professional services in the normal and ordinary course of his practice.

§ 6738. Definition of physical therapist assistant. * a. A "physical therapist assistant" means a person licensed in accordance with this article who works under the supervision of a licensed physical therapist performing such patient related activities as are assigned by the supervising physical therapist. Duties of physical therapist assistants shall not include evaluation, testing, interpretation, planning or modification of patient programs. Supervision of a physical therapist assistant by a licensed physical therapist shall be on-site supervision, but not necessarily direct personal supervision. The number of licensed physical therapist assistants supervised by one licensed physical therapist shall not exceed the ratio of four licensed physical therapist assistants to one licensed physical therapist as shall be determined by the commissioner's regulations insuring that there be adequate supervision in the best interest of public health and safety. Nothing in this section shall prohibit a hospital from employing physical therapist assistants, provided they work under the supervision of physical therapists designated by the hospital and not beyond the scope of practice of a physical therapist assistant. The numerical limitation of this section shall not apply to work performed in a hospital, provided that there be adequate supervision in the best interest of public health

and safety.

* NB Effective until November 21, 2026

* a. A "physical therapist assistant" means a person licensed in accordance with this article who works under the direction and supervision of a licensed physical therapist performing such patient related activities as are assigned by the supervising physical therapist. Duties of physical therapist assistants shall not include evaluation, testing, interpretation, planning or modification of a patient's plan of care. Supervision by the licensed physical therapist shall be continuous but shall not necessarily require the physical presence at the time and place where services are being performed. Provided further, however, such physical therapist must be available for consultation with the physical therapist assistant or patient within a reasonable amount of time pursuant to the commissioner's regulations. The number of licensed physical therapist assistants supervised by one licensed physical therapist shall not exceed the ratio of four licensed physical therapist assistants to one licensed physical therapist as shall be determined by the commissioner's regulations insuring that there be adequate supervision in the best interest of public health and safety. Nothing in this section shall prohibit a hospital from employing physical therapist assistants, provided they work under the supervision of physical therapists designated by the hospital and not beyond the scope of practice of a physical therapist assistant. The numerical limitation of this section shall not apply to work performed in a hospital, provided that there be adequate supervision in the best interest of public health and safety.

* NB Effective November 21, 2026

b. Notwithstanding the provisions of subdivision a of this section, supervision of a licensed physical therapist assistant by a licensed physical therapist, (i) in a residential health care facility, as defined in article twenty-eight of the public health law, (ii) in a diagnostic and treatment center licensed under article twenty-eight of the public health law that provides, as its principal mission, services to individuals with developmental disabilities, (iii) in a facility, as defined in section 1.03 of the mental hygiene law, or (iv) under a monitored program of the office for people with developmental

disabilities as defined in subdivision (a) of section 13.15 of the mental hygiene law, shall be continuous but not necessarily on site when the supervising physical therapist has determined, through evaluation, the setting of goals and the establishment of a treatment plan, that the program is one of maintenance as defined pursuant to title XVIII of the federal social security act. The provisions of this subdivision shall not apply to the provision of physical therapy services when the condition requires multiple adjustments of sequences and procedures due to rapidly changing physiological status and/or response to treatment, or to children under five years of age.

* c. For the purposes of the provision of physical therapist assistant services in a home care services setting, as such services are defined in article thirty-six of the public health law, except that the home care services setting shall not include early intervention services as defined in title two-A of article twenty-five of the public health law, whether such services are provided by a home care services agency or under the supervision of a physical therapist licensed pursuant to this article, continuous supervision of a licensed physical therapist assistant, who has had direct clinical experience for a period of not less than two years, by a licensed physical therapist shall not be construed as requiring the physical presence of such licensed physical therapist at the time and place where such services are performed. For purposes of this subdivision "continuous supervision" shall be deemed to include: (i) the licensed physical therapist's setting of goals, establishing a plan of care and determining whether the patient is appropriate to receive the services of a licensed physical therapist assistant subject to the licensed physical therapist's evaluation; (ii) an initial joint visit with the patient by the supervising licensed physical therapist and the licensed physical therapist assistant; (iii) periodic treatment and evaluation of the patient by the supervising licensed physical therapist, as indicated in the plan of care and as determined in accordance with patient need, but in no instance shall the interval between such treatment exceed every six patient visits or thirty days, whichever occurs first; and (iv) a final evaluation by the supervising licensed physical therapist to determine if the plan of care shall be terminated. For purposes of this subdivision, the number of licensed physical therapist assistant's supervised in the home care

services setting by a licensed physical therapist shall not exceed the ratio of two physical therapist assistants to one licensed physical therapist.

* NB Repealed June 30, 2030

* d. (1) For purposes of the provision of licensed physical therapist assistant services in public primary or private primary or secondary schools and for preschool children, as that term is defined in paragraph i of subdivision one of section forty-four hundred ten of this chapter, and receiving services thereunder, continuous supervision of a licensed physical therapist assistant, who has direct clinical experience providing age appropriate physical therapy services for a period of not less than two years, by a licensed physical therapist shall not be construed as requiring the physical presence of such licensed physical therapist at the time and place where such services are performed. For purposes of this subdivision "continuous supervision" shall be deemed to include:

(i) the licensed physical therapist's setting of the goals, establishing a plan of care, determining on an initial and ongoing basis whether the patient is appropriate to receive the services of a licensed physical therapist assistant, determining the frequency of joint visits with the patient by both the supervising licensed physical therapist and the licensed physical therapist assistant, except that in no instance shall the interval, between joint visits, be more than every ninety calendar days, subject to the licensed physical therapist's evaluation;

(ii) an initial joint visit with the patient by the supervising licensed physical therapist and licensed physical therapist assistant;

(iii) periodic treatment and evaluation of the patient by the supervising licensed physical therapist as indicated in the plan of care and as determined in accordance with patient need, except that in no instance shall the interval between such treatment exceed every twelfth visit or thirty days which ever occurs first; and

(iv) notification of the supervising licensed physical therapist by the licensed physical therapist assistant whenever there is a change in status, condition or performance of the patient.

(2) This subdivision shall not apply to the provision of physical therapy services when a child's condition requires multiple adjustments of sequences and procedures due to rapidly changing physiologic status

and/or response to treatment.

* NB Repealed June 30, 2030

§ 6739. Duties of licensed physical therapist assistants and the use of title "physical therapist assistant". Only a person licensed or otherwise authorized under this article shall participate in the practice of physical therapy as a licensed physical therapist assistant and only a person licensed under this section shall use the title "physical therapist assistant".

§ 6740. Requirements for license as a physical therapist assistant. a. Application: file an application with the department;

b. Education: have received an education including completion of a two-year college program in a physical therapist assistant program or equivalent in accordance with the commissioner's regulations;

c. Experience: have experience satisfactory to the state board for physical therapy in accordance with the commissioner's regulations;

c-1. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

d. Age: be at least eighteen years of age;

e. Character: be of good moral character as determined by the department;

f. Registration: all licensed physical therapist assistants shall register triennially with the department in accordance with the regulations of the commissioner;

g. Fees: pay a fee for an initial license of forty-five dollars, and for the biennial registration period ending December thirty-first, nineteen hundred eighty-two a fee of twenty dollars and a fee of fifty

dollars for each triennial registration period.

§ 6741. Exemption. a. This article shall not be construed to affect or prevent a physical therapist assistant student from engaging in clinical assisting under the supervision of a licensed physical therapist as part of a program conducted in an approved program for physical therapist assistants or in a clinical facility or health care agency affiliated with the program for physical therapist assistants.

b. Supervision of a physical therapist assistant student by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision.

c. Nothing in this article is intended to affect the overall medical direction by a licensed physician of a physical therapist assistant.

§ 6741-a. Limited permits. a. The department shall issue a limited permit to an applicant who meets all requirements for admission to the certification examination.

b. All practice under a limited permit shall be under the supervision of a licensed physical therapist in a public hospital, an incorporated hospital or clinic, a licensed proprietary hospital, a licensed nursing home, a public health agency, a recognized public or non-public school setting, the office of a licensed physical therapist, or in the civil service of the state or political subdivision thereof.

c. Limited permits shall be for six months and the department may for justifiable cause renew a limited permit provided that no applicant shall practice under any limited permit for more than a total of one year.

d. Supervision of a permittee by a licensed physical therapist shall be on-site supervision and not necessarily direct personal supervision.

e. The fee for each limited permit and for each renewal shall be fifty dollars.

§ 6742. Special provision. 1. Any person who is employed as a physical therapist assistant in a facility satisfactory to the state board for a period of not less than two years prior to the effective date of this article and who does not qualify for certification under subdivision b of section sixty-seven hundred forty of this article may be certified as a physical therapist assistant upon successful completion of an examination approved by the state board of physical therapy in accordance with the commissioner's regulations.

2. Application for examination for certification pursuant to this section must be submitted not later than January first, nineteen hundred eighty-five. The department shall provide a total of three such examinations. The third examination shall be given not later than April first, nineteen hundred eighty-five. The fee for examination or reexamination shall be twenty-five dollars for each examination. Any person who qualifies for admission to an examination pursuant to this section may practice as a physical therapist assistant in the course of his or her employment in a facility satisfactory to the state board until thirty days after notification of failure to qualify pursuant to this section.

3. Any person who was employed as a physical therapist assistant for at least two years prior to April first, nineteen hundred eighty-one, and who had attained permanent civil service status as a physical therapist assistant prior to that date, shall be issued written authorization from the department to continue working in that capacity without examination. This authorization shall remain in effect until the person leaves the position in which the civil service status had been granted.

§ 6742-a. Mandatory continuing education. 1. (a) Each licensed physical therapist and licensed physical therapist assistant required

under this article to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Licensed physical therapist and licensed physical therapist assistants who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a licensed physical therapist or licensed physical therapist assistant may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Each licensed physical therapist and licensed physical therapist assistant shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed physical therapist and licensed physical therapist assistant not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of physical therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a licensed physical therapist or licensed physical therapist assistant shall complete a minimum of thirty-six hours of acceptable formal continuing education, as specified in subdivision four of this section. Any licensed physical therapist or licensed physical therapist assistant whose first registration date following the effective date of this section occurs less than three years from such

effective date, but on or after January first, two thousand ten, shall complete continuing education hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, two thousand ten up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require the fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable formal education" shall mean formal courses of learning which contribute to professional practice in physical therapy and which meet the standards prescribed by regulations of the commissioner. Such formal courses of learning shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to

fulfill this mandatory continuing education requirement. Courses must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Licensed physical therapist or licensed physical therapist assistant shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-seven hundred thirty-four of this article.

§ 6743. Validity of existing licenses. 1. This article shall not be construed to affect the validity of existing licenses and permits or the continuation of any administrative actions or proceedings commenced prior to the effective date of this article.

2. Amendments made to the educational requirement of section sixty-seven hundred thirty-four of this article pursuant to a chapter of the laws of two thousand eleven which amended this section shall not be construed to affect the validity of existing licenses and permits.

3. Amendments to the educational requirement in subdivision b of section sixty-seven hundred thirty-four of this article made by a chapter of the laws of two thousand twenty-three shall not be construed to affect the validity of existing licenses and permits.

ARTICLE 137
PHARMACY

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§ 6800. Introduction. This article applies to the profession of pharmacy. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6801. Definition of practice of pharmacy. 1. The practice of the profession of pharmacy is defined as the administering, preparing, compounding, preserving, or the dispensing of drugs, medicines and therapeutic devices on the basis of prescriptions or other legal authority, and collaborative drug therapy management in accordance with the provisions of section sixty-eight hundred one-a of this article.

2. A licensed pharmacist may execute a non-patient specific regimen prescribed or ordered by a physician licensed in this state or nurse practitioner certified in this state, pursuant to rules and regulations promulgated by the commissioner. When a licensed pharmacist administers an immunizing agent, he or she shall:

(a) report such administration by electronic transmission or facsimile to the patient's attending primary health care practitioner or practitioners, if any, and, to the extent practicable, make himself or herself available to discuss the outcome of such immunization, including any adverse reactions, with the attending primary health care practitioner, and to the statewide immunization registry or the citywide immunization registry, as established pursuant to and to the extent permitted by section twenty-one hundred sixty-eight of the public health

law; and

(b) provide information to the patient or, where applicable, the person legally responsible for the patient, on the importance of having a primary health care practitioner, developed by the commissioner of health; and

(c) report such administration, absent of any individually identifiable health information, to the department of health in a manner required by the commissioner of health; and

(d) prior to administering the immunization, inform the patient or, where applicable, the person legally responsible for the patient, of the total cost of the immunization or immunizations, subtracting any health insurance subsidization, if applicable. In the case the immunization is not covered, the pharmacist must inform the patient or, where applicable, the person legally responsible for the patient, of the possibility that the immunization may be covered when administered by a primary care physician or practitioner; and

(e) administer the immunization or immunizations according to a patient specific order or non-patient specific regimen.

3. No pharmacist shall administer immunizing agents or injectable medications for the treatment of mental health and substance use disorder without receiving training satisfactory to the commissioner and the commissioner of health which shall include, but not be limited to, techniques for screening individuals and obtaining informed consent; techniques of administration; indications, precautions and contraindications in the use of agent or agents; record keeping of immunization and information; and handling emergencies, including anaphylaxis and needlesticks.

4. When administering an immunization in a pharmacy, the licensed pharmacist shall provide an area for the immunization that provides for a patient's privacy. The privacy area should include:

(a) a clearly visible posting of the most current "Recommended Adult Immunization Schedule" published on the department of health's website; and

(b) education materials on influenza vaccinations for children as determined by the commissioner and the commissioner of health.

5. A licensed pharmacist may execute a non-patient specific order, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis medications for the purpose of preventing human immunodeficiency virus infection, by a physician licensed in this state or nurse practitioner certified in this state, pursuant to rules and regulations promulgated by the commissioner in consultation with the commissioner of health following a potential human immunodeficiency virus exposure.

6. A licensed pharmacist may execute a non-patient-specific regimen of insulin and related supplies to an individual who has a valid prescription for insulin and related supplies which has since expired within the last twelve months. The valid prescription must have been prescribed or ordered by a physician licensed in this state or nurse practitioner certified in this state. Execution of a non-patient-specific regimen shall be on an emergency basis provided the pharmacist:

(a) first attempts to obtain an authorization from the prescriber of the patient-specific prescription and cannot obtain the authorization, and the prescriber does not object to dispensing to the patient under the non-patient-specific regimen;

(b) provides a refill of the patient-specific prescription and the quantity of that refill is in conformity with the directions for use under the patient-specific prescription, but limited to an amount not to exceed a thirty-day emergency supply; and

(c) notifies, within seventy-two hours of dispensing the refill or refills, the prescriber of the patient-specific prescription whose authorization could not be obtained, that an emergency prescription of insulin has been dispensed.

* 7. A licensed pharmacist is a qualified health care professional under section five hundred seventy-one of the public health law for the purposes of directing a limited service laboratory and ordering and administering COVID-19 and influenza tests authorized by the Food and Drug Administration (FDA), subject to certificate of waiver requirements established pursuant to the federal clinical laboratory improvement act of nineteen hundred eighty-eight.

* NB Repealed July 1, 2030

8. A licensed pharmacist within their lawful scope of practice may administer injectable medications and medications required for emergency treatment of anaphylaxis related to such administration, pursuant to section six thousand eight hundred two of this article, for the treatment of mental health and substance use disorder, as prescribed or ordered by a licensed prescriber, acting within their scope of practice in this state and in accordance with regulations, including but not limited to regulations promulgated by the commissioner in consultation with any other state agencies, as necessary.

9. a. A licensed pharmacist may execute a non-patient specific order for the dispensing of self-administered hormonal contraceptives prescribed or ordered by the commissioner of health, a physician licensed in this state or a nurse practitioner certified in this state pursuant to rules and regulations promulgated by the commissioner.

b. Prior to dispensing self-administered hormonal contraceptives to a patient, and at a minimum of every twelve months for each returning patient, the pharmacist shall:

(i) provide the patient with a self-screening risk assessment questionnaire, developed by the commissioner of health in consultation with the commissioner, to be reviewed by the pharmacist to identify any known risk factors and assist the patient's selection of an appropriate self-administered hormonal contraceptive; and

(ii) provide the patient with a fact sheet, developed by the commissioner of health, that includes but is not limited to, the clinical considerations and recommendations for use of the self-administered hormonal contraceptive, the appropriate method for using such hormonal contraceptive, information on the importance of follow-up health care, health care referral information, and the ability of the patient to opt out of practitioner reporting requirements.

c. No pharmacist shall dispense self-administered hormonal contraceptives under this subdivision without receiving training satisfactory to the commissioner.

d. A pharmacist shall notify the patient's primary health care practitioner, unless the patient opts out of such notification, within seventy-two hours of dispensing a self-administered hormonal contraceptive, that such self-administered hormonal contraceptive has been dispensed. If the patient does not have a primary health care practitioner, or is unable to provide contact information for their primary health care practitioner, the pharmacist shall provide the patient with a written record of the contraceptives dispensed, and advise the patient to consult an appropriate health care practitioner.

e. Nothing in this subdivision shall prevent a pharmacist from refusing to dispense a non-patient specific order of self-administered hormonal contraceptive pursuant to this subdivision if, in their professional judgment, potential adverse effects, interactions or other therapeutic complications could endanger the health of the patient.

*** § 6801-a. Collaborative drug therapy management demonstration program.** 1. As used in this section, the following terms shall have the following meanings:

a. "Board" shall mean the state board of pharmacy as established by section sixty-eight hundred four of this article.

b. "Clinical services" shall mean the collection and interpretation of patient data for the purpose of initiating, modifying and monitoring drug therapy with associated accountability and responsibility for outcomes in a direct patient care setting.

c. "Collaborative drug therapy management" shall mean the performance of clinical services by a pharmacist relating to the review, evaluation and management of drug therapy to a patient, who is being treated by a physician for a specific disease or associated disease states, in accordance with a written agreement or protocol with a voluntarily participating physician and in accordance with the policies, procedures, and protocols of the facility. Such agreement or protocol as entered

into by the physician and a pharmacist, may include, and shall be limited to:

(i) adjusting or managing a drug regimen of a patient, pursuant to a patient specific order or protocol made by the patient's physician, which may include adjusting drug strength, frequency of administration or route of administration. Adjusting the drug regimen shall not include substituting or selecting a different drug which differs from that initially prescribed by the patient's physician unless such substitution is expressly authorized in the written order or protocol. The pharmacist shall be required to immediately document in the patient record changes made to the patient's drug therapy and shall use any reasonable means or method established by the facility to notify the patient's other treating physicians with whom he or she does not have a written agreement or protocol regarding such changes. The patient's physician may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist;

(ii) evaluating and, only if specifically authorized by the protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering disease state laboratory tests related to the drug therapy management for the specific disease or disease state specified within the written agreement or protocol; and

(iii) only if specifically authorized by the written agreement or protocol and only to the extent necessary to discharge the responsibilities set forth in this section, ordering or performing routine patient monitoring functions as may be necessary in the drug therapy management, including the collecting and reviewing of patient histories, and ordering or checking patient vital signs, including pulse, temperature, blood pressure and respiration.

d. "Facility" shall mean: (i) a teaching hospital or general hospital, including any diagnostic center, treatment center, or hospital-based outpatient department as defined in section twenty-eight hundred one of the public health law; or (ii) a nursing home with an on-site pharmacy staffed by a licensed pharmacist; provided, however, for the purposes of this section the term "facility" shall not include dental clinics, dental dispensaries, residential health care facilities and rehabilitation centers.

For the purposes of this section, a "teaching hospital" shall mean a hospital licensed pursuant to article twenty-eight of the public health law that is eligible to receive direct or indirect graduate medical education payments pursuant to article twenty-eight of the public health law.

e. "Physician" shall mean the physician selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient for the disease and associated disease states that are the subject of the collaborative drug therapy management.

f. "Written agreement or protocol" shall mean a written document, pursuant to and consistent with any applicable state or federal requirements, that addresses a specific disease or associated disease states and that describes the nature and scope of collaborative drug therapy management to be undertaken by the pharmacists, in collaboration with the participating physician in accordance with the provisions of this section.

2. a. A pharmacist who meets the experience requirements of paragraph b of this subdivision and who is employed by or otherwise affiliated with a facility shall be permitted to enter into a written agreement or protocol with a physician authorizing collaborative drug therapy management, subject to the limitations set forth in this section, within the scope of such employment or affiliation.

b. A participating pharmacist must:

(i)(A) have been awarded either a master of science in clinical pharmacy or a doctor of pharmacy degree;

(B) maintain a current unrestricted license; and

(C) have a minimum of two years experience, of which at least one year of such experience shall include clinical experience in a health facility, which involves consultation with physicians with respect to drug therapy and may include a residency at a facility involving such consultation; or

(ii)(A) have been awarded a bachelor of science in pharmacy;

(B) maintain a current unrestricted license; and

(C) within the last seven years, have a minimum of three years experience, of which at least one year of such experience shall include clinical experience in a health facility, which involves consultation with physicians with respect to drug therapy and may include a residency at a facility involving such consultation; and

(iii) meet any additional education, experience, or other requirements set forth by the department in consultation with the board.

c. Notwithstanding any provision of law, nothing in this section shall prohibit a licensed pharmacist from engaging in clinical services associated with collaborative drug therapy management, in order to gain experience necessary to qualify under clause (C) of subparagraph (i) or (ii) of paragraph b of this subdivision, provided that such practice is under the supervision of a pharmacist that currently meets the referenced requirement, and that such practice is authorized under the written agreement or protocol with the physician.

d. Notwithstanding any provision of this section, nothing herein shall authorize the pharmacist to diagnose disease. In the event that a treating physician may disagree with the exercise of professional judgment by a pharmacist, the judgment of the treating physician shall prevail.

3. The physician who is a party to a written agreement or protocol authorizing collaborative drug therapy management shall be employed by or otherwise affiliated with the same facility with which the pharmacist is also employed or affiliated.

4. The existence of a written agreement or protocol on collaborative drug therapy management and the patient's right to choose to not participate in collaborative drug therapy management shall be disclosed to any patient who is eligible to receive collaborative drug therapy management. Collaborative drug therapy management shall not be utilized unless the patient or the patient's authorized representative consents, in writing, to such management. If the patient or the patient's authorized representative consents, it shall be noted on the patient's

medical record. If the patient or the patient's authorized representative who consented to collaborative drug therapy management chooses to no longer participate in such management, at any time, it shall be noted on the patient's medical record. In addition, the existence of the written agreement or protocol and the patient's consent to such management shall be disclosed to the patient's primary physician and any other treating physician or healthcare provider.

5. Participation in a written agreement or protocol authorizing collaborative drug therapy management shall be voluntary, and no patient, physician, pharmacist, or facility shall be required to participate.

6. Nothing in this section shall be deemed to limit the scope of practice of pharmacy nor be deemed to limit the authority of pharmacists and physicians to engage in medication management prior to the effective date of this section and to the extent authorized by law.

* NB Repealed July 1, 2030

§ 6802. Definitions. 1. "Pharmacy" means any place in which drugs, prescriptions or poisons are possessed for the purpose of compounding, preserving, dispensing or retailing, or in which drugs, prescriptions or poisons are compounded, preserved, dispensed or retailed, or in which such drugs, prescriptions or poisons are by advertising or otherwise offered for sale at retail.

3. "Formulary" means the latest edition of the official national formulary, and its supplement.

4. "Pharmacopeia", when not otherwise limited, means the latest edition of the official United States pharmacopeia, and its supplement.

5. "Homeopathic pharmacopeia" means the official homeopathic pharmacopeia of the United States, and its supplement.

6. "Official compendium" means the official United States

pharmacopeia, official homeopathic pharmacopeia of the United States, official national formulary, or their supplements.

7. "Drugs" means:

a. Articles recognized in the official United States pharmacopeia, official homeopathic pharmacopeia of the United States, or official national formulary.

b. Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals.

c. Articles (other than food) intended to affect the structure or any function of the body of man or animals.

d. Articles intended for use as a component of any article specified in paragraphs a, b, or c; but does not include devices or their components, parts or accessories.

8. "Cosmetics" means:

a. Articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance.

b. Articles intended for use as a component of any such articles; except that the term shall not include soap.

9. "Poison", where not otherwise limited, means any drug, chemical or preparation likely to be destructive to adult human life in quantity of sixty grains or less.

10. "Label" means a display of written, printed or pictorial matter upon the immediate container of any drug, device or cosmetic. Any requirement made by or under authority of this article, that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement or other

information also appears on the outside container or wrapper, if there be any, of the retail package of such drug, device or cosmetic or is easily legible through the outside container or wrapper.

11. "Immediate container" does not include package liners.

12. "Labeling" means all labels and other written, printed or pictorial matter:

a. Upon any drug, device or cosmetic or any of its containers or wrappers, or

b. Accompanying such drug, device or cosmetic.

13. "Misbranding". If a drug, device or cosmetic is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the drug, device, or cosmetic to which the labeling or advertising relates under the conditions of use prescribed in the labeling or advertising thereof or under such conditions of use as are customary or usual. No drug, device or cosmetic which is subject to, and complies with regulations promulgated under the provisions of the federal food, drug, and cosmetic act, relating to adulteration and misbranding shall be deemed to be adulterated or misbranded in violation of the provisions of this article because of its failure to comply with the board's regulations, or the rules of the state board of pharmacy, insofar as the regulations are in conflict with regulations relating to adulteration and misbranding under the federal food, drug and cosmetic act.

14. "Antiseptic". The representation of a drug, device or cosmetic in its labeling, as an antiseptic, shall be considered to be a

representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

15. "New drug" means:

a. Any drug not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested by the drug's labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to September first, nineteen hundred thirty-nine it was subject to the former federal food and drug act of June thirtieth, nineteen hundred six, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use;

b. Any drug, the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become recognized, but which has not otherwise than in such investigations been used to a material extent or for a material time under such conditions.

16. "Device" means instruments, apparatus, and contrivances, including their components, parts and accessories, intended:

a. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or

b. To affect the structure or any function of the body of man or animals.

17. The term "Federal Food, Drug and Cosmetic Act" means the Federal Food, Drug, and Cosmetic Act of the United States of America, approved June twenty-fifth, nineteen hundred thirty-eight, officially cited as public document number seven hundred seventeen-seventy-fifth congress

(chapter six hundred seventy-five--third session), and all its amendments now or hereafter enacted.

18. "Wholesaler" means a person who bottles, packs or purchases drugs, devices or cosmetics for the purpose of selling or reselling to pharmacies or to other channels as provided in this article.

19. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs, devices or cosmetics.

20. "Controlled substance" means any drug defined as a controlled substance by article thirty-three of the public health law.

21. "Manufacturer" means a person who compounds, mixes, prepares, produces, and bottles or packs drugs, cosmetics or devices for the purpose of distributing or selling to pharmacies or to other channels of distribution.

22. "Administer", for the purpose of section sixty-eight hundred one of this article, means:

a. (1) the direct application of an immunizing agent to adults, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, for: immunizations to prevent influenza, pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, COVID-19, meningococcal, tetanus, diphtheria or pertussis disease and medications required for emergency treatment of anaphylaxis; and other immunizations for patients eighteen years of age or older if the commissioner of health in consultation with the commissioner determines that an immunization: (i)(A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York state; or (ii) is a recommended

immunization for such patients who: (A) meet age requirements, (B) lack documentation of such immunization, (C) lack evidence of past infection, or (D) have an additional risk factor or another indication. If the commissioner of health determines that there is an outbreak of disease, or that there is the imminent threat of an outbreak of disease, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

(2) the direct application of an immunizing agent to children between the ages of two and eighteen years of age, whether by injection, ingestion, inhalation or any other means, pursuant to a patient specific order or non-patient specific regimen prescribed or ordered by a physician or certified nurse practitioner, for immunization to prevent influenza, COVID-19, and medications required for emergency treatment of anaphylaxis resulting from such immunization. If the commissioner of health determines that there is an outbreak of influenza or COVID-19, or that there is the imminent threat of an outbreak of influenza or COVID-19, then the commissioner of health may issue a non-patient specific regimen applicable statewide.

b. The injection of medications for the treatment of mental health and substance use disorder, as prescribed or ordered by a licensed prescriber, acting within the scope of their practice in this state and in accordance with regulations promulgated by the commissioner, in consultation with the department of health and any other state agencies as necessary, provided that:

(1) Such administration is conducted pursuant to a valid patient-specific prescription or patient-specific order that authorizes a pharmacist to administer medications approved by the U.S. Food and Drug Administration for the treatment of mental health and substance use disorder. The pharmacist shall notify the licensed prescriber that the administration is complete within five days and shall convey such information to the prescriber by making an entry into an interoperable electronic medical records system, an electronic prescribing technology or a pharmacy record, or by using facsimile, electronic transmission or other electronic means. If an electronic means described in this subparagraph is not available to the pharmacist at the time of communication, the pharmacist or pharmacist's designee may communicate

the information by telephone. Notification shall also be required if a patient does not receive an administration or if the patient experiences any side effects or adverse reactions to the medications. Administration in a pharmacy shall not commence until after the patient has received the initial injection and is considered eligible for maintenance treatment by the licensed prescriber.

(2) Such prescription may be subject to reassessment at appropriate intervals, as determined by the licensed prescriber.

(3) Such activity is conducted in accordance with regulations, promulgated or adopted by the commissioner, in consultation with the department of health and any other state agencies, as necessary, which shall include requirements for the following:

(i) Maintaining continued competency regarding the populations served and medications administered.

(ii) Pre-administration patient consent and education regarding common side effects, drug interactions, injection site reactions and other information routinely provided to patients upon dispensing. If a patient is unable to provide consent, the pharmacist must obtain consent from a person legally responsible when the recipient is incapable of consenting.

(iii) When administering an injection in a pharmacy, the pharmacist shall provide an area for the injection that provides for the patient's privacy.

(iv) Ensuring that only U.S. Food and Drug Administration approved medications are administered.

23. "Electronic prescription" means a prescription created, recorded, or stored by electronic means; issued with an electronic signature; and transmitted by electronic means, in accordance with regulations of the commissioner and applicable regulations of the commissioner of health and federal regulations; provided, however, that an original hard copy prescription that is created electronically or otherwise may be transmitted from the prescriber to the pharmacist by facsimile and must be manually signed. "Electronic" means of or relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. "Electronic signature" means an electronic sound, symbol, or process, attached to or logically

associated with an electronic prescription and executed or adopted by a person with the intent to sign the prescription, in accordance with regulations of the commissioner and applicable regulations of the commissioner of health and federal regulations.

24. "Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug with respect to an outsourcing facility under section 503B of the Federal Food, Drug and Cosmetic Act and further defined in this section.

25. "Outsourcing facility" means a facility that:

(a) is engaged in the compounding of sterile drugs;

(b) is currently registered as an outsourcing facility with the Secretary of Health and Human Services; and

(c) complies with all applicable requirements of federal and state law, including the Federal Food, Drug and Cosmetic Act.

26. "Sterile drug" means a drug that is intended for parenteral administration, an ophthalmic or oral inhalation drug in aqueous format, or a drug that is required to be sterile under federal or state law.

27. "Biological product" means a biological product as defined in subsection (i) of section 351 of the Public Health Service Act, 42 U.S.C. Section 262(i).

28. "Interchangeable biological product" means a biological product licensed by the United States Food and Drug Administration pursuant to 42 U.S.C. Section 262(k)(4) as set forth in the latest edition or supplement of the United States Food and Drug Administration Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations, sometimes referred to as the "Purple Book," or a biological product determined by the United States Food and Drug Administration to be therapeutically equivalent as set forth in the latest edition or supplement of the United States Food and Drug Administration Approved Drug Products with Therapeutic Equivalence Evaluations, sometimes referred to as the "Orange Book."

29. "Self-administered hormonal contraceptives", for the purpose of section sixty-eight hundred one of this article, means self-administered contraceptive medications or devices approved by the federal Food and Drug Administration to prevent pregnancy by using hormones to regulate or prevent ovulation, and includes oral hormonal contraceptives, hormonal contraceptive vaginal rings and hormonal contraceptive patches.

(30) "Shared pharmacy services" means a system that allows a registered pharmacist or a registered pharmacy, pursuant to a request from another registered pharmacist or pharmacy, to process or fill a prescription or order, pursuant to regulations promulgated by the commissioner.

§ 6803. Practice of pharmacy and use of title "pharmacist". Only a person licensed or otherwise authorized under this article shall practice pharmacy or use the title "pharmacist" or any derivative.

§ 6804. State board of pharmacy. A state board of pharmacy shall be appointed by the regents on recommendation of the commissioner for the purpose of assisting the regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than nine pharmacists licensed in this state for at least five years and two registered pharmacy technicians. The initial registered pharmacy technician members of the state board of pharmacy need not be licensed prior to their appointment but shall have met all other requirements of licensure pursuant to section sixty-eight hundred forty-two of this title except for filing an application and paying a fee. An executive secretary to the board shall be appointed by the regents on recommendation of the commissioner and shall be a pharmacist licensed in this state for at least five years. The board shall provide assistance to the department:

a. To regulate the practice of pharmacy, registered pharmacy technicians and the employment of interns and employees in pharmacies,

b. To regulate and control the sale, distribution, character and standard of drugs, poisons, cosmetics, devices and new drugs,

c. To prevent the sale or distribution of such drugs, poisons, cosmetics, devices and new drugs as do not conform to the provisions of this article or of the public health law,

d. To investigate alleged violations of the provisions of this article, and

e. To issue limited permits or registrations.

§ 6805. Requirements for a professional license. 1. To qualify for a pharmacist's license, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a bachelor's or equivalent degree in pharmacy, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license, a fee of eighty-five dollars for each re-examination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each

triennial registration period.

2. On or before April first, nineteen hundred seventy-two, any person who holds a valid license as "druggist" in this state shall make application and on the payment of fees specified in this title be licensed by the department as a pharmacist. Such person shall have all of the rights, privileges, duties and responsibilities of a pharmacist.

§ 6806. Limited permits. 1. The department may issue a limited permit for employment as a "pharmacy intern" to:

a. A student enrolled in the last two years of a registered program in pharmacy, or

b. A graduate of a program in pharmacy which meets standards established by the commissioner's regulations who is engaged in meeting the experience requirements or whose application for initial licensure is pending with the department.

2. A pharmacy intern may, as determined by the commissioner's regulations, practice as a pharmacist under the immediate personal supervision of a licensed pharmacist. A pharmacy intern may also receive a certificate of administration if he or she provides satisfactory evidence to the commissioner that he or she meets the requirements of subdivision three of this section.

3. No pharmacy intern shall administer immunizing agents without receiving training satisfactory to the commissioner and the commissioner of health, as prescribed in regulations of the commissioner, which shall include, but not be limited to: techniques for screening individuals and obtaining informed consent; techniques of administration; indications, precautions and contraindications in the use of an agent or agents; recordkeeping of immunization and information; and handling emergencies, including anaphylaxis and needlestick injuries. To receive a certification to administer immunizations, the pharmacy intern shall provide documentation, on a form prescribed by the department, from the

dean or other appropriate official of the registered program that the intern has completed the required training, pursuant to regulations of the commissioner.

4. A limited permit issued to a pharmacy intern shall have an expiration date of five years from the date of issue. Limited permits may be renewed once for a period not to exceed two years.

5. Fees. The fee for each limited permit issued to a pharmacy intern shall be seventy dollars.

6. In the case of a pharmacy intern, certified to administer immunizations, administration must be conducted under the immediate personal supervision of a licensed pharmacist certified to administer vaccines. A person receiving a vaccine must be informed that a pharmacy intern, certified to administer immunizations, will be administering the vaccine and of the option to receive the vaccination from a certified pharmacist.

§ 6807. Exempt persons; special provisions. 1. This article shall not be construed to affect or prevent:

a. Unlicensed assistants from being employed in licensed pharmacies for purposes other than the practice of pharmacy;

b. Any physician, dentist, veterinarian or other licensed health care provider legally authorized to prescribe drugs under this title who is not the owner of a pharmacy or who is not in the employ of such owner, from supplying his patients with such drugs as the physician, dentist, veterinarian or other licensed health care provider legally authorized to prescribe drugs under this title deems proper in connection with his practice, provided, however, that all such drugs shall be dispensed in a container labeled with the name and address of the dispenser and patient, directions for use, and date of delivery, and in addition, such drug shall bear a label containing the proprietary or brand name of the drug and, if applicable, the strength of the contents, unless the person

issuing the prescription specifically states on the prescription in his own handwriting, that the name of the drug and the strength thereof should not appear on the label; provided further that if such drugs are controlled substances, they shall be dispensed pursuant to the requirements of article thirty-three of the public health law;

b-1. Notwithstanding paragraph b of this section, the prescription label for mifepristone or misoprostol may include the name or address of the dispensing health care practice instead of the name of the dispenser.

c. Any merchant from selling proprietary medicines, except those which are poisonous, deleterious or habit forming, or materials and devices specifically exempted by regulations of the department or by the public health law;

d. Any personnel in an institution of higher learning from using prescription-required drugs on the premises for authorized research, experiments or instruction, in accordance with the department's regulations and, if such drugs are controlled substances, in accordance with title III of article thirty-three of the public health law; or

e. The necessary and ordinary activities of manufacturers and wholesalers, subject to the provisions of article thirty-three of the public health law.

2. a. Notwithstanding the provisions of paragraph b of subdivision one of this section, no prescriber who is not the owner of a pharmacy or who is not in the employ of such owner, may dispense more than a seventy-two hour supply of drugs, except for:

(1) persons practicing in hospitals as defined in section twenty-eight hundred one of the public health law;

(2) the dispensing of drugs at no charge to their patients;

(3) persons whose practices are situated ten miles or more from a registered pharmacy;

(4) the dispensing of drugs in a clinic, infirmary or health service that is operated by or affiliated with a post-secondary institution;

(5) persons licensed pursuant to article one hundred thirty-five of this title;

(6) the dispensing of drugs in a medical emergency as defined in subdivision six of section sixty-eight hundred ten of this article;

(7) the dispensing of drugs that are diluted, reconstituted or compounded by a prescriber;

(8) the dispensing of allergenic extracts; or

(9) the dispensing of drugs pursuant to an oncological or AIDS protocol.

b. The commissioner, in consultation with the commissioner of health, may promulgate regulations to implement this subdivision and may, by regulation, establish additional renewable exemptions for a period not to exceed one year from the provisions of paragraph a of this subdivision.

3. A pharmacist may dispense drugs and devices to a registered professional nurse, and a registered professional nurse may possess and administer, drugs and devices, pursuant to a non-patient specific regimen prescribed or ordered by a licensed physician or certified nurse practitioner, pursuant to regulations promulgated by the commissioner and the public health law.

§ 6808. Registering and operating establishments. 1. No person, firm, corporation or association shall possess drugs, prescriptions or poisons for the purpose of compounding, dispensing, retailing, wholesaling, or manufacturing, or shall offer drugs, prescriptions or poisons for sale at retail or wholesale unless registered by the department as a pharmacy, wholesaler, manufacturer or outsourcing facility.

2. Pharmacies.

a. Obtaining a registration. A pharmacy shall be registered as follows:

(1) The application shall be made on a form prescribed by the department.

(2) The application shall be accompanied by a fee of three hundred forty-five dollars.

(3) To secure and retain a registration, a pharmacy must be equipped with facilities, apparatus, utensils and stocks of drugs and medicines sufficient to permit the prompt and efficient compounding and dispensing of prescriptions, as prescribed by regulation.

b. Renewal of registration. All pharmacy registrations shall be renewed on dates set by the department. The triennial registration fee shall be two hundred sixty dollars or a pro rated portion thereof as determined by the department. At the time of renewal, the owner of every pharmacy shall report under oath to the department any facts required by the board of pharmacy.

c. Display of registration. The registration shall be conspicuously displayed at all times in the pharmacy. The names of the owner or owners of a pharmacy shall be conspicuously displayed upon the exterior of such establishment. The names so displayed shall be presumptive evidence of ownership of such pharmacy by such person or persons. In the event that the owner of a licensed pharmacy is not a licensed pharmacist, the pharmacy registration issued shall also bear the name of the licensed pharmacist having personal supervision of the pharmacy. In the event that such licensed pharmacist shall no longer have personal supervision of the pharmacy, the owner shall notify the department of such fact and of the name of the licensed pharmacist replacing the pharmacist named on the license and shall apply for an amended registration showing the change. The amended registration must be attached to the original registration and displayed in the same manner. Both the owner and the supervising pharmacist shall be responsible for carrying out the provisions of this article.

d. Change of location. In the event that the location of a pharmacy shall be changed, the owner shall apply to the department for inspection of the new location and endorsement of the registration for the new location. The fee for inspection and endorsement shall be fifty dollars, unless it appears to the satisfaction of the department that the change in location is of temporary nature due to fire, flood or other disaster.

e. Conduct of a pharmacy. Every owner of a pharmacy is responsible for the strength, quality, purity and the labeling thereof of all drugs, toxic substances, devices and cosmetics, dispensed or sold, subject to the guaranty provisions of this article and the public health law. Every owner of a pharmacy or every pharmacist in charge of a pharmacy shall be responsible for the proper conduct of this pharmacy. Every pharmacy shall be under the immediate supervision and management of a licensed pharmacist at all hours when open. No pharmacist shall have personal supervision of more than one pharmacy at the same time.

f. A pharmacy as a department. When a pharmacy is operated as a department of a larger commercial establishment, the area comprising the pharmacy shall be physically separated from the rest of the establishment, so that access to the pharmacy and drugs is not available when a pharmacist is not on duty. Identification of the area within the pharmacy by use of the words "drugs", "medicines", "drug store", or "pharmacy" or similar terms shall be restricted to the area licensed by the department as a pharmacy.

g. Limited pharmacy registration. (1) When, in the opinion of the department, a high standard of patient safety, consistent with good patient care, can be provided by the registering of a pharmacy within a hospital, nursing home or extended care facility which does not meet all of the requirements for registration as a pharmacy, the department may waive any requirements pertaining to full-time operation by a licensed pharmacist, minimum equipment, minimum space and waiting area, provided that when the waiver of any of the above requirements is granted by the board, the pharmaceutical services to be rendered by the pharmacy shall be limited to furnishing drugs to patients registered for treatment by the hospital, and to in-patients for treatment by the nursing home or extended care facility.

(2) When in the opinion of the department, a high standard of patient safety, consistent with good patient care, can be provided by the registering of a pharmacy within a facility distributing dialysis solutions for patients suffering from end stage renal disease and where the pharmaceutical services to be rendered by the pharmacy shall be

limited to furnishing dialysis solutions to patients for whom such has been prescribed by a duly authorized prescriber, the department may waive certain requirements, including, but not limited to, full-time operation by a licensed pharmacist, minimum equipment, and minimum space and waiting area. Such solutions shall only be dispensed by employees who have completed an approved training program and who have demonstrated proficiency to perform the task or tasks of assemblying, labeling or delivering a patient order and who work under the general supervision of a licensed pharmacist who shall be responsible for the distribution, record keeping, labeling and delivery of all dialysis solutions dispensed by the distributor as required by the department.

(3) The department shall promulgate such rules or regulations consistent with this paragraph as are necessary to ensure the safe distribution of such dialysis solution, including establishment registration and proper record keeping, storage, and labeling.

(4) The initial registration fee and renewal fee for a limited pharmacy shall be three hundred forty-five dollars for each triennial registration period.

h. Applicant registration. An applicant for registration as a pharmacy shall be of good moral character, as determined by the department. In the case of a corporate applicant, the requirement shall extend to all officers and directors and to stockholders having a ten percent or greater interest in the corporation.

4. Wholesaler's or manufacturer's registration.

a. Obtaining a registration. A wholesaler or manufacturer shall be registered as follows:

(1) The application shall be made on a form prescribed by the department.

(2) The application shall be accompanied by a fee of eight hundred twenty-five dollars.

b. Renewal of registration. All wholesalers' and manufacturers' registrations shall be renewed on dates set by the department. The triennial registration fee shall be five hundred twenty dollars or a pro

rated portion thereof as determined by the department.

c. Display of registration. The registration shall be displayed conspicuously at all times in the place of business.

d. Change of location. In the event that the location of such place of business shall be changed, the owner shall apply to the department for inspection of the new location and endorsement of the registration for the new location. The fee for inspection and endorsement shall be one hundred seventy dollars, unless it appears to the satisfaction of the department that the change in location is of a temporary nature due to fire, flood or other disaster.

5. Outsourcing facility's registration.

a. Obtaining a registration. An outsourcing facility shall be registered as follows:

(1) An application for initial registration or renewal of registration shall be made on a form prescribed by the department.

(2) An application for initial registration shall be accompanied by a fee of eight hundred twenty-five dollars.

b. Renewal of registration. All outsourcing facilities' registrations shall be renewed on a date set by the department. The triennial registration fee shall be five hundred twenty dollars or a pro rated portion thereof as determined by the department.

c. Display of registration. The registration shall be displayed conspicuously in the place of business.

d. Change of location. In the event that the location of such place of business shall be changed, the owner shall apply to the department for inspection of the new location and endorsement of the registration for the new location. The fee for inspection and endorsement shall be one hundred seventy-five dollars, unless it appears to the satisfaction of the department that the change in location is of a temporary nature due to fire, flood or other disaster.

e. Report. Upon initially registering as an outsourcing facility and every six months thereafter, each outsourcing facility shall submit to the executive secretary of the state board of pharmacy a report:

(1) identifying the drugs compounded by such outsourcing facility during the previous 6-month period; and

(2) with respect to each drug identified under subparagraph one of this paragraph, providing the active ingredient; the source of such active ingredient; the National Drug Code number of the source drug or bulk active ingredient, if available; the strength of the active ingredient per unit; the dosage form and route of administration; the package description; the number of individual units produced; and the National Drug Code number of the final product, if assigned.

f. Conduct of outsourcing facility. Every owner of an outsourcing facility is responsible for the strength, quality, purity and labeling thereof of all compounded drugs, subject to the guaranty provisions of this article and the public health law. Every outsourcing facility shall be under the immediate supervision and management of a pharmacist licensed to practice in New York state.

g. Applicant for registration. An applicant for registration of an outsourcing facility shall be of good moral character, as determined by the department. In the case of a corporate applicant, the requirement shall extend to all officers and directors and stakeholders having a ten percent or greater interest in the corporation.

6. Inspection. The state board of pharmacy and the department of education, and their employees designated by the commissioner, shall have the right to enter any pharmacy, wholesaler, manufacturer, outsourcing facility or vehicle and to inspect, at reasonable times, such factory, warehouse, establishment or vehicle and all records required by this article, pertinent equipment, finished and unfinished materials, containers, and labels.

7. Penalties. A pharmacy, wholesaler, manufacturer or outsourcing facility registered under this section shall be under the supervision of

the board of regents and shall be subject to disciplinary proceedings and penalties in accordance with article one hundred thirty of this chapter in the same manner and to the same extent as individuals and professional service corporations with respect to their licenses and registrations, provided that failure to comply with the requirements of this section shall constitute professional misconduct.

8. Sale of drugs at auction. No controlled substance or substances and no poisonous or deleterious drugs or drugs in bulk or in opened containers shall be sold at auction unless the place where such drugs are sold at auction shall have been registered by the board, and unless such sale shall be under the personal supervision of a licensed pharmacist. Drugs in open containers shall not be sold at auction unless the seller shall have in his possession a certificate of the board showing that such drugs have been inspected and meet the requirements of this article. In the event that the drug so sold is one as to which this article or any federal statute or any regulation adopted pursuant to this article or an applicable federal statute require that the expiration date be stated on each package, such drug may not be sold at auction after such expiration date or when such expiration date will occur within a period of thirty days or less from the date of sale.

9. Supervision requirements for wholesalers transfilling medical oxygen. Wholesalers registered under this section which transfill medical oxygen shall ensure any person responsible for supervising the transfilling of medical oxygen is:

a. a respiratory therapist certified by a national accrediting body;

b. a person holding a bachelor's degree in chemistry, microbiology, chemical engineering or a related field;

c. a person having two years of education beyond high school and two years experience in the handling of compressed medical gases satisfactory to the state board of pharmacy; or

d. a person having training in accordance with the requirements

established in section 211.25 of title 21 of the code of federal regulations.

§ 6808-a. Identification of Pharmacists. Every pharmacist on duty shall be identified by a badge designed by the state board of pharmacy, which shall contain his name and title.

§ 6808-b. Registration of nonresident establishments. 1. Definition. The term "nonresident establishment" shall mean any pharmacy located outside of the state that participates in shared pharmacy services for registered pharmacies and/or patients residing in this state or pharmacy, manufacturer, wholesaler, or outsourcing facility located outside of the state that ships, mails or delivers prescription drugs or devices to other establishments, authorized prescribers and/or patients residing in this state. Such establishments shall include, but not be limited to, pharmacies that transact business through the use of the internet.

2. Registration. All nonresident establishments that participate in shared pharmacy services for registered pharmacies and/or patients residing in this state or that ship, mail, or deliver prescription drugs and/or devices to other registered establishments, authorized prescribers, and/or patients into this state shall be registered with the department; except that such registration shall not apply to intra-company transfers between any division, affiliate, subsidiaries, parent or other entities under complete common ownership and control. The provisions of this subdivision shall apply solely to nonresident establishments and shall not affect any other provision of this article.

3. Agent of record. Each nonresident establishment that participates in shared pharmacy services or ships, mails or delivers drugs and/or devices into this state shall designate a resident agent in this state for service of process pursuant to rule three hundred eighteen of the civil practice law and rules.

4. Conditions of registration. As a condition of registration, a nonresident establishment shall comply with the following requirements:

a. Be licensed and/or registered and in good standing with the state of residence;

b. Maintain, in readily retrievable form, records of drugs and/or devices shipped into this state;

c. Supply, upon request, all information needed by the department to carry out the department's responsibilities under the laws and rules and regulations pertaining to nonresident establishments;

d. Comply with all statutory and regulatory requirements of the state where the nonresident establishment is located, for prescription drugs or devices shipped, mailed or delivered into this state, except that for controlled substances shipped, mailed or delivered into this state, the nonresident pharmacy shall follow federal law and New York law relating to controlled substances;

e. The application shall be made in the manner and form prescribed by the department;

f. The application of establishments to be registered as a manufacturer, wholesaler or outsourcing facility of drugs and/or devices shall be accompanied by a fee as provided in section sixty-eight hundred eight of this article; and

g. The application of establishments to be registered as a nonresident pharmacy shall be accompanied by a fee of three hundred forty-five dollars and shall be renewed triennially at a fee of two hundred sixty dollars.

5. Additional requirements. Nonresident pharmacies registered pursuant to this section shall:

a. Provide a toll-free telephone number that is available during

normal business hours and at least forty hours per week, to enable communication between a patient in this state and a pharmacist at the pharmacy who has access to the patient's records; and

b. Place such toll-free telephone number on a label affixed to each drug or device container.

6. Disciplinary action. Except in emergencies that constitute an immediate threat to public health, the department shall not prosecute a complaint or otherwise take formal action against a nonresident establishment based upon delivery of a drug into this state or a violation of law, rule, or regulation of this state if the agency having jurisdiction in the state where the nonresident establishment is based commences action on the violation complained of within one hundred twenty days from the date that the violation was reported; provided however, that the department may prosecute a complaint or take formal action against a nonresident establishment if it determines that the agency having jurisdiction in the state where the nonresident establishment is based has unreasonably delayed or otherwise failed to take prompt and appropriate action on a reported violation.

7. Revocation or suspension. A nonresident establishment that fails to comply with the requirements of this section shall be subject to revocation or suspension of its registration and other applicable penalties in accordance with the provisions of article one hundred thirty of this chapter.

8. Exception. The department may grant an exception from the registration requirements of this section on the application of a nonresident establishment that restricts its sale or dispensing of drugs and/or devices to residents of this state to isolated transactions.

9. Rules and regulations. The department shall promulgate rules and regulations to implement the provisions of this section.

§ 6809. Shared pharmacy services. 1. General requirements. No

pharmacist or pharmacy shall provide shared pharmacy services unless they are registered in accordance with sections sixty-eight hundred five, sixty-eight hundred eight, or sixty-eight hundred eight-b of this article, and are in compliance with the provisions of this section.

2. Qualification. A pharmacy may provide or engage in shared pharmacy services only if the pharmacies involved:

a. (i) have the same owner; or

(ii) have a written contract or agreement that outlines the services provided and the shared responsibilities of each pharmacy in complying with all applicable federal and state statutory and regulatory requirements; and

b. share a common electronic file or technology that allows access to information necessary or required to perform shared pharmacy services in compliance with all applicable federal and state statutory and regulatory requirements.

3. Operations. A pharmacy or pharmacist engaged in shared pharmacy services shall:

a. maintain records that identify, individually for each prescription or order filled or processed, the name and if applicable, the license or registration number of each pharmacy and individual who took part in the processing or filling of the prescription or order. Such records shall be maintained in accordance with subdivision five of section sixty-eight hundred ten of this article and made available to the department upon request. Records of prescriptions for controlled substances shall be maintained pursuant to the requirements of article thirty-three of the public health law;

b. maintain a system for the tracking of each prescription or order during each step of the process including, but not limited to, the name and if applicable, the license and registration number of each pharmacy and individual taking part in the processing or filling of the prescription or order;

c. notify the department, in writing, within thirty days of any disciplinary action taken by another state's regulatory agency involving shared pharmacy services as defined in this article;

d. ensure that the labels for all prescriptions filled utilizing shared pharmacy services identify the names and registration numbers of the pharmacies involved in the dispensing and filling of the prescriptions. All labels shall conform to sections sixty-eight hundred twenty-nine and sixty-eight hundred thirty of this article and the regulations promulgated thereunder. The labeling of prescriptions for controlled substances shall be subject to additional requirements provided in article thirty-three of the public health law. The provisions of this paragraph shall not apply to hospitals as defined in article twenty-eight of the public health law when furnishing drugs to patients registered for treatment by the hospital;

e. maintain a system that adequately protects the confidentiality and integrity of protected patient information; and

f. maintain processes for the storage, processing and dispensing of controlled substances in accordance with article thirty-three of the public health law.

4. Notification to patients. a. Pharmacies participating in shared pharmacy services shall:

(i) notify patients or the patients' authorized representative that pending their consent, a portion or all of their prescriptions may be processed or filled off premises. Such notification shall be conveyed using conspicuously posted signage at or adjacent to the place in the pharmacy where prescriptions are presented for compounding and dispensing, in the waiting area for customers, or the area where prescribed drugs are dispensed. Pharmacies that transact business through the use of the internet shall conspicuously provide such notification on their website; and

(ii) obtain an initial onetime consent to fill current and future prescriptions through shared pharmacy services from the patient or

patient's authorized representative prior to the dispensing of one or more prescriptions for the patient. For the purposes of this section, such consent shall be obtained in writing or electronically and noted within the patient's medication profile.

b. Nothing in this subdivision shall prohibit a patient or the patients' authorized representative from opting out of having the patients' prescription processed or filled via shared pharmacy services at any time.

c. The provisions of this subdivision shall not apply to a hospital as defined in article twenty-eight of the public health law which is furnishing drugs to patients registered for treatment by the hospital.

5. Drug storage and security. a. Drugs shall be stored and transported in a secure manner in compliance with all applicable federal and state statutory and regulatory requirements.

b. Access to the area where drugs are stored shall be limited to authorized personnel.

c. Pharmacies participating in shared pharmacy services shall have adequate security that complies with all applicable federal and state statutory and regulatory requirements and protects the confidentiality and integrity of protected patient information.

6. Policies and procedures. a. Each pharmacy participating in shared pharmacy services shall jointly develop, implement, review, revise, and comply with joint policies and procedures for shared pharmacy services. Such policies and procedures shall be made available to the department upon request and maintained pursuant to regulations promulgated by the commissioner.

b. The policies and procedures shall:

(i) outline the responsibilities of each pharmacy;

(ii) include a list of the names, addresses, telephone numbers, and all registration numbers of the pharmacies involved in shared pharmacy

services; and

(iii) include policies and procedures for:

(A) notifying the patients or the patients' authorized representative that the patients' prescriptions may be processed or filled off premises and providing the names and registration numbers of the other pharmacies involved in the filling or processing of the prescriptions;

(B) protecting the confidentiality and integrity of protected patient information;

(C) dispensing a prescription when a prescription filled utilizing shared pharmacy services is not received or the patient comes in before such prescription is received;

(D) maintaining a required manual or electronic records to track the prescription or order through each step of the process including, but not limited to, the names and, if applicable, the license or registration numbers of each individual who participated in shared pharmacy services; and

(E) complying with all applicable federal and state statutory and regulatory requirements; and

(iv) policies and procedures for hospitals as defined in the public health law are exempt from the requirements of clauses (A) and (C) of subparagraph (iii) of this paragraph, when furnishing drugs to patients registered for treatment by the hospital.

7. Individual practice. For the purpose of shared pharmacy services, persons licensed or otherwise authorized under this article and article one hundred thirty-seven-a of this title, employed by or under contract with a pharmacy, acting within their respective scopes of practice, may access that pharmacy's electronic database from inside or outside the pharmacy and perform prescription or order processing functions, if both of the following requirements are met:

a. the pharmacy establishes controls to protect the confidentiality and integrity of protected patient information; and

b. no part of the database is duplicated, downloaded, or removed from the pharmacy's electronic database.

8. Effect. Failure to meet any or all of the requirements of this section may result in a denial of renewal of registration.

§ 6810. Prescriptions. 1. No drug for which a prescription is required by the provisions of the Federal Food, Drug and Cosmetic Act or by the commissioner of health shall be distributed or dispensed to any person except upon a prescription written by a person legally authorized to issue such prescription. Such drug shall be compounded or dispensed by a licensed pharmacist, and no such drug shall be dispensed without affixing to the immediate container in which the drug is sold or dispensed a label bearing the name and address of the owner of the establishment in which it was dispensed, the date compounded, the number of the prescription under which it is recorded in the pharmacist's prescription files, the name of the prescriber, the name and address of the patient, and the directions for the use of the drug by the patient as given upon the prescription. All labels shall conform to such rules and regulations as promulgated by the commissioner pursuant to section sixty-eight hundred twenty-nine of this article. The prescribing and dispensing of a drug which is a controlled substance shall be subject to additional requirements provided in article thirty-three of the public health law. The words "drug" and "prescription required drug" within the meaning of this article shall not be construed to include soft or hard contact lenses, eyeglasses, or any other device for the aid or correction of vision. Nothing in this subdivision shall prevent a pharmacy from furnishing a drug to another pharmacy which does not have such drug in stock for the purpose of filling a prescription.

1-a. Notwithstanding subdivision one of this section, at the prescriber's request, the prescription label for mifepristone or misoprostol shall include the name or address of the prescribing health care practice instead of the name of the prescriber.

2. (a) A prescription may not be refilled unless it bears a contrary instruction and indicates on its face the number of times it may be refilled. A prescription may not be refilled more times than allowed on the prescription. The date of each refilling must be indicated on the

original prescription. Prescriptions for controlled substances shall be refilled only pursuant to article thirty-three of the public health law.

A pharmacy registered with the department pursuant to section sixty-eight hundred eight or sixty-eight hundred eight-b of this article may not deliver a new or refilled prescription off premises without the consent of the patient or an individual authorized to consent on the patient's behalf. For the purposes of this section, consent may be obtained in the same manner and process by which consent is deemed acceptable under the federal Medicare Part D program.

(b) Pharmacy providers who deliver medication without patient or authorized individual consent will be required to accept the return of the medication from the patient, provide that patient credit for any charges they may have paid, and will be required to destroy those medications sent without consent on delivery in accordance with applicable state and federal law. Nothing in this section shall be deemed to interfere with the requirements for refill reminder or medication adherence programs. Nothing in this section is intended to apply to long-term care pharmacy dispensing and delivery.

3. A copy of a prescription for a controlled substance shall not be furnished to the patient but may be furnished to any licensed practitioner authorized to write such prescription. Copies of other prescriptions shall be furnished to the patient at his request, but such copies are issued for the informational purposes of the prescribers only, and shall be so worded.

4. (a) Oral prescriptions for controlled substances shall be filled pursuant to article thirty-three of the public health law. A pharmacist may fill an oral prescription for a drug, other than a controlled substance, made by a practitioner legally authorized to prescribe drugs. An oral authorization for the refill of a prescription, other than a prescription for a controlled substance, may be made by a practitioner legally authorized to prescribe drugs. The pharmacist receiving such oral authorization for the refill of a prescription shall write on the reverse side of the original prescription the date, time, and name of the practitioner authorizing the refill of the prescription. An oral

prescription or an oral authorization for the refill of a prescription for the drug, other than a controlled substance, may be communicated by an employee of the prescribing practitioner; provided, however, the pharmacist shall:

(i) contemporaneously reduce such prescription to writing;

(ii) dispense the substance in conformity with the labeling requirements applicable to a written prescription; and

(iii) make a good faith effort to verify the employee's identity if the employee is unknown to the pharmacist.

(b) Oral prescriptions for patients in general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of the public health law, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or facilities operated by the office for people with developmental disabilities, may be communicated to a pharmacist serving as a vendor of pharmaceutical services based upon a contractual arrangement by an agent designated by and under the direction of the prescriber or the institution. Such agent shall be a health care practitioner currently licensed and registered under this title.

5. Records of all prescriptions filled or refilled shall be maintained for a period of at least five years and upon request made available for inspection and copying by a representative of the department. Such records shall indicate date of filling or refilling, prescriber's name, patient's name and address and the name or initials of the pharmacist who prepared, compounded, or dispensed the prescription. Records of prescriptions for controlled substances shall be maintained pursuant to requirements of article thirty-three of the public health law.

6. (a) Every prescription written in this state by a person authorized to issue such prescription shall be on prescription forms containing one line for the prescriber's signature. The prescriber's signature shall validate the prescription. Every electronic prescription shall provide for the prescriber's electronic signature, which shall validate the electronic prescription. Imprinted conspicuously on every prescription written in this state in eight point upper case type immediately below the signature line shall be the words: "THIS PRESCRIPTION WILL BE FILLED

GENERICALLY UNLESS PRESCRIBER WRITES 'd a w' IN THE BOX BELOW". Unless the prescriber writes d a w in such box in the prescriber's own handwriting or, in the case of electronic prescriptions, inserts an electronic direction to dispense the drug as written, the prescriber's signature or electronic signature shall designate approval of substitution by a pharmacist of a drug product pursuant to paragraph (o) of subdivision one of section two hundred six of the public health law. No other letters or marks in such box shall prohibit substitution. No prescription forms used or intended to be used by a person authorized to issue a prescription shall have 'd a w' preprinted in such box. Such box shall be placed directly under the signature line and shall be three-quarters inch in length and one-half inch in height, or in comparable form for an electronic prescription as may be specified by regulation of the commissioner. Immediately below such box shall be imprinted in six point type the words "Dispense As Written". Notwithstanding any other provision of law, no state official, agency, board or other entity shall promulgate any regulation or guideline modifying those elements of the prescription form's contents specified in this subdivision. To the extent otherwise permitted by law, a prescriber may modify only those elements of the prescription form's contents not specified in this subdivision. Notwithstanding any other provision of this section or any other law, when a generic drug is not available and the brand name drug originally prescribed is available and the pharmacist agrees to dispense the brand name product for a price that will not exceed the price that would have been charged for the generic substitute had it been available, substitution of a generic drug product will not be required. If the generic drug product is not available and a medical emergency situation, which for purposes of this section is defined as any condition requiring alleviation of severe pain or which threatens to cause disability or take life if not promptly treated, exists, then the pharmacist may dispense the brand name product at his regular price. In such instances the pharmacist must record the date, hour and nature of the medical emergency on the back of the prescription and keep a copy of all such prescriptions.

(b) Notwithstanding any other provision of this section or any other law, when an interchangeable biological product is not available and the biological product originally prescribed is available and the pharmacist

agrees to dispense the prescribed biological product for a price that will not exceed the price that would have been charged for the interchangeable biological substitute had it been available, substitution of an interchangeable biological product will not be required. If the interchangeable biological product is not available and a medical emergency situation, which for purposes of this section is defined as any condition requiring alleviation of severe pain or which threatens to cause disability or take life if not promptly treated, exists, then the pharmacist may dispense the prescribed biological product at his regular price. In such instances the pharmacist must record the date, hour and nature of the medical emergency on the back of the prescription and keep a copy of all such prescriptions.

(c) The prescriber shall inform the patient whether he or she has prescribed a brand name or its generic equivalent drug product or interchangeable biological product.

(d) The provisions of this subdivision shall not apply to a hospital as defined in article twenty-eight of the public health law.

(e) No prescriber shall be subjected to civil liability arising solely from authorizing, in accordance with this subdivision, the substitution by a pharmacist of a drug product pursuant to paragraph (o) of subdivision one of section two hundred six of the public health law.

7. (a) No prescription for a drug written in this state by a person authorized to issue such prescription shall be on a prescription form which authorizes the dispensing or compounding of any other drug. No drug shall be dispensed by a pharmacist when such prescription form includes any other drug.

(b) With respect to drugs other than controlled substances, the provisions of this subdivision shall not apply to pharmacists employed by or providing services under contract to general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of the public health law, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or facilities operated by the office for people with developmental disabilities, who dispense drugs in the course of said employment or in the course of providing such services under contract. With respect to such pharmacists, each prescription shall be transcribed on a patient

specific prescription form.

8. Every prescription (whether or not for a controlled substance) written in this state by a person authorized to issue such prescription and containing the prescriber's signature shall, in addition to such signature, be imprinted or stamped legibly and conspicuously with the printed name of the prescriber who has signed the prescription. The imprinted or stamped name of the signing prescriber shall appear in an appropriate location on the prescription form and shall not be entered in or upon any space or line reserved for the prescriber's signature. The imprinted or stamped name shall not be employed as a substitute for, or fulfill any legal requirement otherwise mandating that the prescription be signed by the prescriber.

9. No person, corporation, association or other entity, not licensed to issue a prescription pursuant to this title, shall wilfully cause prescription forms, blanks or facsimiles thereof to be disseminated to any person other than a person who is licensed to issue a prescription pursuant to this title. A violation of this subdivision shall be a class B misdemeanor punishable in accordance with the provisions of the penal law.

10. Notwithstanding any other provision of this section or any other law to the contrary, effective three years subsequent to the date on which regulations establishing standards for electronic prescriptions are promulgated by the commissioner of health, in consultation with the commissioner pursuant to subdivision three of section two hundred eighty-one of the public health law, no practitioner shall issue any prescription in this state, unless such prescription is made by electronic prescription from the practitioner to a pharmacy, except for prescriptions: (a) issued by veterinarians; (b) issued or dispensed in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation; (c) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the commissioner of health, not to exceed one year, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the

commissioner of health, in consultation with the commissioner due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner; (d) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subdivision, such practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition, provided that if such prescription is for a controlled substance, the quantity that does not exceed a five day supply if the controlled substance was used in accordance with the directions for use; or (e) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulation.

10-a. A pharmacy that receives an electronic prescription from the person issuing the prescription may, if the prescription has not been dispensed and at the request of the patient or a person authorized to make the request on behalf of the patient, immediately transfer or forward such prescription to an alternative pharmacy designated by the requesting party.

11. In the case of a prescription issued by a practitioner under paragraph (b) of subdivision ten of this section, the practitioner shall be required to indicate in the patient's health record that the prescription was issued other than electronically due to temporary technological or electrical failure.

12. In the case of a prescription issued by a practitioner under paragraph (d) or (e) of subdivision ten of this section, the practitioner shall, upon issuing such prescription, indicate in the patient's health record either that the prescription was issued other than electronically because it (a) was impractical to issue an electronic prescription in a timely manner and such delay would have adversely impacted the patient's medical condition, or (b) was to be dispensed by a pharmacy located outside the state.

13. The waiver process established in regulation pursuant to paragraph (c) of subdivision ten of this section shall provide that a practitioner prescribing under a waiver must notify the department of health in writing promptly upon gaining the capability to use electronic prescribing, and that a waiver shall terminate within a specified period of time after the practitioner gains such capability.

14. Notwithstanding any other provision of law to the contrary, no outsourcing facility may distribute or dispense any drug to any person pursuant to a prescription unless it is also registered as a pharmacy in this state and meets all other applicable requirements of federal and state law.

* 15. Notwithstanding any other provisions of this section or any other law to the contrary, a practitioner shall not be required to issue prescriptions electronically if he or she certifies to the department of health, in a manner specified by the department of health, that he or she will not issue more than twenty-five prescriptions during a twelve month period. Prescriptions in both oral and written form for both controlled substances and non-controlled substances shall be included in determining whether the practitioner will reach the limit of twenty-five prescriptions.

(a) A certification shall be submitted in advance of the twelve-month certification period, except that a twelve-month certification submitted on or before on July first,two thousand sixteen, may begin March twenty-seventh, two thousand sixteen.

(b) A practitioner who has made a certification under this subdivision may submit an additional certification on or before the expiration of the current twelve-month certification period, for a maximum of three twelve-month certifications.

(c) A practitioner may make a certification under this subdivision regardless of whether he or she has previously received a waiver under paragraphs (c) of subdivision ten of this section.

* NB Repealed June 1, 2029

§ 6811. Misdemeanors. It shall be a class A misdemeanor for:

1. Any person knowingly or intentionally to prevent or refuse to permit any board member or department representative to enter a pharmacy or any other establishment for the purpose of lawful inspection;

2. Any person whose license has been revoked to refuse to deliver the license;

3. Any pharmacist to display his license or permit it to be displayed in a pharmacy of which he is not the owner or in which he is not employed, or any owner to fail to display in his pharmacy the license of the pharmacist employed in said pharmacy;

4. Any holder of a license to fail to display the license;

5. Any owner of a pharmacy to display or permit to be displayed in his pharmacy the license of any pharmacist not employed in said pharmacy;

6. Any person to carry on, conduct or transact business under a name which contains as a part thereof the words "drugs", "medicines", "drug store", "apothecary", or "pharmacy", or similar terms or combination of terms, or in any manner by advertisement, circular, poster, sign or otherwise describe or refer to the place of business conducted by such person, or describe the type of service or class of products sold by such person, by the terms "drugs", "medicine", "drug store", "apothecary", or "pharmacy", unless the place of business so conducted is a pharmacy licensed by the department;

7. Any person to enter into an agreement with a physician, dentist, podiatrist or veterinarian for the compounding or dispensing of secret formula (coded) prescriptions;

9. Any person to manufacture, sell, deliver for sale, hold for sale or offer for sale of any drug, device or cosmetic that is adulterated or misbranded;

10. Any person to adulterate or misbrand any drug, device or cosmetic;

11. Any person to receive in commerce any drug, device or cosmetic that is adulterated or misbranded, and to deliver or proffer delivery thereof for pay or otherwise;

12. Any person to sell, deliver for sale, hold for sale, or offer for sale any drug, device or cosmetic in violation of this article;

13. Any person to disseminate any false advertisement;

14. Any person to refuse to permit entry or inspection as authorized by this article;

15. Any person to forge, counterfeit, simulate, or falsely represent, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by rules and regulations promulgated under the provisions of this article;

16. Any person to use for his own advantage, or reveal, other than to the commissioner or his duly authorized representative, or to the courts when relevant in any judicial proceedings under this article, any information acquired under authority of this article or concerning any method or process, which is a trade secret;

17. Any person to alter, mutilate, destroy, obliterate or remove the whole or any part of the labeling of, or the doing of any other act with respect to a drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded;

18. Any person to use on the labeling of any drug or in any advertising relating to such drug any representation or suggestion that an application with respect to such drug is effective under section sixty-eight hundred seventeen of this chapter or that such is in compliance with the provisions of such section;

19. Any person to violate any of the provisions of section sixty-eight hundred ten of this article;

20. Any person to violate any of the provisions of section sixty-eight hundred sixteen of this article;

21. Any person, to sell at retail or give away in tablet form bichloride of mercury, mercuric chloride or corrosive sublimate, unless such bichloride of mercury, mercuric chloride or corrosive sublimate, when so sold, or given away, shall conform to the provisions of national formulary XII. Nothing contained in this paragraph shall be construed to prohibit the sale and dispensing of bichloride of mercury in any form, shape, or color, when combined or compounded with one or more other drugs or excipients, for the purposes of internal medication only, or when sold in bulk in powder form, or to any preparation containing one-tenth of a grain or less of bichloride of mercury;

22. Any pharmacy to fail to properly post the list required by section sixty-eight hundred twenty-six of this article;

23. Any pharmacy to change its current selling price without changing the listed price as provided by section sixty-eight hundred twenty-six of this article;

24. Any person to refuse to permit access to or copying of any record as required by this article; or

25. Any manufacturer to sell or offer for sale any drug not manufactured, prepared or compounded under the personal supervision of a chemist or licensed pharmacist or not labeled with the full name of the manufacturer or seller.

26. Any outsourcing facility to sell or offer to sell any drug that is not both compounded under the personal supervision of a licensed pharmacist and labeled with the full name of the outsourcing facility.

§ 6811-a. Certain drugs to be clearly marked or labeled. 1. Except as otherwise authorized in the Federal Food, Drug and Cosmetic Act, no drug

for which a prescription is required by the provisions of the Federal Food, Drug and Cosmetic Act or by the commissioner of health may be manufactured or commercially distributed within this state in tablet or capsule form unless it has clearly marked or imprinted on each such tablet or capsule in conformance with the applicable plan required by subdivision three of this section:

(a) an individual symbol, number, company name, words, letters, marking or National Drug Code (hereinafter referred to as N. D. C.) number identifying the manufacturer or distributor of the drug; and

(b) an N. D. C. number, symbol, number, letters, words or marking identifying such drug or combination of drugs.

2. Except as otherwise authorized in the Federal Food, Drug and Cosmetic Act, no drug for which any prescription is required by the provisions of the Federal Food, Drug and Cosmetic Act or by the commissioner of health contained within a bottle, vial, carton or other container, or in any way affixed or appended to or enclosed within a package of any kind, and designed or intended for delivery in such container or package to an ultimate consumer, shall be manufactured or distributed within this state unless such container or package has clearly and permanently marked or imprinted upon it in conformance with the applicable plan required by subdivision three of this section:

(a) an individual symbol, N. D. C. number, company name, number, letters, words or marking identifying the manufacturer or distributor of the drug;

(b) an N. D. C. number, symbol, number, letters, words or marking identifying such drug or combination of drugs; and

(c) whenever the distributor of the prescription drug product does not also manufacture the product the names and places of business of both shall appear on the label in words clearly distinguishing each.

3. (a) Each manufacturer and distributor shall prepare and submit to the commissioner of health a proposed plan of the manufacturer or distributor, as the case may be, to have its products comply with the marking and labeling requirements of this section.

(b) Such plan shall be in writing and shall give the respective dates by which the various products manufactured or distributed will each

contain the required mark or label. The plan shall state the reasons why the projected date of compliance has been proposed and such other information deemed relevant or that the commissioner of health shall require.

(c) The commissioner may either approve the plan as proposed or, after consultation with the manufacturer or distributor, require an amendment or the commissioner may promulgate a plan for the manufacturer or distributor. No plan or amendment to the plan shall be effective until approved or promulgated by the commissioner of health upon a finding by him that the time limitations provided for therein are reasonable and will best carry out the intendment of this section.

4. Each manufacturer and/or distributor shall publish and make available, upon request, to the department of education, to each physician, dentist, pharmacy, hospital or other institution wherein such drugs may be used, a printed material which will identify each imprint used by the manufacturer or distributor. Updated materials shall be provided as changes occur, upon the filing of an annual request. The provisions of this subdivision shall be deemed to be complied with when a prescription drug product is included in the Physician's Desk Reference.

5. Every person, firm or corporation violating the provisions of this section for any prescription drug product shall be guilty of an offense punishable by a fine of not less than twenty-five hundred dollars nor more than ten thousand dollars. Any prescription drug product prepared or manufactured in violation of this section shall be contraband and subject to seizure either by the state board of pharmacy or by any law enforcement officer of the state.

6. The provisions of this section shall not apply to any tablet or capsule which contains a controlled substance as that term is defined by article thirty-three of the public health law or which is prepared or manufactured by a pharmacist duly licensed by the state which is made by him for the purpose of retail sale from his principal place of business and not intended for resale.

7. The commissioner of health may exempt a particular tablet or capsule from the requirements of this section, upon application by a manufacturer, on the grounds that labeling such a tablet or capsule is unfeasible because of size or texture or other unique characteristics.

8. (a) As used in this section, the term "distributor" means the person, firm, corporation or other entity which is not the actual manufacturer of a prescription drug product but which distributes such product for resale under the label of such person, firm, corporation or entity.

(b) For purposes of subdivision four "drug product" means the entire supply of the finished dosage form of the drug.

§ 6811-b. Door-to-door distribution of drugs prohibited. It shall be a violation, punishable by a fine not to exceed two hundred fifty dollars, for a manufacturer, distributor, or seller of drugs or an employee or agent thereof to distribute a free sample of any drug, other than a cosmetic not intended for ingestion, to any residential dwelling unless the sample is given directly to a person who is, or reasonably appears to be, over the age of eighteen. This section shall not be construed to permit distribution where otherwise prohibited by this chapter or any other law.

§ 6811-c. Patient notification of recalled drugs. 1. For purposes of this section the term "class I recall" shall mean a situation in which the United States food and drug administration deems there is reasonable probability that the use of or exposure to a violative product will cause serious adverse health consequences or death.

2. Where there has been a class I recall of a prescription drug, pharmacies shall make a reasonable attempt to notify all patients that have been prescribed and who are currently taking such recalled drug dispensed from such pharmacy by phone or by mail within three days of the pharmacy being notified by the United States food and drug administration, a manufacturer, a wholesaler or by other notice of such

recall.

3. The notification required by this section may be provided by an individual pharmacy or by a central office in the case of a pharmacy that is part of a chain.

§ 6811-d. Notification of permanent pharmacy discontinuance. 1. Every registered pharmacy that sells prescription drugs at retail shall provide public notice at least thirty days prior to its permanent discontinuance. Such notice shall:

(a) be provided, to the extent possible, to customers who have had a prescription filled at the pharmacy within the year prior to its discontinuance through the customer's primary means of communication with such pharmacy; and

(b) be conspicuously posted at or adjacent to the place in the pharmacy where prescriptions are presented for compounding and dispensing, in the waiting area for customers, or the area where prescribed drugs are dispensed.

2. The notification required pursuant to subdivision one of this section shall include, but not be limited to:

(a) the date of such pharmacy's discontinuance;

(b) the names, addresses, and phone numbers of the five nearest pharmacies, including independently owned pharmacies, if applicable;

(c) instructions on transferring any existing prescriptions to another pharmacy; and

(d) information regarding the disposition of prescription records if a customer fails to transfer a prescription prior to such pharmacy's discontinuance.

§ 6812. Special provisions. 1. Where any pharmacy, manufacturer, wholesaler or outsourcing facility registered by the department is damaged by fire the board shall be notified within a period of forty-eight hours, and the board shall have power to impound all drugs for analysis and condemnation, if found unfit for use. Where a pharmacy

is discontinued, the owner of its prescription records shall notify the department as to the disposition of said prescription records, and in no case shall records be sold or given away to a person who does not currently possess a registration to operate a pharmacy.

2. Nothing in this article shall be construed as requiring the prosecution or the institution of injunction proceedings for minor violations of this article whenever the public interest will be adequately served by a suitable written notice of warning.

3. The executive secretary of the state board of pharmacy is authorized to conduct examinations and investigations for the purposes of this article through officers and employees of the United States, or through any health, food, or drug officer or employee of any city, county or other political subdivision of this state.

§ 6813. Seizure: 1. Any drug, device or cosmetic that is adulterated, misbranded or may not be sold under the provisions of this chapter, may be seized on petition or complaint of the board and condemned in the supreme court of any county in which it is found. Seizure shall be made:

a. by process pursuant to the petition or complaint, or

b. if the secretary or other officer designated by him has probable cause to believe that the article

(1) is one which may not be sold under the provisions of section sixty-eight hundred seventeen of this chapter, or

(2) is adulterated, or

(3) is so misbranded as to be dangerous to health.

The article shall be seized by order of such officer. The order shall describe the article to be seized, the place where the article is located, and the officer or employee making the seizure. The officer, in lieu of taking actual possession, may affix a tag or other appropriate marking to the article giving notice that the article has been quarantined and warning all persons not to remove or dispose of it by sale or otherwise until permission for removal or disposal is given by

the officer or the court. In case of seizures or quarantine, pursuant to such order, the jurisdiction of such court shall attach upon such seizure or quarantine, and a petition or complaint for condemnation shall be filed promptly.

2. The procedure for cases under this section shall conform as much as possible to the procedure for attachment. Any issue of fact joined in any case under this section shall be tried by jury on the demand of either party. The court at any time after seizure and up to the time of trial shall allow by order any party or his agent or attorney to obtain a representative sample of the condemned material, a true copy of the analysis on which the proceeding was based, and the identifying marks or numbers, if any, on the packages from which the samples analyzed were obtained.

3. Any drug, device or cosmetic condemned under this section shall be disposed of by destruction or sale as the court may direct after the decree in accordance with the provisions of this section. The proceeds of the sale, if any, shall be paid into the state treasury after deduction for legal costs and charges. However, the drug, device or cosmetic shall not be sold contrary to the provisions of this article. After entry of the decree, if the owner of the condemned articles pays the costs of the proceeding and posts a sufficient bond as security that the articles will not be disposed of contrary to the provisions of this article, the court may by order direct that the seized articles be delivered to the owner to be destroyed or brought into conformance with this article under supervision of the secretary. The expenses of the supervision shall be borne by the person obtaining the release under bond. Any drug condemned by reason of its being a new drug which may not be sold under this article shall be disposed of by destruction.

4. When the decree of condemnation is entered, court costs and fees, storage and other expense shall be awarded against the person, if any, intervening as claimant of the condemned articles.

5. In any proceeding against the board, or the secretary, or an agent of either, because of seizure, or quarantine, under this section, the

board, or the secretary, or such agent shall not be liable if the court finds that there was probable cause for the acts done by them.

§ 6814. Records of shipment. For the purpose of enforcing provisions of this article, carriers engaged in commerce, and persons receiving drugs, devices or cosmetics in commerce or holding such articles so received, shall, upon the request of an officer duly assigned by the secretary, permit such officer, at reasonable times, to have access to and to copy all records showing the movement in commerce of any drug, device or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof: and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when such request is accompanied by a statement in writing specifying the nature or kind of drug, device or cosmetic to which such request relates: Provided, that evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained: Provided further, that carriers shall not be subject to the other provisions of this article by reason of their receipt, carriage, holding or delivery of drugs, devices or cosmetics in the usual course of business as carriers.

§ 6815. Adulterating, misbranding and substituting. 1. Adultered drugs. A drug or device shall be deemed to be adulterated:

a. (1) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch that has been certified in accordance with regulations provided in this article.

b. If it purports to be, or is represented as, a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or, in the absence or inadequacy of such tests or methods of assay, then in accordance with tests or methods of assay prescribed by regulations of the board of pharmacy as promulgated under this article. Deviations from the official assays may be made in the quantities of samples and reagents employed, provided they are in proportion to the quantities stated in the official compendium. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because (1) it exceeds the standard of strength therefor set forth in such compendium, if such difference is plainly stated on its label; or (2) it falls below the standard of strength, quality, or purity therefor set forth in such compendium if such difference is plainly stated on its label, except that this clause shall apply only to such drugs, or classes of drugs, as are specified in regulations which the board shall promulgate when, as applied to any drug, or class of drugs, the prohibition of such difference is not necessary for the protection of the public health. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia.

c. If it is not subject to the provisions of paragraph b of this subdivision and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

d. If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.

e. If it is sold under or by a name not recognized in or according to

a formula not given in the United States pharmacopoeia or the national formulary but that is found in some other standard work on pharmacology recognized by the board, and it differs in strength, quality or purity from the strength, quality or purity required, or the formula prescribed in, the standard work.

2. Misbranded and substituted drugs and devices. A drug or device shall be deemed to be misbranded:

a. If its labeling is false or misleading in any particular.

b. If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, that under clause (2) of this paragraph the board may establish reasonable variations as to quantity and exemptions as to small packages.

c. If any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

d. If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, beta eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the secretary, after investigation, found to be, and by regulations under this article, or by regulations promulgated by the board, designated as, habit forming; unless its label bears the name and quantity, or proportion, of such substance or derivative and in juxtaposition therewith the statement "Warning--May be habit forming."

e. If it is a drug and is not designated solely by a name recognized

in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity by percentage or amount of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: Provided, that, to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the board.

f. Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: Provided, that, where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the board shall promulgate regulations exempting such drug or device from such requirement.

g. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: Provided, that, the method of packing may be modified with the consent of the secretary in accordance with regulations promulgated by the board. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia.

h. (1) If it is a drug and its container is so made, formed or filled

as to be misleading; (2) if it is an imitation of another drug; (3) if it is offered for sale under the name of another drug; or (4) if it bears a copy, counterfeit, or colorable imitation of the trademark, label, container or identifying name or design of another drug.

i. If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended or suggested in the labeling thereof.

j. Except as required by article thirty-three of the public health law, the labeling provisions of this article shall not apply to the compounding and dispensing of drugs on the written prescription of a physician, a dentist, a podiatrist or a veterinarian, which prescription when filled shall be kept on file for at least five years by the pharmacist or druggist. Such drug shall bear a label containing the name and place of business of the dispenser, the serial number and date of the prescription, directions for use as may be stated in the prescription, name and address of the patient and the name of the physician or other practitioner authorized by law to issue the prescription. In addition, such label shall contain the proprietary or brand name of the drug and, if applicable, the strength of the contents, unless the person issuing the prescription explicitly states on the prescription, in his own handwriting, that the name of the drug and the strength thereof should not appear on the label.

§ 6816. Omitting to label drugs, or labeling them wrongly. 1. a. Any person, who, in putting up any drug, medicine, or food or preparation used in medical practice, or making up any prescription, or filling any order for drugs, medicines, food or preparation puts any untrue label, stamp or other designation of contents upon any box, bottle or other package containing a drug, medicine, food or preparation used in medical practice, or substitutes or dispenses a different article for or in lieu of any article prescribed, ordered, or demanded, except where required pursuant to section sixty-eight hundred sixteen-a of this article, or puts up a greater or lesser quantity of any ingredient specified in any such prescription, order or demand than that prescribed, ordered or

demanded, except where required pursuant to paragraph (g) of subdivision two of section three hundred sixty-five-a of the social services law, or otherwise deviates from the terms of the prescription, order or demand by substituting one drug for another, except where required pursuant to section sixty-eight hundred sixteen-a of this article, is guilty of a misdemeanor; provided, however, that except in the case of physicians' prescriptions, nothing herein contained shall be deemed or construed to prevent or impair or in any manner affect the right of an apothecary, druggist, pharmacist or other person to recommend the purchase of an article other than that ordered, required or demanded, but of a similar nature, or to sell such other article in place or in lieu of an article ordered, required or demanded, with the knowledge and consent of the purchaser. Upon a second conviction for a violation of this section the offender must be sentenced to the payment of a fine not to exceed one thousand dollars and may be sentenced to imprisonment for a term not to exceed one year. The third conviction of a violation of any of the provisions of this section, in addition to rendering the offender liable to the penalty prescribed by law for a second conviction, shall forfeit any right which he may possess under the law of this state at the time of such conviction, to engage as proprietor, agent, employee or otherwise, in the business of an apothecary, pharmacist, or druggist, or to compound, prepare or dispense prescriptions or orders for drugs, medicines or foods or preparations used in medical practice; and the offender shall be by reason of such conviction disqualified from engaging in any such business as proprietor, agent, employee or otherwise or compounding, preparing or dispensing medical prescriptions or orders for drugs, medicines, or foods or preparations used in medical practice.

b. The provisions of this section shall not apply to the practice of a practitioner who is not the proprietor of a store for the dispensing or retailing of drugs, medicines and poisons, or who is not in the employ of such a proprietor, and shall not prevent practitioners from supplying their patients with such articles as they may deem proper, and except as to the labeling of poisons shall not apply to the sale of medicines or poisons at wholesale when not for the use or consumption by the purchaser; provided, however, that the sale of medicines or poisons at

wholesale shall continue to be subject to such regulations as from time to time may be lawfully made by the board of pharmacy or by any competent board of health.

c. The provisions of this section shall not apply to a limited pharmacy which prepares a formulary containing the brand names and the generic names of drugs and of manufacturers which it stocks, provided that it furnishes a copy of such formulary to each physician on its staff and the physician signs a statement authorizing the hospital to supply the drug under any generic or non-proprietary name listed therein and in conformity with the regulations of the commissioner of education.

2. For the purposes set forth in this section, the terms prescription, order or demand shall apply only to those items subject to provisions of subdivision one of section sixty-eight hundred ten of this chapter. The written order of a physician for items not subject to provisions of subdivision one of section sixty-eight hundred ten of this chapter shall be construed to be a direction, a fiscal order or a voucher.

§ 6816-a. When substitution is required. 1. A pharmacist shall substitute a less expensive drug product containing the same active ingredients, dosage form and strength as the drug product prescribed, ordered or demanded, provided that the following conditions are met:

(a) The prescription is written on a form which meets the requirements of subdivision six of section sixty-eight hundred ten of this article and the prescriber does not prohibit substitution, or in the case of oral prescriptions, the prescriber must expressly state whether substitution is to be permitted or prohibited. Any oral prescription that does not include such an express statement shall not be filled; and

(b) The substituted drug product is contained in the list of drug products established pursuant to paragraph (o) of subdivision one of section two hundred six of the public health law; and

(c) The pharmacist shall indicate on the label affixed to the immediate container in which the drug is sold or dispensed the name and strength of the drug product and its manufacturer unless the prescriber specifically states otherwise. The pharmacist shall record on the

prescription form the brand name or the name of the manufacturer of the drug product dispensed.

2. In the event a patient chooses to have a prescription filled by an out of state dispenser, the laws of that state shall prevail.

3. A pharmacist shall substitute a less expensive biological product for a prescribed biological product provided that all of the following conditions are met:

(a) the substituted biological product is either an interchangeable biological product for the prescribed product or the substituted biological product is one for which the prescribed product is an interchangeable biological product;

(b) the prescriber does not designate that a substitution is prohibited as described in subdivision six of section sixty-eight hundred ten of this article; and

(c) the pharmacist indicates on the label affixed to the immediate container in which the biological product is sold or distributed the name and strength of the product and its manufacturer unless the prescriber specifically states otherwise.

4. (a) Within five business days following the dispensing of a substituted biological product, the dispensing pharmacist or the pharmacist's designee shall communicate to the prescriber the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed to the prescriber (i) by making an entry that is electronically accessible to the prescriber through an interoperable electronic medical records system, an electronic prescribing technology or a pharmacy record; or (ii) by using facsimile, electronic transmission or other electronic means. If an electronic means described in this paragraph is not available to the pharmacist at the time of communication, the dispensing pharmacist or the pharmacist's designee may communicate the information by telephone.

(b) Communication under paragraph (a) of this subdivision shall not be required where:

(i) there is no FDA-approved interchangeable biological product for the product prescribed; or

(ii) a refill prescription is not changed from the product dispensed on the prior filling of the prescription.

5. The department shall maintain a link on its web site to the current list of all biological products determined by the Federal Food and Drug Administration to be an interchangeable biological product for a specific biological product.

§ 6817. New drugs. 1. Except as otherwise provided in the Federal Food, Drug and Cosmetic Act, no person shall sell, deliver, offer for sale, hold for sale, or give away any new drug, unless:

a. an application with respect thereto has become effective, or in the case of an investigational drug the sponsor has complied with the applicable requirements, under the Federal Food, Drug, and Cosmetic Act, or

b. when not subject to such act, such drug has been tested and has not been found to be unsafe or ineffective for use under the conditions prescribed, recommended or suggested in the labeling thereof, and, prior to selling or offering for sale such drug, there has been filed with the department an application setting forth

(1) full reports of investigations which have been made to show whether or not such drug is safe and effective for use;

(2) a full list of the ingredients used as components of such drug;

(3) a full statement of the composition of such drug;

(4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packing of such drugs;

(5) such samples of such drug and of the ingredients used as components thereof as the board or secretary may require; and

(6) specimens of the labeling proposed to be used for such drug.

2. An application provided for in paragraph b of subdivision one shall become effective on the one hundred eightieth day after the filing thereof, except that if the secretary or board finds, after due notice

to applicant and giving him an opportunity for a hearing, that the drug is not safe and effective for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

3. A drug dispensed on a written or oral prescription of a physician, dentist, podiatrist or veterinarian (except a controlled substance), shall be exempt from the requirements of this section if such drug bears a label containing the name and place of business of the dispenser, the serial number and date of the prescription, directions for use as may be stated in the prescription and the name of the physician, dentist, podiatrist or veterinarian issuing the prescription and the name of the patient. In addition, such drug shall bear a label containing the proprietary or brand name of the drug and, if applicable, the strength of the contents, unless the person issuing the prescription explicitly states on the prescription, in his own handwriting, that the name of the drug and the strength thereof should not appear on the label.

4. The board shall promulgate regulations for exempting from the operation of this section drugs (and with the concurrence of the commissioner of health, pursuant to article thirty-three of the public health law, controlled substances) intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and efficacy of drugs and labeled "For Investigational Use Only". Such regulations may, within the discretion of the board, among other conditions relating to the protection of the public health, provide for conditioning such exemptions upon:

a. The submission to the secretary before any clinical testing of a new drug is undertaken of reports by the manufacturer or sponsor of the investigation of such drug, of preclinical tests, including tests on animals of such drug adequate to justify the proposed clincial testing.

b. The manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing obtaining a signed agreement from each of such investigators that

patients to whom the drug is administered will be under his personal supervision, or under the supervision of investigators responsible to him, and that he will not supply such drug to any other investigator or to clinics for administration to human beings; and

c. The establishment and maintenance of such records and the making of such reports to the board by the manufacturer or the sponsor of the investigation of such drugs of data including, but not limited to, analytical reports by investigators obtained as the result of such investigational use of such drug as the board finds will enable it to evaluate the safety and effectiveness of such drug in the event of the filing of an application pursuant to subdivision one of this section.

5. This section shall not apply to any drug which was licensed under the federal virus, serum, and toxin act of July first, nineteen hundred two (32 Stat. 728) or is licensed under section two hundred sixty-two of the public health service act of July first, nineteen hundred forty-four (58 Stat. 682), or under the federal virus, serums, toxins, antitoxins and analogous products act of March fourth, nineteen hundred thirteen (37 Stat. 832).

§ 6818. Adulterated and misbranded cosmetics. 1. A cosmetic shall be deemed to be adulterated:

a. If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual: Provided, that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon "Caution--this product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dying the eyelashes or eyebrows; to do so may cause blindness", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph e the term "hair dye" shall not include eyelash

dyes or eyebrow dyes.

b. If it consists in whole or in part of any filthy, putrid, or decomposed substance.

c. If it has been prepared, packaged, packed, shipped or held in any insanitary condition or in any other condition whereby it may have been rendered injurious to health.

d. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

e. If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations as provided by this article.

2. A cosmetic shall be deemed to be misbranded:

a. If its labeling is false or misleading in any particular.

b. If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: Provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations.

c. If any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

d. (1) If its container is so made, formed, or filled as to be misleading; or (2) if it bears a copy, counterfeit, or colorable

imitation of a trademark, label, or identifying name or design of another cosmetic.

§ 6818-a. Cosmetic samples. 1. No person engaged in the business of selling cosmetics shall provide for the use by or application to customers of any cosmetics, except for use or application to the hand or arm as a sample if such immediate container of cosmetics is to be used by or applied to more than one customer. For the purposes of this section, the term "cosmetic" shall not include perfume or cologne; or samples removed from the immediate container with a single use disposable applicator furnished to each customer; or samples dispensed from a tube, pump, spray or shaker container; or samples or applicators that have been cleansed before each use or application. The provisions of this section shall be deemed to have been satisfied if written instructions on the use or application of cosmetic samples pursuant to this section are clearly and visibly posted at or near the place of display of cosmetic samples. Nothing contained in this section shall prohibit the use or application of cosmetic samples by persons trained to apply cosmetics to customers in accordance with the provisions of this section.

2. Notwithstanding any other provision of this article, a violation of this section shall result in a civil penalty of one hundred dollars for the first offense and a civil penalty of two hundred fifty dollars for a second or subsequent offense.

§ 6819. Regulations making exceptions. The board shall promulgate regulations exempting from any labeling requirement of this article drugs, devices and cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such drugs, devices and cosmetics are not adulterated or misbranded under the provisions of this article upon removal from such processing, labeling, or repacking establishment.

§ 6820. Certification of coal-tar colors for drugs and cosmetics. The board shall promulgate regulations providing for the listing of coal-tar colors which are harmless and suitable for use in drugs for purposes of coloring only and for use in cosmetics and for the certification of batches of such colors, with or without harmless diluents.

§ 6821. Poison schedules; register. 1. The following schedules shall remain in force until revised by the board and approved by the department.

Schedule A. Arsenic, atropine, corrosive sublimate, potassium cyanide, chloral hydrate, hydrocyanic acid, strychnine and all other poisonous vegetable alkaloids and their salts and oil of bitter almond containing hydrocyanic acid.

Schedule B. Aconite, belladonna, cantharides, colchicum, conium cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of savin, oil of tansy, veratrum viride and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloroform, creosote, croton oil, white precipitate, methyl or wood alcohol, mineral acids, oxalic acid, paris green, salts of lead, salts of zinc, or any drug, chemical or preparation which is liable to be destructive to adult human life in quantities of sixty grains or less.

2. It shall be unlawful for any person to sell at retail or to furnish any of the poisons of schedules A and B without affixing or causing to be affixed to the bottle, box, vessel or package, a label with the name of the article and the word "poison" distinctly shown and with the name and place of business of the seller all printed in red ink together with the name of such poisons printed or written thereupon in plain, legible characters.

3. Manufacturers and wholesale dealers in drugs, medicines, pharmaceutical preparations, chemicals or poisons shall affix or cause to be affixed to every bottle, box, parcel or outer inclosure of any

original package containing any of the articles of schedule A a suitable label or brand in red ink with the word "poison" upon it.

4. Every person who disposes of or sells at retail or furnishes any poisons included in schedule A shall before delivering the same enter in a book kept for that purpose the date of sale, the name and address of the purchaser, the name and the quantity of the poison, the purpose for which it is purchased and the name of the dispenser. The poison register must be always open for inspection by the proper authorities and must be preserved for at least five years after the last entry. Such person shall not deliver any of the poisons of schedule A or schedule B until he has satisfied himself that the purchaser is aware of its poisonous character and that the poison is to be used for a legitimate purpose. The provisions of this paragraph do not apply to the dispensing of drugs or poisons on a doctor's prescription.

5. The board may add to or may delete from any of the schedules from time to time as such action becomes necessary for the protection of the public.

§ 6822. Examinations and investigations. The secretary is authorized to conduct examinations and investigations for the purposes of this article through officers and employees of the United States, or through any health, food, or drug officer or employee of any city, county or other political subdivision of this state, duly commissioned by the secretary as an officer of the board.

§ 6823. Factory inspection. For purposes of enforcement of this article, officers duly designated by the secretary are authorized:

(1) to enter, at reasonable times, any factory, warehouse or establishment in which drugs, devices or cosmetics are manufactured, processed, packed, or held, for introduction into commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such drugs, devices or cosmetics in commerce; and

(2) to inspect, at reasonable times, such factory, warehouse,

establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein.

§ 6824. Injunction proceedings. In addition to the remedies hereinafter provided, the secretary is hereby authorized to apply to the court of the proper venue for an injunction to restrain any person from (a) introducing or causing to be introduced into commerce any adulterated or misbranded drug, device or cosmetic; or (b) from introducing or causing to be introduced in commerce any new drug which does not comply with the provisions of this article; or (c) from disseminating or causing to be disseminated a false advertisement, without being compelled to allege or prove that an adequate remedy at law does not exist.

§ 6825. Proof required in prosecution for certain violations. 1. In an action or proceeding, civil or criminal, against a person for violating such provisions of this article which relate to the possession of, compounding, retailing or dispensing of misbranded, substituted or imitated drugs, poisons or cosmetics, when it shall be necessary that an analysis be made for the purpose of establishing the quality of such drug, poison or cosmetic so as to determine the fact of misbranding, substituting or imitating, then it shall be required to prove at the trial or hearing of such action or proceeding, that the person, taking the same for analysis separated it into two representative parts, hermetically or otherwise effectively and completely sealed, delivered one such sealed part to the seller, manufacturer, wholesaler, pharmacist, or druggist from whose premises such sample was taken and delivered the other part so sealed to the chemist designated by the state board of pharmacy; and the facts herein required to be proven shall be alleged in the complaint or information by which such action or proceeding was begun. The rules of the board shall be proven prima facie by the certificate of the secretary.

2. Any person accused of violation of any of the provisions of this article relating to adulterating, misbranding, substitution or imitation

shall not be prosecuted or convicted or suffer any of the penalties, fines or forfeitures for such violation, if he establishes upon the hearing or trial that the drug, device or cosmetic alleged to be adulterated, misbranded, substituted or imitated was purchased by him under a written guaranty of the manufacturer or seller to the effect that said drug, device or cosmetic was not adulterated or misbranded, within the meaning of this article and proves that he has not adulterated, misbranded, substituted or imitated the same, provided the seller has taken due precaution to maintain the standard set for the drug, device or cosmetic. A guaranty, in order to be a defense to a prosecution or to prevent conviction or to afford protection, must state that the drug, device or cosmetic to which it refers is not adulterated, misbranded, substituted or imitated within the meaning of the provisions of this article and must state also the full name and place of business of the manufacturer, wholesaler, jobber or other person from whom the drug, device or cosmetic was purchased, and the date of purchase. The act, omission or failure of any officer, agent or other employee acting for or employed by any person within the scope of his authority or employment shall in every case be the act, omission or failure of such person as well as that of the officer, agent or other employee, and such person shall be equally liable for violations of this article by a partnership, association or corporation, and every member of the partnership or association and the directors and general officers of the corporation and the general manager of the partnership, association or corporation shall be individually liable and any action, prosecution or proceeding authorized by this article may be brought against any or all of such persons. When any prosecution under this article is made on the complaint of the board, any fines collected shall be paid into the state treasury as provided by this article.

3. No publisher, radio-broadcast licensee, advertising agency, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be subject to the penalties provided by this article by reason of the dissemination by him of any false advertisement, unless he has refused, on the request of the secretary, to furnish the secretary the name and post-office address of

the manufacturer, packer, distributor, seller or advertising agency, who caused him to disseminate such advertisement.

§ 6826. Drug retail price lists. 1. Every pharmacy shall compile a drug retail price list, which shall contain the names of the drugs on the list provided by the board, the pharmacy's corresponding retail prices for each drug. Every pharmacy shall update its drug retail list at least weekly and provide the time and date that the list was updated. Every pharmacy shall provide the drug retail price list to any person upon request.

2. a. The list provided by the board shall be prepared at least annually by the board and distributed to each pharmacy in the state. The list shall be a compendium of the one hundred fifty most frequently prescribed drugs together with their usual dosages for which a prescription is required by the provisions of the "Federal Food, Drug, and Cosmetic Act" (21 U.S.C. 301, et seq.; 52 Stat. 1040, et seq.), as amended, or by the commissioner of health. The board shall make the compendium list available to each pharmacy free of charge, both in printed form and in an electronic form that can be used to produce the pharmacy's drug retail list. The board shall provide the compendium list to the department of health.

b. The drug retail price list shall contain an advisory statement by the department alerting consumers to the need to tell their health care practitioner and pharmacist about all the medications they may be taking and to ask them how to avoid harmful interactions between drugs, if any. A pharmacy may include on its drug retail price list a statement: (a) concerning discounts from its listed retail prices that may be available to consumers and (b) any limitations that the pharmacy may have as to what group or groups of customers it serves.

3. The pharmacy's corresponding retail price means the actual price to be paid by a retail purchaser to the pharmacy for any listed drug at the listed dosage. However, upon implementation of the prescription drug retail price list database by the department of health under section two

hundred seventy-six-a of the public health law, the pharmacy's corresponding retail price shall mean the price sent to it by the department of health under that section.

4. Pharmacies shall have a sign notifying people of the availability of the drug retail price list and the availability of the department of health prescription drug retail price list database and the web address of that database, conspicuously posted at or adjacent to the place in the pharmacy where prescriptions are presented for compounding and dispensing, in the waiting area for customers, or in the area where prescribed drugs are delivered.

5. Nothing contained herein shall prevent a pharmacy from changing and charging the current retail price at any time, provided that the listed price is updated at least weekly to reflect the new retail price.

6. The commissioner shall make regulations necessary to implement this section, including how this section is applied to mail-order and internet pharmacies.

§ 6826-a. Reducing certain copayments. 1. Where an insured's copayment for a drug exceeds the corresponding retail price for the same drug on the pharmacy's drug retail price list, the pharmacist shall notify the insured of this occurrence and charge no greater than the pharmacy's corresponding retail price.

2. Where the drug being purchased is not on the drug retail price list, and the copayment for the drug exceeds the pharmacy's usual and customary price for that drug, the pharmacist shall notify the insured of this occurrence and charge the lesser of the insured's copayment and the pharmacy's usual and customary price for that drug.

§ 6827. Mandatory continuing education. 1. (a) Each licensed pharmacist required under article one hundred thirty of this chapter to register triennially with the department to practice in the state shall

comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Pharmacists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a pharmacist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed pharmacist not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of pharmacy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

* 2. During each triennial registration period an applicant for registration shall complete a minimum of forty-five hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than twenty-two hours of such continuing education shall consist of self-study courses. Any pharmacist participating in collaborative drug therapy management pursuant to section six thousand eight hundred one-a of this article shall complete at least five hours of acceptable formal continuing education in the area or areas of practice generally related to any collaborative drug therapy management protocols to which the pharmacist may be subject. Any pharmacist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first,

nineteen hundred ninety-seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

* NB Effective until July 1, 2030

* 2. During each triennial registration period an applicant for registration shall complete a minimum of forty-five hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than twenty-two hours of such continuing education shall consist of self-study courses. Any pharmacist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

* NB Effective July 1, 2030

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing

education and who practices pharmacy without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this chapter.

4. As used in subdivision two of this section, "acceptable formal continuing education" shall mean formal courses of learning which contribute to professional practice in pharmacy and which meet the standards prescribed by regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects. To fulfill this mandatory continuing education requirement, courses must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Pharmacists shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this chapter.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section sixty-eight hundred five of this article.

§ 6828. Certificates of administration. 1. No pharmacist shall administer immunizing agents without a certificate of administration issued by the department pursuant to regulations of the commissioner.

2. The fee for a certificate of administration shall be one hundred dollars and shall be paid on a triennial basis. A certificate may be suspended or revoked in the same manner as a license to practice pharmacy.

§ 6829. Interpretation and translation requirements for prescription drugs and standardized medication labeling. 1. For the purposes of this section, the following terms shall have the following meanings: (a) "Covered pharmacy" means any pharmacy that is part of a group of eight or more pharmacies, located within New York state and owned by the same corporate entity. For purposes of this section, "corporate entity" shall include related subsidiaries, affiliates, successors, or assignees doing business as or operating under a common name or trading symbol.

(b) "Limited English proficient individual" or "LEP individual" means an individual who identifies as being, or is evidently, unable to speak, read or write English at a level that permits such individual to understand health-related and pharmaceutical information communicated in English.

(c) "Translation" shall mean the conversion of a written text from one language into an equivalent written text in another language by an individual competent to do so and utilizing all necessary pharmaceutical and health-related terminology. Such translation may occur, where appropriate, in a separate document provided to an LEP individual that accompanies his or her medication.

(d) "Competent oral interpretation" means oral communication in which a person acting as an interpreter comprehends a message and re-expresses that message accurately in another language, utilizing all necessary pharmaceutical and health-related terminology, so as to enable an LEP individual to receive all necessary information in the LEP individual's preferred pharmacy primary language.

(e) "Pharmacy primary languages" shall mean those languages spoken by one percent or more of the population, as determined by the U.S. Census, for each region, as established by regulations promulgated pursuant to this section, provided, however, that the regulations shall not require translation or competent oral interpretation of more than seven languages in any region.

(f) "Mail order pharmacy" shall mean a pharmacy that dispenses most of its prescriptions through the United States postal service or other delivery system.

2. (a) Every covered pharmacy shall provide free, competent oral

interpretation services and translation services to each LEP individual requesting such services or filling a prescription that indicates that the individual is limited English proficient at such covered pharmacy in the LEP individual's preferred pharmacy primary language for the purposes of counseling such individual about his or her prescription medications or when soliciting information necessary to maintain a patient medication profile, unless the LEP individual is offered and refuses such services.

(b) Every covered pharmacy shall provide free, competent oral interpretation services and translation services of prescription medication labels, warning labels and other written material to each LEP individual filling a prescription at such covered pharmacy, unless the LEP individual is offered and refuses such services or the medication label, warning labels and other written materials have already been translated into the language spoken by the LEP individual.

(c) The services required by this section may be provided by a staff member of the pharmacy or a third-party contractor. Such services must be provided on an immediate basis but need not be provided in-person or face-to-face in order to meet the requirements of this section.

3. Every covered pharmacy shall conspicuously post, at or adjacent to each counter over which prescription drugs are sold, a notification of the right to free, competent oral interpretation services and translation services for limited English proficient individuals as provided for in subdivision two of this section. Such notifications shall be provided in the pharmacy primary languages. The size, style and placement of such notice shall be determined in accordance with rules promulgated pursuant to this section.

4. The commissioner, in consultation with the commissioner of health, shall promulgate regulations requiring that mail order pharmacies conducting business in the state provide free, competent oral interpretation services and translation services to persons filling a prescription through such mail order pharmacies whom are identified as LEP individuals. Such regulations shall take effect one year after the effective date of this section; provided, however, that they shall be promulgated pursuant to the requirements of the state administrative

procedure act, address the concerns of affected stakeholders, and reflect the findings of a thorough analysis of issues including:

(a) how persons shall be identified as an LEP individual, in light of the manner by which prescriptions are currently received by such mail order pharmacies;

(b) which languages shall be considered;

(c) the manner and circumstances in which competent oral interpretation services and translation services shall be provided;

(d) the information for which competent oral interpretation services and translation services shall be provided;

(e) anticipated utilization, available resources, and cost considerations; and

(f) standards for monitoring compliance with regulations and ensuring the delivery of quality competent oral interpretation services and translation services.

The commissioner, in consultation with the commissioner of health, shall provide a report on implementation, utilization, unanticipated problems, and corrective actions undertaken and planned to the temporary president of the senate and the speaker of the assembly no later than two years after the effective date of this section.

5. Covered pharmacies shall not be liable for injuries resulting from the actions of third-party contractors taken pursuant to and within the scope of the contract with the covered pharmacy as long as the covered pharmacy entered into such contract reasonably and in good faith to comply with this section, and was not negligent with regard to the alleged misconduct of the third-party contractor.

6. The regulations promulgated pursuant to this section shall establish a process by which covered pharmacies may apply and receive a waiver from compliance with subdivisions two and three of this section upon a showing that implementation would be unnecessarily burdensome when compared to the need for such services.

7. The commissioner shall promulgate regulations in consultation with the commissioner of health to effectuate the requirements of this

section.

§ 6830. Standardized patient-centered data elements. 1. The commissioner shall develop rules and regulations requiring standardized patient-centered data elements consistent with existing technology and equipment to be used on all prescription medicine dispensed to patients in this state.

2. When developing the requirements for patient-centered data elements on prescription drug labels, the commissioner shall consider:

(a) medical literacy research that identifies factors that improve understandability of labels and promotes increased compliance with a drug's intended use;

(b) factors that improve the clarity of directions for use;

(c) font types and sizes;

(d) inclusion of only patient-centered information; and

(e) the needs of special populations.

To ensure public input, the commissioner shall solicit input from the state board of pharmacy and the state board of medicine, consumer groups, advocates for special populations, pharmacists, physicians, other health care professionals authorized to prescribe, and other interested parties.

§ 6831. Special provisions relating to outsourcing facilities. 1. Registration. Any outsourcing facility that is engaged in the compounding of sterile drugs in this state shall be registered as an outsourcing facility under the Federal Food, Drug and Cosmetic Act and be registered as an outsourcing facility pursuant to this article.

2. New drugs. Sections 502(f)(1), 505 and 582 of the Federal Food, Drug and Cosmetic Act shall not apply to a drug compounded in an outsourcing facility registered under the Federal Food, Drug and Cosmetic Act.

3. Prescriptions. Notwithstanding any other provision of law to the

contrary, no outsourcing facility may distribute or dispense any drug to any person pursuant to a prescription unless it is also registered as a pharmacy in this state and meets all other applicable requirements of federal and state law.

4. Restrictions. Any drugs compounded in an outsourcing facility registered pursuant to this article shall be compounded in accordance with all applicable federal and state laws.

5. Labeling. Notwithstanding any other provision of law to the contrary, the label of any drug compounded by an outsourcing facility shall include, but not be limited to the following:

(a) a statement that the drug is a compounded drug or a reasonable comparable alternative statement that prominently identifies the drug as a compounded drug;

(b) the name, address, and phone number of the applicable outsourcing facility; and

(c) with respect to the drug:

(i) the lot or batch number;

(ii) the established name of the drug;

(iii) the dosage form and strength;

(iv) the statement of quantity or volume, as appropriate;

(v) the date that the drug was compounded;

(vi) the expiration date;

(vii) storage and handling instructions;

(viii) the National Drug Code number, if available;

(ix) the statement that the drug is not for resale, and the statement "Office Use Only"; and

(x) a list of the active and inactive ingredients, identified by established name, and the quantity or proportion of each ingredient.

6. Container. The container from which the individual units of the drug are removed for dispensing or for administration (such as a plastic bag containing individual product syringes) shall include:

(a) a list of active and inactive ingredients, identified by established name, and the quantity or proportion of each ingredient; and

(b) any other information required by regulations promulgated by the

commissioner to facilitate adverse event reporting in accordance with the requirements established in section 310.305 of title 21 of the code of federal regulations.

7. Bulk drugs. A drug may only be compounded in an outsourcing facility that does not compound using bulk drug substances as defined in section 207.3(a)(4) of title 21 of the code of federal regulations or any successor regulation unless:

(a) the bulk drug substance appears on a list established by the secretary of health and human services identifying bulk drug substances for which there is a clinical need;

(b) the drug is compounded from a bulk drug substance that appears on the federal drug shortage list in effect at the time of compounding, distributing, and dispensing;

(c) if an applicable monograph exists under the United States Pharmacopeia, the national formulary, or another compendium or pharmacopeia recognized by the secretary of health and human services and the bulk drug substances each comply with the monograph;

(d) the bulk drug substances are each manufactured by an establishment that is registered with the federal government.

8. Ingredients. If an outsourcing facility uses ingredients, other than bulk drug substances, such ingredients must comply with the standards of the applicable United States pharmacopeia or national formulary monograph, if such monograph exists, or of another compendium or pharmacopeia recognized by the secretary of health and human services for purposes of this subdivision, if any.

9. Unsafe or ineffective drugs. No outsourcing facility may compound a drug that appears on a list published by the secretary of health and human services that has been withdrawn or removed from the market because such drugs or components of such drugs have been found to be unsafe or not effective.

10. Prohibition on wholesaling. No compounded drug will be sold or transferred by any entity other than the outsourcing facility that compounded such drug. This does not prohibit the administration of a

drug in a health care setting or dispensing a drug pursuant to a properly executed prescription.

11. Prohibition against copying an approved drug. No outsourcing facility may compound a drug that is essentially a copy of one or more approved drugs.

12. Prohibition against compounding drugs presenting demonstrable difficulties. No outsourcing facility may compound a drug:

i. that is identified, directly or as part of a category of drugs, on a list published by the secretary of health and human services that present demonstrable difficulties for compounding that are reasonably likely to lead to an adverse effect on the safety or effectiveness of the drug or category of drugs, taking into account the risks and benefits to patients; or

ii. that is compounded in accordance with all applicable conditions identified on the drug list as conditions that are necessary to prevent the drug or category of drugs from presenting demonstrable difficulties.

13. Adverse event reports. Outsourcing facilities shall submit a copy of all adverse event reports submitted to the secretary of health and human services in accordance with the content and format requirements established in section 310.305 of title 21 of the code of federal regulations, or any successor regulation, to the executive secretary for the state board of pharmacy.

14. Reports. The commissioner, in consultation with the commissioner of health, shall prepare and submit a report to the governor and the legislature, due eighteen months from the effective date of this section, evaluating the effectiveness of the registration and oversight of outsourcing facilities related to compounding.

§ 6832. Limitations on assistance of an unlicensed person. 1. Subject to the limitations set forth in subdivision two of this section, an

unlicensed person may assist a licensed pharmacist in the dispensing of drugs by:

(a) receiving written or electronically transmitted prescriptions, except that in the case of electronically transmitted prescriptions the licensed pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the licensed pharmacist or pharmacy intern shall enter his or her initials into the records of the pharmacy;

(b) typing prescription labels;

(c) keying prescription data for entry into a computer-generated file or retrieving prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a licensed pharmacist prior to the dispensing of the prescription, meaning that the licensed pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the recordkeeping system prior to the dispensing of the prescription or of the prescription refill;

(d) getting drugs from stock and returning them to stock;

(e) getting prescription files and other manual records from storage and locating prescriptions;

(f) counting dosage units of drugs;

(g) placing dosage units of drugs in appropriate containers;

(h) affixing the prescription label to the containers;

(i) preparing manual records of dispensing for the signature or initials of the licensed pharmacist;

(j) handing or delivering completed prescriptions to the patient or the person authorized to act on behalf of the patient and, in accordance with the relevant commissioner's regulations, advising the patient or person authorized to act on behalf of the patient of the availability of counseling to be conducted by the licensed pharmacist or pharmacy intern; and

(k) performing other functions as defined by the commissioner's regulations.

2. Except for a licensed pharmacist employed by a facility licensed in

accordance with article twenty-eight of the public health law or a pharmacy owned and operated by such a facility, as defined in article one hundred thirty-seven-A of this title, no licensed pharmacist shall obtain the assistance of more than four unlicensed persons, in the performance of the activities that do not require licensure, the total of such persons shall not exceed four individuals at any one time. Pharmacy interns shall be exempt from such ratios, but shall be supervised in accordance with the commissioner's regulations. Individuals who are responsible for the act of placing drugs which are in unit-dose packaging into medication carts as part of an approved unit-dose drug distribution system for patients in institutional settings shall be exempt from such ratio, provided that such individuals are not also engaged in performing the activities set forth in paragraph (b), (c), (d), (e), (f), (g), (h) or (i) of subdivision one of this section. The licensed pharmacist shall provide the degree of supervision of such persons as may be appropriate to ensure compliance with the relevant provisions of regulations of the commissioner.

ARTICLE 137-A
REGISTERED PHARMACY TECHNICIANS

Section 6840. Introduction.
6841. Definition of the practice of registered pharmacy technician.
6842. Definitions.
6843. Practice of registered pharmacy technician and use of the title "registered pharmacy technician".
6844. Requirements for licensure as a registered pharmacy technician.

§ 6840. Introduction. This article applies to the profession of registered pharmacy technician. The general provisions for all professions contained in article one hundred thirty of this title shall apply to this article.

§ 6841. Definition of the practice of registered pharmacy technician. 1. A registered pharmacy technician may, under the direct personal supervision of a licensed pharmacist, assist such licensed pharmacist, as directed, in compounding, preparing, labeling, or dispensing of drugs used to fill valid prescriptions or medication orders or in compounding, preparing, and labeling in anticipation of a valid prescription or medication order for a patient to be served by the pharmacy, in accordance with article one hundred thirty-seven of this title where such tasks require no professional judgment. Such professional judgment shall only be exercised by a licensed pharmacist. A registered pharmacy technician may only practice under the direct personal supervision of a licensed pharmacist employed in such a pharmacy. Such pharmacy shall be responsible for ensuring that the registered pharmacy technician has received appropriate training to ensure competence before beginning to assist a licensed pharmacist in compounding, preparing, labeling, or dispensing of drugs, in accordance with this article and article one hundred thirty-seven of this title. For the purposes of this article, direct personal supervision means supervision of procedures based on instructions given directly by a supervising licensed pharmacist who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the registered pharmacy technicians and a supervising licensed pharmacist shall approve all work performed by the registered pharmacy technician prior to the actual dispensing of any drug.

2. In addition to the registered pharmacy technician services included in subdivision one of this section, registered pharmacy technicians may also assist a licensed pharmacist in the dispensing of drugs by performing the following functions that do not require a license under this article:

a. receiving written or electronically transmitted prescriptions, except that in the case of electronically transmitted prescriptions the licensed pharmacist or pharmacy intern shall review the prescription to determine whether in his or her professional judgment it shall be accepted by the pharmacy, and if accepted, the licensed pharmacist or pharmacy intern shall enter his or her initials into the records of the

pharmacy;

b. typing prescription labels;

c. keying prescription data for entry into a computer-generated file or retrieving prescription data from the file, provided that such computer-generated file shall provide for verification of all information needed to fill the prescription by a licensed pharmacist prior to the dispensing of the prescription, meaning that the licensed pharmacist shall review and approve such information and enter his or her initials or other personal identifier into the recordkeeping system prior to the dispensing of the prescription or of the prescription refill;

d. getting drugs from stock and returning them to stock;

e. getting prescription files and other manual records from storage and locating prescriptions;

f. counting dosage units of drugs;

g. placing dosage units of drugs in appropriate containers;

h. affixing the prescription label to the containers;

i. preparing manual records of dispensing for the signature or initials of the licensed pharmacist;

j. handing or delivering completed prescriptions to the patient or the person authorized to act on behalf of the patient and, in accordance with the relevant commissioner's regulations, advising the patient or person authorized to act on behalf of the patient of the availability of counseling to be conducted by the licensed pharmacist or pharmacy intern; or

k. performing other functions as defined by the commissioner's regulations.

3. Under the direct personal supervision of a licensed pharmacist, unlicensed persons who are not registered pharmacy technicians may assist licensed pharmacists in performing tasks that do not require licensure in accordance with regulations promulgated by the commissioner and are also described in subdivision two of this section. Unlicensed persons who are not registered pharmacy technicians shall not engage in or assist in compounding.

4. No licensed pharmacist shall obtain the assistance of more than two registered pharmacy technicians in the performance of licensed tasks within their scope of practice or four unlicensed persons, in the performance of the activities that do not require licensure, the total of such persons shall not exceed four individuals at any one time. Pharmacy interns shall be exempt from such ratios, but shall be supervised in accordance with commissioner's regulations. Individuals who are responsible for the act of placing drugs which are in unit-dose packaging into medication carts as part of an approved unit-dose drug distribution system for patients in institutional settings shall be exempt from such ratio, provided that such individuals are not also engaged in performing the activities set forth in subdivision one or paragraph b, c, d, e, f, g, h, or i of subdivision two of this section. The licensed pharmacist shall provide the degree of supervision of such persons as may be appropriate to ensure compliance with the relevant provisions of regulations of the commissioner.

§ 6842. Definitions. As used in this article:

1. "Licensed pharmacist" means a person licensed to practice pharmacy pursuant to article one hundred thirty-seven of this title.

2. "Pharmacy intern" means a person practicing under a limited permit pursuant to section sixty-eight hundred six of this title.

3. "Professional judgment" means professional decision-making by a licensed pharmacist, including, but not limited to, such activities as:

a. interpreting a prescription or medication order for therapeutic acceptability and appropriateness or engaging in the calculations behind any such formulations;

b. interpreting and evaluating a prescription or medication order for conformance with legal requirements, authenticity, accuracy and interaction of the prescribed drug with other known prescribed and over-the-counter drugs;

c. receiving oral prescriptions from prescribers; or

d. counseling patients.

4. "Compounding" means the combining, admixing, mixing, diluting, pooling, reconstituting, or otherwise altering of a drug or bulk drug substance to create a drug.

5. "Drugs", "pharmacopeia", "labeling" and "sterile drug" shall have the same definitions as set forth in section sixty-eight hundred two of this title.

§ 6843. Practice of registered pharmacy technician and use of the title "registered pharmacy technician". Only a person licensed to practice as a registered pharmacy technician under this article or otherwise authorized shall practice as a registered pharmacy technician or use the title "registered pharmacy technician."

§ 6844. Requirements for licensure as a registered pharmacy technician. To qualify for licensure as a "registered pharmacy technician", an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including high school

graduation or its equivalent, as determined by the department;

3. Certification from a nationally accredited pharmacy technician certification program acceptable to the department;

4. Age: at the time of application be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fee: pay a fee determined by the department for initial license and for each triennial registration period.

ARTICLE 139

NURSING

Section 6900. Introduction.
6901. Definitions.
6902. Definition of practice of nursing.
6903. Practice of nursing and use of title "registered professional nurse" or "licensed practical nurse".
6904. State board for nursing.
6905. Requirements for a license as a registered professional nurse.
6906. Requirements for a license as a licensed practical nurse.
6907. Limited permits.
6908. Exempt persons.
6909. Special provision.
6910. Certificates for nurse practitioner practice.
6911. Certification as a clinical nurse specialist (CNS).
6912. Clinical education in New York state nursing education programs.

§ 6900. Introduction. This article applies to the profession of nursing. The general provisions for all professions contained in

article one hundred thirty of this title apply to this article.

§ 6901. Definitions. As used in section sixty-nine hundred two:

1. "Diagnosing" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen. Such diagnostic privilege is distinct from a medical diagnosis.

2. "Treating" means selection and performance of those therapeutic measures essential to the effective execution and management of the nursing regimen, and execution of any prescribed medical regimen.

3. "Human Responses" means those signs, symptoms and processes which denote the individual's interaction with an actual or potential health problem.

§ 6902. Definition of practice of nursing. 1. The practice of the profession of nursing as a registered professional nurse is defined as diagnosing and treating human responses to actual or potential health problems through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens prescribed by a licensed physician, dentist or other licensed health care provider legally authorized under this title and in accordance with the commissioner's regulations. A nursing regimen shall be consistent with and shall not vary any existing medical regimen.

2. The practice of nursing as a licensed practical nurse is defined as performing tasks and responsibilities within the framework of casefinding, health teaching, health counseling, the application of topical fluoride varnish, and provision of supportive and restorative care under the direction of a registered professional nurse or licensed physician, dentist or other licensed health care provider legally

authorized under this title and in accordance with the commissioner's regulations.

3. (a) (i) The practice of registered professional nursing by a nurse practitioner, certified under section six thousand nine hundred ten of this article, may include the diagnosis of illness and physical conditions and the performance of therapeutic and corrective measures within a specialty area of practice, in collaboration with a licensed physician qualified to collaborate in the specialty involved, provided such services are performed in accordance with a written practice agreement and written practice protocols except as permitted by paragraph (b) of this subdivision. The written practice agreement shall include explicit provisions for the resolution of any disagreement between the collaborating physician and the nurse practitioner regarding a matter of diagnosis or treatment that is within the scope of practice of both. To the extent the practice agreement does not so provide, then the collaborating physician's diagnosis or treatment shall prevail.

(ii) Prescriptions for drugs, devices and immunizing agents may be issued by a nurse practitioner, under this paragraph and section six thousand nine hundred ten of this article, in accordance with the practice agreement and practice protocols except as permitted by paragraph (b) of this subdivision. The nurse practitioner shall obtain a certificate from the department upon successfully completing a program including an appropriate pharmacology component, or its equivalent, as established by the commissioner's regulations, prior to prescribing under this paragraph. The certificate issued under section six thousand nine hundred ten of this article shall state whether the nurse practitioner has successfully completed such a program or equivalent and is authorized to prescribe under this paragraph.

(iii) Each practice agreement shall provide for patient records review by the collaborating physician in a timely fashion but in no event less often than every three months. The names of the nurse practitioner and the collaborating physician shall be clearly posted in the practice setting of the nurse practitioner.

* (iv) The practice protocol shall reflect current accepted medical and nursing practice and may be updated periodically. The commissioner shall make regulations establishing the procedure for the review of

protocols and the disposition of any issues arising from such review.

* NB Effective until July 1, 2030

* (iv) The practice protocol shall reflect current accepted medical and nursing practice. The protocols shall be filed with the department within ninety days of the commencement of the practice and may be updated periodically. The commissioner shall make regulations establishing the procedure for the review of protocols and the disposition of any issues arising from such review.

* NB Effective July 1, 2030

(v) No physician shall enter into practice agreements with more than four nurse practitioners who are not located on the same physical premises as the collaborating physician.

* (b) Notwithstanding subparagraph (i) of paragraph (a) of this subdivision, a nurse practitioner, certified under section sixty-nine hundred ten of this article and practicing for more than three thousand six hundred hours shall not be required to comply with the requirements of paragraph (a) of this subdivision relating to collaboration with a physician, a written practice agreement and written practice protocols.

* NB Effective until July 1, 2030

* (b) Notwithstanding subparagraph (i) of paragraph (a) of this subdivision, a nurse practitioner, certified under section sixty-nine hundred ten of this article and practicing for more than three thousand six hundred hours may comply with this paragraph in lieu of complying with the requirements of paragraph (a) of this subdivision relating to collaboration with a physician, a written practice agreement and written practice protocols. A nurse practitioner complying with this paragraph shall have collaborative relationships with one or more licensed physicians qualified to collaborate in the specialty involved or a hospital, licensed under article twenty-eight of the public health law, that provides services through licensed physicians qualified to collaborate in the specialty involved and having privileges at such institution. As evidence that the nurse practitioner maintains collaborative relationships, the nurse practitioner shall complete and maintain a form, created by the department, to which the nurse practitioner shall attest, that describes such collaborative relationships. For purposes of this paragraph, "collaborative relationships" shall mean that the nurse practitioner shall communicate,

whether in person, by telephone or through written (including electronic) means, with a licensed physician qualified to collaborate in the specialty involved or, in the case of a hospital, communicate with a licensed physician qualified to collaborate in the specialty involved and having privileges at such hospital, for the purposes of exchanging information, as needed, in order to provide comprehensive patient care and to make referrals as necessary. Such form shall also reflect the nurse practitioner's acknowledgement that if reasonable efforts to resolve any dispute that may arise with the collaborating physician or, in the case of a collaboration with a hospital, with a licensed physician qualified to collaborate in the specialty involved and having privileges at such hospital, about a patient's care are not successful, the recommendation of the physician shall prevail. Such form shall be updated as needed and may be subject to review by the department. The nurse practitioner shall maintain documentation that supports such collaborative relationships. Failure to comply with the requirements found in this paragraph by a nurse practitioner who is not complying with such provisions of paragraph (a) of this subdivision, shall be subject to professional misconduct provisions as set forth in article one hundred thirty of this title.

* NB Effective July 1, 2030

(c) Nothing in this subdivision shall be deemed to limit or diminish the practice of the profession of nursing as a registered professional nurse under this article or any other law, rule, regulation or certification, nor to deny any registered professional nurse the right to do any act or engage in any practice authorized by this article or any other law, rule, regulation or certification.

(d) The provisions of this subdivision shall not apply to any activity authorized, pursuant to statute, rule or regulation, to be performed by a registered professional nurse in a hospital as defined in article twenty-eight of the public health law.

§ 6903. Practice of nursing and use of title "registered professional nurse" or "licensed practical nurse". Only a person licensed or otherwise authorized under this article shall practice nursing and only a person licensed under section sixty-nine hundred five of this article

shall use the title "registered professional nurse" and only a person licensed under section sixty-nine hundred six of this article shall use the title "licensed practical nurse". No person shall use the title "nurse" or any other title or abbreviation that would represent to the public that the person is authorized to practice nursing unless the person is licensed or otherwise authorized under this article.

§ 6904. State board for nursing. A state board for nursing shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than fifteen members, eleven of whom shall be registered professional nurses and four of whom shall be licensed practical nurses all licensed and practicing in this state for at least five years. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a registered professional nurse registered in this state.

§ 6905. Requirements for a license as a registered professional nurse. To qualify for a license as a registered professional nurse, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, and a diploma or degree in professional nursing, in accordance with the commissioner's regulations, and in order to continue to maintain registration as a registered professional nurse in New York state, have attained a baccalaureate degree or higher in nursing within ten years of initial licensure in accordance with the commissioner's regulations. The department, in its discretion, may issue a conditional registration to a licensee who fails to complete the baccalaureate degree but who agrees to meet the additional requirement within one year. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be for one year and may be extended, with the payment of a fee,

for no more than one additional year, unless the applicant can show good cause for non-compliance acceptable to the department. The department, in its discretion, may issue a temporary educational exemption to a licensee who is unable to complete the baccalaureate degree due to a lack of access to educational programs. Licensees seeking a temporary educational exemption shall provide evidence of applying on at least two occasions to a baccalaureate degree program or programs and subsequently being denied access to such program or programs on at least two occasions due to there being a limited number of seats. Such denials shall also be corroborated by the higher education institution or institutions that the licensee applied to. Temporary educational exemptions issued pursuant to this subdivision shall be for a single two year period. Licensees shall only be eligible for either a conditional registration or a temporary educational exemption. The fee for such a temporary educational exemption shall be the same as, and in addition to, the fee for the triennial registration. Any licensee who is notified of the denial of a registration for failure to complete the additional educational requirements and who practices as a registered professional nurse without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title;

(3) Experience: meet no requirement as to experience;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least eighteen years of age;

(6) Citizenship: meet no requirement as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

§ 6906. Requirements for a license as a licensed practical nurse. To qualify for a license as a licensed practical nurse, an applicant shall

fulfill these requirements:

(1) Application: file an application with the department;

(2) Education: have received an education including completion of high school or its equivalent, and have completed a program in practical nursing, in accordance with the commissioner's regulations, or completion of equivalent study satisfactory to the department in a program conducted by the armed forces of the United States or in an approved program in professional nursing;

(3) Experience: meet no requirement as to experience;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations, provided, however, that the educational requirements set forth in subdivision two of this section are met prior to admission for the licensing examination;

(5) Age: be at least seventeen years of age;

(6) Citizenship: meet no requirements as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

* (9) In conjunction with and as a condition of each triennial registration, the department shall ask and a licensed practical nurse shall indicate whether the licensed practical nurse is or has previously been authorized as an advanced home health aide pursuant to subdivision two of section sixty-nine hundred eight of this article. The department shall provide responses to the department of health and the department of health shall include such information in reports related to advanced home health aides.

* NB Repealed March 31, 2029

§ 6907. Limited permits. 1. A permit to practice as a registered professional nurse or a permit to practice as a licensed practical nurse may be issued by the department upon the filing of an application for a

license as a registered professional nurse or as a licensed practical nurse and submission of such other information as the department may require to (i) graduates of schools of nursing registered by the department, (ii) graduates of schools of nursing approved in another state, province, or country or (iii) applicants for a license in practical nursing whose preparation is determined by the department to be the equivalent of that required in this state.

2. Such limited permit shall expire one year from the date of issuance or upon notice to the applicant by the department that the application for license has been denied, or ten days after notification to the applicant of failure on the professional licensing examination, whichever shall first occur. Notwithstanding the foregoing provisions of this subdivision, if the applicant is waiting the result of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the applicant of the results of such examination.

3. A limited permit shall entitle the holder to practice nursing only under the supervision of a nurse currently registered in this state and with the endorsement of the employing agency.

4. Fees. The fee for each limited permit shall be thirty-five dollars.

5. Graduates of schools of nursing registered by the department may be employed to practice nursing under supervision of a professional nurse currently registered in this state and with the endorsement of the employing agency for ninety days immediately following graduation from a program in nursing and pending receipt of a limited permit for which an application has been filed as provided in this section.

§ 6908. Exempt persons. 1. This article shall not be construed:

a. As prohibiting (i) the domestic care of the sick, disabled or injured by any family member, household member or friend, or person employed primarily in a domestic capacity who does not hold himself or

herself out, or accept employment as a person licensed to practice nursing under the provision of this article; provided that if such person is remunerated, the person does not hold himself or herself out as one who accepts employment for performing such care; or the administration of medications or treatment by child day care providers or employees or caregivers of child day care programs where such providers, employees or caregivers are acting under the direction and authority of a parent of a child, legal guardian, legal custodian, or an adult in whose care a child has been entrusted and who has been authorized by the parent to consent to any health care for the child and in compliance with the regulations of the office of children and family services pertaining to the administration of medications and treatment; or

(ii) any person from the domestic administration of family remedies; or

(iii) the providing of care by a person acting in the place of a person exempt under clause (i) of this paragraph, but who does hold himself or herself out as one who accepts employment for performing such care, where nursing services are under the instruction of a licensed nurse, or under the instruction of a patient or family or household member determined by a registered professional nurse to be self-directing and capable of providing such instruction, and services are provided under section three hundred sixty-five-f of the social services law; or

(iv) the furnishing of nursing assistance in case of an emergency; or

(v) tasks provided by a direct support staff in programs certified or approved by the office for people with developmental disabilities, when performed under the supervision of a registered professional nurse and pursuant to a memorandum of understanding between the office for people with developmental disabilities and the department, in accordance with and pursuant to an authorized practitioner's ordered care, provided that: (1) a registered professional nurse determines, in his or her professional judgment, which tasks are to be performed based upon the complexity of the tasks, the skill and experience of the direct support staff, and the health status of the individual being cared for; (2) only a direct support staff who has completed training as required by the commissioner of the office for people with developmental disabilities

may perform tasks pursuant to this subparagraph; (3) appropriate protocols shall be established to ensure safe administration of medications; (4) a direct support staff shall not assess the medication needs of an individual; (5) adequate nursing supervision is provided, including training and periodic inspection of performance of the tasks. The amount and type of nursing supervision shall be determined by the registered professional nurse responsible for supervising such task based upon the complexity of the tasks, the skill and experience of the direct support staff, and the health status of the individual being cared for; (6) a direct support staff shall not be authorized to perform any tasks or activities pursuant to this subparagraph that are outside the scope of practice of a licensed practical nurse; (7) a direct support staff shall not represent himself or herself, or accept employment, as a person licensed to practice nursing under the provisions of this article; (8) direct support staff providing medication administration, tube feeding, or diabetic care shall be separately certified, and shall be recertified on an annual basis; (9) the registered professional nurse shall ensure that there is a consumer specific medication sheet for each medication that is administered; and (10) appropriate staffing ratios shall be determined by the office for people with developmental disabilities and the department to ensure adequate nursing supervision. No direct support staff shall perform tasks under this subparagraph until the office for people with developmental disabilities and the department have entered into a memorandum of understanding to effectuate the provisions of this subparagraph. The office for people with developmental disabilities shall complete a criminal background check pursuant to section 16.33 of the mental hygiene law and an agency background check pursuant to section 16.34 of the mental hygiene law on the direct support staff prior to the commencement of any provision of service provided under this subparagraph if such direct support staff is a new hire. Individuals providing supervision or direct support tasks pursuant to this subparagraph shall have protection pursuant to sections seven hundred forty and seven hundred forty-one of the labor law, where applicable;

b. As including services given by attendants in institutions under the

jurisdiction of or subject to the visitation of the state department of mental hygiene if adequate medical and nursing supervision is provided;

c. As prohibiting such performance of nursing service by students enrolled in registered schools or programs as may be incidental to their course of study;

d. As prohibiting or preventing the practice of nursing in this state by any legally qualified nurse or practical nurse of another state, province, or country whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of such engagement provided such person does not represent or hold himself or herself out as a nurse or practical nurse registered to practice in this state;

e. As prohibiting or preventing the practice of nursing in this state during an emergency or disaster by any legally qualified nurse or practical nurse of another state, province, or country who may be recruited by the American National Red Cross or pursuant to authority vested in the state civil defense commission for such emergency or disaster service, provided such person does not represent or hold himself or herself out as a nurse or practical nurse registered to practice in this state;

f. As prohibiting or preventing the practice of nursing in this state, in obedience to the requirements of the laws of the United States, by any commissioned nurse officer in the armed forces of the United States or by any nurse employed in the United States veterans administration or United States public health service while engaged in the performance of the actual duties prescribed for him or her under the United States statutes, provided such person does not represent or hold himself or herself out as a nurse registered to practice in this state; or

g. As prohibiting the care of the sick when done in connection with the practice of the religious tenets of any church.

h. As prohibiting the provision of psychotherapy as defined in

subdivision two of section eighty-four hundred one of this title to the extent permissible within the scope of practice of nursing as defined in this title, by any not-for-profit corporation or education corporation providing services within the state and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering such psychotherapy services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

* 2. This article shall not be construed as prohibiting advanced tasks provided by an advanced home health aide in accordance with regulations developed by the commissioner, in consultation with the commissioner of health. At a minimum, such regulations shall:

a. specify the advanced tasks that may be performed by advanced home health aides pursuant to this subdivision. Such tasks shall include the administration of medications which are routine and prefilled or otherwise packaged in a manner that promotes relative ease of administration, provided that administration of medications by injection, sterile procedures, and central line maintenance shall be prohibited. Provided, however, such prohibition shall not apply to injections of insulin or other injections for diabetes care, to injections of low molecular weight heparin, and to pre-filled auto-injections of naloxone and epinephrine for emergency purposes, and provided, further, that entities employing advanced home health aides pursuant to this subdivision shall establish a systematic approach to address drug diversion;

b. provide that advanced tasks performed by advanced home health aides may be performed only under the direct supervision of a registered professional nurse licensed in New York state, as set forth in this subdivision and subdivision eight of section sixty-nine hundred nine of this article, where such nurse is employed by a home care services agency licensed or certified pursuant to article thirty-six of the public health law, a hospice program certified pursuant to article forty of the public health law, or an enhanced assisted living residence licensed pursuant to article seven of the social services law and

certified pursuant to article forty-six-B of the public health law. Such nursing supervision shall:

(i) include training and periodic assessment of the performance of advanced tasks;

(ii) be determined by the registered professional nurse responsible for supervising such advanced tasks based upon the complexity of such advanced tasks, the skill and experience of the advanced home health aide, and the health status of the individual for whom such advanced tasks are being performed;

(iii) include a comprehensive initial and thereafter regular and ongoing assessment of the individual's needs;

(iv) include as a requirement that the supervising registered professional nurse shall visit individuals receiving services for the purpose of supervising the services provided by advanced home health aides no less than once every two weeks and include as a requirement that a registered professional nurse shall be available by telephone to the advanced home health aide twenty-four hours a day, seven days a week, provided that a registered professional nurse shall be available to visit an individual receiving services as necessary to protect the health and safety of such individual; and

(v) as shall be specified by the commissioner, be provided in a manner that takes into account individual care needs, case mix complexity and geographic considerations and provide that the number of individuals served by a supervising registered professional nurse is reasonable and prudent.

c. establish a process by which a registered professional nurse may assign advanced tasks to an advanced home health aide. Such process shall include, but not be limited to:

(i) allowing assignment of advanced tasks to an advanced home health aide only where such advanced home health aide has demonstrated to the satisfaction of the supervising registered professional nurse competency in every advanced task that such advanced home health aide is authorized to perform, a willingness to perform such advanced tasks, and the ability to effectively and efficiently communicate with the individual receiving services and understand such individual's needs;

(ii) prohibiting assignment of advanced tasks to an advanced home

health aide if the individual receiving services declines to be served by an advanced home health aide;

(iii) authorizing the supervising registered professional nurse to revoke any assigned advanced task from an advanced home health aide for any reason; and

(iv) authorizing multiple registered professional nurses to jointly agree to assign advanced tasks to an advanced home health aide, provided further that only one registered professional nurse shall be required to determine if the advanced home health aide has demonstrated competency in the advanced task to be performed;

d. provide that advanced tasks may be performed only in accordance with and pursuant to an authorized health practitioner's ordered care;

e. provide that only a certified home health aide may perform advanced tasks as an advanced home health aide when such aide has:

(i) at least one year of experience providing either home health or personal care services, or a combination of the same;

(ii) completed the requisite training and demonstrated competencies of an advanced home health aide as determined by the commissioner in consultation with the commissioner of health;

(iii) successfully completed competency examinations satisfactory to the commissioner in consultation with the commissioner of health; and

(iv) meets other appropriate qualifications as determined by the commissioner in consultation with the commissioner of health;

f. provide that only an individual who is listed in the home care services registry maintained by the department of health pursuant to section thirty-six hundred thirteen of the public health law as having satisfied all applicable training requirements and having passed the applicable competency examinations and who meets other requirements as set forth in regulations issued by the commissioner of health pursuant to subdivision seventeen of section thirty-six hundred two of the public health law may perform advanced tasks pursuant to this subdivision and may hold himself or herself out as an advanced home health aide;

g. establish minimum standards of training for the performance of

advanced tasks by advanced home health aides, including didactic training, clinical training, and a supervised clinical practicum with standards set forth by the commissioner of health;

h. provide that advanced home health aides shall receive case-specific training on the advanced tasks to be assigned by the supervising nurse, provided that additional training shall take place whenever additional advanced tasks are assigned;

i. prohibit an advanced home health aide from holding himself or herself out, or accepting employment as, a person licensed to practice nursing under the provisions of this article;

j. provide that an advanced home health aide is not required nor permitted to assess the medication or medical needs of an individual;

k. provide that an advanced home health aide shall not be authorized to perform any advanced tasks or activities pursuant to this subdivision that are outside the scope of practice of a licensed practical nurse or any advanced tasks that have not been appropriately assigned by the supervising registered professional nurse;

l. provide that an advanced home health aide shall document all advanced tasks provided to an individual, including medication administration to each individual through the use of a medication administration record; and

m. provide that the supervising registered professional nurse shall retain the discretion to decide whether to assign advanced tasks to advanced home health aides under this program and shall not be subject to coercion, retaliation, or the threat of retaliation; in developing such regulations, the commissioner shall take into account the recommendations of a workgroup of stakeholders convened by the commissioner of health in consultation with the commissioner for the purpose of providing guidance on the foregoing.

* NB Repealed March 31, 2029

§ 6909. Special provision. 1. Notwithstanding any inconsistent provision of any general, special, or local law, any licensed registered professional nurse or licensed practical nurse who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such registered professional nurse or licensed practical nurse. Nothing in this subdivision shall be deemed or construed to relieve a licensed registered professional nurse or licensed practical nurse from liability for damages for injuries or death caused by an act or omission on the part of such nurse while rendering professional services in the normal and ordinary course of her practice.

2. Nothing in this article shall be construed to confer the authority to practice medicine or dentistry.

3. An applicant for a license as a registered professional nurse or licensed practical nurse by endorsement of a license of another state, province or country whose application was filed with the department under the laws in effect prior to August thirty-first, nineteen hundred seventy-one shall be licensed only upon successful completion of the appropriate licensing examination unless satisfactory evidence of the completion of all educational requirements is submitted to the department prior to September one, nineteen hundred seventy-seven.

4. A certified nurse practitioner may prescribe and order a non-patient specific regimen to a registered professional nurse, pursuant to regulations promulgated by the commissioner, consistent with subdivision three of section six thousand nine hundred two of this

article, and consistent with the public health law, for:

(a) administering immunizations.

(b) the emergency treatment of anaphylaxis.

(c) administering purified protein derivative (PPD) tests or other tests to detect or screen for tuberculosis infections.

(d) administering tests to determine the presence of the human immunodeficiency virus.

(e) administering tests to determine the presence of the hepatitis C virus.

(f) the urgent or emergency treatment of opioid related overdose or suspected opioid related overdose.

(g) screening of persons at increased risk for syphilis, gonorrhea and chlamydia.

* (h) administering tests to determine the presence of COVID-19 or its antibodies or influenza virus.

* NB Repealed July 1, 2030

(i) administering electrocardiogram tests to detect signs and symptoms of acute coronary syndrome.

(j) administering point-of-care blood glucose tests to evaluate acute mental status changes in persons with suspected hypoglycemia.

(k) administering tests and intravenous lines to persons that meet severe sepsis and septic shock criteria.

(l) administering tests to determine pregnancy.

5. A registered professional nurse may execute a non-patient specific regimen prescribed or ordered by a licensed physician or certified nurse practitioner, pursuant to regulations promulgated by the commissioner.

6. A registered professional nurse defined under subdivision one of section sixty-nine hundred two of this article may use accepted classifications of signs, symptoms, dysfunctions and disorders, including, but not limited to, classifications used in the practice setting for the purpose of providing mental health services.

7. A certified nurse practitioner may prescribe and order a patient specific order or non-patient specific regimen to a licensed pharmacist, pursuant to regulations promulgated by the commissioner, and consistent

with the public health law, for: (a) administering immunizations to prevent influenza and COVID-19 to patients two years of age or older; and (b) administering immunizations to prevent pneumococcal, acute herpes zoster, hepatitis A, hepatitis B, human papillomavirus, measles, mumps, rubella, varicella, meningococcal, tetanus, diphtheria or pertussis disease and medications required for emergency treatment of anaphylaxis to patients eighteen years of age or older; and (c) administering other immunizations for patients eighteen years of age or older if the commissioner of health in consultation with the commissioner determines that an immunization: (i) (A) may be safely administered by a licensed pharmacist within their lawful scope of practice; and (B) is needed to prevent the transmission of a reportable communicable disease that is prevalent in New York state; or (ii) is a recommended immunization for such patients who: (A) meet age requirements, (B) lack documentation of such immunization, (C) lack evidence of past infection, or (D) have an additional risk factor or another indication. Nothing in this subdivision shall authorize unlicensed persons to administer immunizations, vaccines or other drugs.

* 8. A registered professional nurse, while working for a home care services agency licensed or certified pursuant to article thirty-six of the public health law, a hospice program certified pursuant to article forty of the public health law, or an enhanced assisted living residence licensed pursuant to article seven of the social services law and certified pursuant to article forty-six-B of the public health law may, in accordance with this subdivision, assign advanced home health aides to perform advanced tasks for individuals pursuant to the provisions of subdivision two of section sixty-nine hundred eight of this article and supervise advanced home health aides who perform assigned advanced tasks.

(a) Prior to assigning or modifying an assignment to perform an advanced task, the registered professional nurse shall:

(i) complete a nursing assessment to ascertain the client's current health status and care needs; and

(ii) provide to the advanced home health aide written, individual-specific instructions for performing the advanced task and criteria for identifying, reporting and responding to problems or complications.

(b) The registered professional nurse shall not assign an advanced task unless:

(i) the advanced task to be assigned is consistent with an authorized health practitioner's ordered care;

(ii) the registered professional nurse provides case specific training to the advanced home health aide and personally verifies that the advanced home health aide can safely and competently perform the advanced task;

(iii) the registered professional nurse determines that the advanced home health aide is willing to perform such advanced task; and

(iv) the registered professional nurse determines that the advanced home health aide is able to effectively and efficiently communicate with the individual receiving services and understand such individual's needs.

(c) The supervising registered professional nurse shall:

(i) visit individuals receiving services for the purpose of supervising the services provided by advanced home health aides no less than once every two weeks; and

(ii) conduct regular and ongoing assessment of the individual's needs.

* NB Repealed March 31, 2029

* NB There are 2 sb 8's

* 8. A certified nurse practitioner may prescribe and order a patient specific order or non-patient specific order to a licensed pharmacist, pursuant to regulations promulgated by the commissioner in consultation with the commissioner of health, and consistent with the public health law, for dispensing up to a seven day starter pack of HIV post-exposure prophylaxis for the purpose of preventing human immunodeficiency virus infection following a potential human immunodeficiency virus exposure.

* NB There are 2 sb 8's

9. A registered professional nurse may execute a standing order for newborn care in a hospital established under section twenty-eight hundred three-v of the public health law, as provided in that section. The commissioner may make regulations relating to implementation of this subdivision.

10. A certified nurse practitioner may prescribe and order a

non-patient-specific regimen to a licensed pharmacist, for insulin and related supplies pursuant to section sixty-eight hundred one of this title.

11. A certified nurse practitioner may prescribe and order a non-patient specific order to a pharmacist licensed and located in the state, pursuant to regulations promulgated by the commissioner, and consistent with section sixty-eight hundred one of this title, for dispensing self-administered hormonal contraceptives as defined in section sixty-eight hundred two of this title.

§ 6910. Certificates for nurse practitioner practice. 1. For issuance of a certificate to practice as a nurse practitioner under subdivision three of section six thousand nine hundred two of this article, the applicant shall fulfill the following requirements:

(a) Application: file an application with the department;

(b) License: be licensed as a registered professional nurse in the state;

(c) Education: (i) have satisfactorily completed educational preparation for provision of these services in a program registered by the department or in a program determined by the department to be the equivalent; or

(ii) submit evidence of current certification by a national certifying body, recognized by the department; or

(iii) meet such alternative criteria as established by the commissioner's regulations;

(d) Fees: pay a fee to the department of fifty dollars for each initial certificate authorizing nurse practitioner practice in a specialty area and a triennial registration fee of thirty dollars. Registration under this section shall be coterminous with the nurse practitioner's registration as a professional nurse.

2. Only a person certified under this section shall use the title "nurse practitioner".

3. The provisions of this section shall not apply to any act or

practice authorized by any other law, rule, regulation or certification.

4. The provisions of this section shall not apply to any activity authorized, pursuant to statute, rule or regulation, to be performed by a registered professional nurse in a hospital as defined in article twenty-eight of the public health law.

5. The commissioner is authorized to promulgate regulations to implement the provisions of this section.

§ 6911. Certification as a clinical nurse specialist (CNS). 1. For issuance of a certificate to practice as a clinical nurse specialist under section six thousand nine hundred two of this article, the applicant shall fulfill the following requirements:

(a) file an application with the department;

(b) be licensed as a registered professional nurse in this state;

(c) (i) have satisfactorily completed an educational program registered by the department including a master's or doctoral degree, or a post-master's certificate from a program acceptable to the department which prepares graduates to practice as CNSs and which is accredited by a national nursing accredited body acceptable to the department, and (ii) meets all other requirements established by the department to practice as a clinical nurse specialist, or (iii) have received educational preparation determined by the department to be the substantial equivalent of subparagraphs (i) and (ii) of this paragraph; and

(d) pay a fee to the department of fifty dollars for each initial certificate authorizing clinical nurse specialist practice and a triennial registration fee of thirty dollars. Registration under this section shall be coterminous with the clinical nurse specialist's registration as a professional nurse.

2. Only a person certified under this section shall use the title "clinical nurse specialist" or the designation "CNS".

§ 6912. Clinical education in New York state nursing education programs. 1. For purposes of this section, "simulation experience" shall mean planned learning experiences that represent actual or potential situations in clinical nursing practice and adhere to the standards of this section. Such learning experiences allow participants to develop or enhance clinical nursing competencies and provide an opportunity to analyze and respond to realistic situations in a simulated environment.

2. New York state certificate and degree programs registered by the department for the purposes of meeting the education requirements set forth in this article shall include clinical education, or the equivalent as defined and determined by the commissioner pursuant to regulation.

3. Registered programs may deliver one-third of such clinical training or clinical education through simulation experience as defined in this section and in accordance with the commissioner's regulations, provided, however, nothing in this section shall reduce the minimum in-person or direct care requirements established by programmatic accreditors and certifying bodies. To meet a particular educational need the commissioner may approve that more than one-third of such clinical training or clinical education may be met through simulation experience as defined in this section and in accordance with the commissioner's regulations.

4. The commissioner shall prescribe in regulation an expedited process for programs seeking a curricular change to implement simulation experiences. For programs that are not in substantial compliance with department program requirements, the department may request additional information and materials, in accordance with the commissioner's regulations. The department shall act upon a program's submission to implement simulation experiences within twenty business days of receipt of a complete and properly submitted form.

5. Simulation experience acceptable to the department for the purposes of clinical training or clinical education shall:

(a) be designed, guided and supervised by program faculty and program

staff with appropriate and relevant training, certification or accreditation, who may be assisted or supported by experts in simulation, in a nursing skills or clinical simulation laboratory setting;

(b) include continued professional development opportunities for program faculty and program staff in simulation methods and best practices;

(c) utilize theory-based, evidence-based, and standards-driven pedagogy;

(d) require active student engagement in guided skills practice with instructional feedback;

(e) include formative and summative assessments of well-articulated competencies appropriate to the role and responsibilities of the learner;

(f) use various types of fidelity through equipment and practice to replicate substantial aspects of clinical nursing practice and utilize relevant equipment and technologies as appropriate to the desired learning outcomes;

(g) maintain continued compliance with the standards of program registration; and

(h) respond to innovations or emerging educational needs, pursuant to regulation.

ARTICLE 140

PROFESSIONAL MIDWIFERY PRACTICE ACT

Section 6950. Introduction.
6951. Definition of practice of midwifery.
6952. Practice of midwifery.
6953. Use of title "midwife".
6954. State board of midwifery.
6955. Requirements for a professional license.
6956. Prior nurse-midwifery certification.
6957. Exempt persons.
6958. Limited permit.

§ 6950. Introduction. This article applies to the profession of midwifery. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6951. Definition of practice of midwifery. 1. The practice of the profession of midwifery is defined as the management of normal pregnancies, child birth and postpartum care as well as primary preventive reproductive health care of essentially healthy women, and shall include newborn evaluation, resuscitation and referral for infants. A midwife shall have collaborative relationships with (i) a licensed physician who is board certified as an obstetrician-gynecologist by a national certifying body or (ii) a licensed physician who practices obstetrics and has obstetric privileges at a general hospital licensed under article twenty-eight of the public health law or (iii) a hospital, licensed under article twenty-eight of the public health law, that provides obstetrics through a licensed physician having obstetrical privileges at such institution, that provide for consultation, collaborative management and referral to address the health status and risks of his or her patients and that include plans for emergency medical gynecological and/or obstetrical coverage. A midwife shall maintain documentation of such collaborative relationships and shall make information about such collaborative relationships available to his or her patients. Failure to comply with the requirements found in this subdivision shall be subject to professional misconduct provisions as set forth in article one hundred thirty of this title.

2. A licensed midwife shall have the authority, as necessary, and limited to the practice of midwifery, to prescribe and administer drugs, immunizing agents, diagnostic tests and devices, and to order laboratory tests, as established by the board in accordance with the commissioner's regulations. A midwife shall obtain a certificate from the department upon successfully completing a program including a pharmacology component, or its equivalent, as established by the commissioner's regulations prior to prescribing under this section.

3. Any reference to midwifery, midwife, certified nurse-midwifery or certified nurse-midwife, nurse-midwifery or nurse-midwife under the provisions of this article, this chapter or any other law, shall refer to and include the profession of midwifery and a licensed midwife, unless the context clearly requires otherwise.

§ 6952. Practice of midwifery. Only a person licensed or exempt under this article or authorized by any other section of law shall practice midwifery.

§ 6953. Use of title "midwife". Only a person licensed or exempt under this article shall use the title "midwife". Only a person licensed under both this article and article one hundred thirty-nine of this chapter may use the title "nurse-midwife".

§ 6954. State board of midwifery. 1. The state board of midwifery shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of thirteen individuals. Initial appointments to the board shall be such that the terms shall be staggered. However, no members shall serve more than two terms.

2. (a) (1) Seven members of the board shall be persons licensed or exempt under this section.

(2) One member of the board shall be an educator of midwifery.

(b) Two members of the board shall be individuals who are licensed physicians who are also certified as obstetrician/gynecologists by a national certifying body.

(c) One member of the board shall be an individual licensed as a physician who practices family medicine including obstetrics.

(d) One member of the board shall be an individual licensed as a physician who practices pediatrics.

(e) One member of the board shall be an individual not possessing either licensure or training in medicine, midwifery, pharmacology or nursing and shall represent the public at large.

3. For purposes of this article, "board" means the state board of midwifery created under this section unless the context clearly indicates otherwise.

§ 6955. Requirements for a professional license. To qualify for a license as a midwife, an applicant shall fulfill the following requirements:

1. Application: file an application with the department.

2. Education: satisfactorily;
(a) complete educational preparation (degree or diploma granting) for the practice of nursing, followed by or concurrently with educational preparation for the practice of midwifery in accordance with the commissioner's regulations, or
(b) submit evidence of license or certification, the educational preparation for which is determined by the department to be equivalent to the foregoing, from any state or country, satisfactory to the department and in accordance with the commissioner's regulations, or
(c) complete a program determined by the department to be equivalent to the foregoing and in accordance with the commissioner's regulations.

3. Examination: pass an examination satisfactory to the department and in accordance with the commissioner's regulations.

4. Age: be at least twenty-one years of age.

5. Character: be of good moral character as determined by the department.

6. Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United

States.

7. Fee: pay a fee of one hundred ninety dollars to the department for admission to a department conducted examination for an initial license, a fee of one hundred dollars for each re-examination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of one hundred eighty dollars for each triennial registration period and a fee of seventy dollars for a limited permit.

§ 6956. Prior nurse-midwifery certification. Any individual who is certified as a nurse-midwife pursuant to section twenty-five hundred sixty of the public health law before June first, nineteen hundred ninety-six, shall be deemed to be licensed as a midwife under this article; provided that each such certified nurse-midwife shall, prior to that date, submit evidence of such certification to the department together with the appropriate fee required by subdivision seven of section sixty-nine hundred fifty-five of this article. Any individual certified as a nurse-midwife pursuant to section twenty-five hundred sixty of the public health law (i) may practice under that section until it is repealed, but (ii) shall not practice pursuant to this article until after receiving approval from the commissioner and submitting the fee required by subdivision seven of section sixty-nine hundred fifty-five of this article.

§ 6957. Exempt persons. Nothing in this article shall be construed to affect, prevent or in any manner expand or limit any duty or responsibility of a licensed physician from practicing midwifery or affect or prevent a medical student or midwifery student in clinical practice under the supervision of a licensed physician or board certified obstetrician/gynecologist or licensed midwife practicing pursuant to the provisions of section twenty-five hundred sixty of the public health law in pursuance of an educational program registered by the department from engaging in such practice.

§ 6958. Limited permit. 1. A limited permit to practice midwifery may be granted for a period not to exceed twelve months to an individual who has to the satisfaction of the department met all the requirements of section sixty-nine hundred fifty-five of this article, but has not yet passed the examination required by subdivision three of such section.

2. A limited permit shall entitle the holder to practice midwifery only under the direct supervision of a licensed physician who is authorized under section sixty-nine hundred fifty-one of this article or a licensed midwife.

ARTICLE 141

PODIATRY

Section 7000. Introduction.
7001. Definition of practice of podiatry.
7002. Practice of podiatry and use of title "podiatrist".
7003. State board for podiatry.
7004. Requirements for a professional license.
7005. Exempt persons.
7006. Special provision.
7007. Limited permits.
7008. Limited residency permits and limited fellowship permits.
7009. Podiatric ankle surgery privileges.
7010. Ankle surgery limited permits.

§ 7000. Introduction. This article applies to the profession of podiatry. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7001. Definition of practice of podiatry. * 1. The practice of the profession of podiatry is defined as diagnosing, treating, operating and prescribing for any disease, injury, deformity or other condition of the foot, and may include performing physical evaluations in conjunction

with the provision of podiatric treatment. For the purposes of wound care however, the practice of podiatry shall include the treatment of such wounds if they are contiguous with wounds relating, originating or in the course of treatment of a wound on the foot within the podiatric scope of practice. Wound care shall not, however, extend beyond the level ending at the distal tibial tuberosity. The practice of podiatry may also include diagnosing, treating, operating and prescribing for any disease, injury, deformity or other condition of the ankle and soft tissue of the leg below the tibial tuberosity if the podiatrist has obtained an issuance of a privilege to perform podiatric standard ankle surgery or advanced ankle surgery in accordance with section seven thousand nine of this article. Podiatrists may treat traumatic open wound fractures only in hospitals, as defined in article twenty-eight of the public health law. For the purposes of this article, the term "ankle" shall be defined as the distal metaphysis and epiphysis of the tibia and fibula, the articular cartilage of the distal tibia and distal fibula, the ligaments that connect the distal metaphysis and epiphysis of the tibia and fibula and talus, and the portions of skin, subcutaneous tissue, facia, muscles, tendons, ligaments and nerves at or below the level of the myotendinous junction of the triceps surae.

* NB Effective until June 12, 2027

* 1. The practice of the profession of podiatry is defined as diagnosing, treating, operating and prescribing for any disease, injury, deformity, other condition of, or local manifestations of systemic diseases as they appear on the foot and the diagnosing, treating, and prescribing for any disease, injury, deformity, other condition of, or local manifestations of systemic diseases as they appear on the ankle, unless otherwise provided by this section, and may include performing physical evaluations in conjunction with the provision of podiatric treatment. For the purposes of wound care however, the practice of podiatry shall include the treatment of such wounds if they are contiguous with wounds relating, originating or in the course of treatment of a wound on the foot or ankle within the podiatric scope of practice. Wound care shall not extend beyond the level ending at the distal tibial tuberosity. The practice of podiatry may also include operating for any disease, injury, deformity or other condition of the ankle and soft tissue of the leg below the tibial tuberosity if the

podiatrist has obtained an issuance of a privilege to perform podiatric standard ankle surgery or advanced ankle surgery in accordance with section seven thousand nine of this article. Podiatrists may treat traumatic open wound fractures only in hospitals, as defined in article twenty-eight of the public health law. For the purposes of this article, the term "ankle" shall be defined as the distal metaphysis and epiphysis of the tibia and fibula, the articular cartilage of the distal tibia and distal fibula, the ligaments that connect the distal metaphysis and epiphysis of the tibia and fibula and talus, and the portions of skin, subcutaneous tissue, facia, muscles, tendons, ligaments and nerves at or below the level of the myotendinous junction of the triceps surae.

* NB Effective June 12, 2027

* 2. The practice of podiatry shall not include treating any part of the human body other than the foot, nor treating fractures of the malleoli or cutting operations upon the malleoli unless the podiatrist obtains an issuance of a privilege to perform podiatric standard ankle surgery or podiatric advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric standard ankle surgery may perform surgery on the ankle which may include soft tissue and osseous procedures except those procedures specifically authorized for podiatrists who have obtained an issuance of a privilege for advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric advanced ankle surgery may perform surgery on the ankle which may include ankle fracture fixation, ankle fusion, ankle arthroscopy, insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae, and insertion and removal of retrograde tibiotalocalcanneal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae, but does not include the surgical treatment of complications within the tibial diaphysis related to the use of such external fixation pins. Podiatrists licensed to practice, but not authorized to prescribe or administer narcotics prior to the effective date of this subdivision, may do so only after certification by the department in accordance with the qualifications established by the commissioner. The practice of podiatry shall include administering only local anesthetics for therapeutic purposes as well as for anesthesia and treatment under general

anesthesia administered by authorized persons. The practice of podiatry by any licensee shall not include partial or total ankle replacements nor the treatment of pilon fractures.

* NB Effective until June 12, 2027

* 2. The practice of podiatry shall not include treating any part of the human body other than the foot or ankle, provided, however, that unless the podiatrist obtains an issuance of a privilege to perform podiatric standard ankle surgery or podiatric advanced ankle surgery, such practice shall not include the surgical treatment of fractures of the malleoli which includes cutting operations upon the malleoli. Podiatrists who have obtained an issuance of a privilege to perform podiatric standard ankle surgery may perform surgery on the ankle which may include soft tissue and osseous procedures except those procedures specifically authorized for podiatrists who have obtained an issuance of a privilege for advanced ankle surgery. Podiatrists who have obtained an issuance of a privilege to perform podiatric advanced ankle surgery may perform surgery on the ankle which may include ankle fracture fixation, ankle fusion, ankle arthroscopy, insertion or removal of external fixation pins into or from the tibial diaphysis at or below the level of the myotendinous junction of the triceps surae, and insertion and removal of retrograde tibiotalocalcanneal intramedullary rods and locking screws up to the level of the myotendinous junction of the triceps surae, but does not include the surgical treatment of complications within the tibial diaphysis related to the use of such external fixation pins. Podiatrists licensed to practice, but not authorized to prescribe or administer narcotics prior to the effective date of this subdivision, may do so only after certification by the department in accordance with the qualifications established by the commissioner. The practice of podiatry shall include administering only local anesthetics for therapeutic purposes as well as for anesthesia and treatment under general anesthesia administered by authorized persons. The practice of podiatry by any licensee shall not include the treatment of pilon fractures.

* NB Effective June 12, 2027

3. (a) The department shall conduct a study to determine whether to make available to the public profiles on podiatrists who have obtained

an issuance of a privilege to perform podiatric standard or advanced ankle surgery pursuant to subdivisions one and two of section seven thousand nine of this article. Such study shall include consideration of whether it would be appropriate and feasible for the department to make publicly available profiles for such podiatrists in a manner similar to physician profiles made available on the department of health's website in accordance with section twenty-nine hundred ninety-five-a of the public health law. The department shall consult with the department of health as necessary on matters related to the operation of the department of health's physician profiles established pursuant to section twenty-nine hundred ninety-five-a of the public health law in conducting its study.

(b) If the department determines that making podiatrist profiles available is appropriate and feasible, the department, after consultation with the department of health, shall outline in such study an appropriate and cost effective method of presenting relevant and appropriate podiatric profiling information to the general public. The department shall submit such study to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on or before November first, two thousand sixteen.

(c) If the department makes podiatrist profiles available as set forth in paragraph (b) of this subdivision, the department of health shall include on its website containing the physician profiles established pursuant to section twenty-nine hundred ninety-five-a of the public health law a link to the website on which such podiatrist profiles may be accessed and a statement describing the purpose of such link.

§ 7002. Practice of podiatry and use of title "podiatrist". Only a person licensed or exempt under this article shall practice podiatry or use the title "podiatrist" or "chiropodist".

§ 7003. State board for podiatry. A state board for podiatry shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on

matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven podiatrists licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 7004. Requirements for a professional license. To qualify for a license as a podiatrist, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a doctoral degree in podiatry, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship: meet no requirements as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

(9) Continuing education: In accordance with the requirements of section sixty-five hundred two of the education law, at the time of re-registration with the department, each applicant shall present satisfactory evidence to the state board for podiatry that in the years prior to the filing for re-registration he attended the education programs conducted by the podiatry society of the state of New York or the equivalent of such educational programs as approved by the state board for podiatry in accordance with the commissioner's regulations.

§ 7005. Exempt persons. Nothing in this article shall be construed to affect or prevent a student from engaging in clinical practice under supervision of a licensed podiatrist as part of the program of an approved school of podiatry.

§ 7006. Special provision. 1. No corporation, except a hospital corporation authorized under article forty-three of the insurance law or a corporation organized and existing under the laws of the state of New York which, on or before the first day of March, nineteen hundred forty-two, was legally incorporated to practice podiatry, shall practice podiatry, and then only through licensed podiatrists and shall conform to board of regents rules. No corporation organized to practice podiatry shall change its name or sell its franchise or transfer its corporate rights directly or indirectly, by transfer of capital stock control or otherwise, to any person or to another corporation without permission from the department and any corporation so changing its name or so transferring its franchise or corporate rights without such permission or found guilty of violating a board of regents rule shall be deemed to have forfeited its right to exist and shall be dissolved by a proceeding brought by the attorney general.

2. Any manufacturer or merchant may sell, advertise, fit, or adjust proprietary foot remedies, arch supports, corrective foot appliances or shoes.

3. Notwithstanding any inconsistent provision of any general, special or local law, any licensed podiatrist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries

were or such death was caused by gross negligence on the part of such podiatrist. Nothing in this subdivision shall be deemed or construed to relieve a licensed podiatrist from liability for damages for injuries or death caused by an act or omission on the part of a podiatrist while rendering professional services in the normal and ordinary course of practice.

4. An unlicensed person may provide supportive services to a podiatrist incidental to and concurrent with such podiatrist personally performing a service or procedure. Nothing in this subdivision shall be construed to allow an unlicensed person to provide any service which constitutes the practice of podiatry as defined in this article. An unlicensed person providing supportive services to a podiatrist may operate radiographic equipment under direct supervision for the sole purpose of foot radiography provided that such person completes a course of study acceptable to the department in consultation with the department of health.

§ 7007. Limited permits. 1. Limited permits to practice podiatry may be issued by the department to graduates of a program of professional education in podiatry registered by the department or accredited by an accrediting agency acceptable to the department. Such permits shall authorize the practice of podiatry only under the supervision of a licensed podiatrist and only in:

a. a hospital or health facility licensed pursuant to article twenty-eight of the public health law;

b. a clerkship for a period of two years or less conducted by a licensed podiatrist designated as a member of the faculty of an approved school of podiatry for purposes of a preceptorship program; or

2. Limited permits shall be issued for a period of one year, and may be renewed at the discretion of the department for one additional year.

3. The fee for a limited permit shall be one hundred five dollars and

the fee for a renewal shall be fifty dollars.

§ 7008. Limited residency permits and limited fellowship permits. 1. Limited residency permits and limited fellowship permits may be issued by the department to graduates of a program of professional education in podiatry registered by the department or accredited by an accrediting agency acceptable to the department.

2. Such permits shall allow a resident or fellow in podiatric medicine participating in an approved post-graduate residency or fellowship program to perform such duties, tasks and functions that are required for successful completion of such program under the administrative supervision of a licensed podiatrist serving as the residency or fellowship director, as applicable, in a hospital or health care facility licensed pursuant to article twenty-eight of the public health law. At any time during the residency or fellowship, a licensed physician or a licensed podiatrist may provide direct personal supervision of activities which he or she is authorized and competent to provide in the approved facility; provided, however, when the resident's or fellow's training involves practice beyond that authorized in section seven thousand one of this article, a licensed physician shall provide direct personal supervision. For the purposes of this section, direct personal supervision means supervision of procedures based on instructions given directly by a licensed physician or licensed podiatrist, as applicable, who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the podiatric resident or fellow.

3. Such permit shall be issued for three years and may be renewed at the discretion of the department for additional one-year periods when necessary to permit the completion of an approved post-graduate residency or fellowship in podiatric medicine.

4. The fee for a limited residency permit or a limited fellowship permit shall be one hundred five dollars and the fee for a renewal shall be fifty dollars.

§ 7009. Podiatric ankle surgery privileges. 1. For issuance of a privilege to perform podiatric standard ankle surgery, as that term is used in subdivision two of section seven thousand one of this article, the applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. License: be licensed as a podiatrist in the state;

c. Training and certification: either:

(i) have graduated on or after June first, two thousand six from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, and be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department; or

(ii) have graduated on or after June first, two thousand six from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, be board qualified but not yet certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department, and provide documentation that he or she has acceptable training and experience in standard or advance midfoot, rearfoot and ankle procedures that has been approved by the department; or

(iii) have graduated before June first, two thousand six from a two-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department, and provide documentation that he or she has acceptable training and experience in standard or advanced midfoot, rearfoot and ankle procedures that has been approved by the department;

d. Fees: pay a fee to the department of two hundred twenty dollars for

the issuance of a privilege to perform podiatric standard ankle surgery.

2. For issuance of a privilege to perform podiatric advanced ankle surgery, as that term is used in subdivision two of section seven thousand one of this article, the applicant shall fulfill the following requirements:

a. Application: file an application with the department;

b. License: be licensed as a podiatrist in the state;

c. Experience and certification: either:

(i) have graduated on or after June first, two thousand six from a three-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, be certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department, and provide documentation that he or she has acceptable training and experience in advanced midfoot, rearfoot and ankle procedures that has been approved by the department; or

(ii) have graduated before June first, two thousand six from a two-year residency program in podiatric medicine and surgery that was accredited by an accrediting agency acceptable to the department, be certified in reconstructive rearfoot and ankle surgery, by a national certifying board having certification standards acceptable to the department, and provide documentation that he or she has acceptable training and experience in advanced midfoot, rearfoot and ankle procedures that has been approved by the department.

d. Fees: pay a fee to the department of two hundred twenty dollars for the issuance of a privilege to perform podiatric advanced ankle surgery.

3. Duration and registration of privileges. A privilege issued under this section shall be valid for the life of the holder, unless revoked, annulled, or suspended by the board of regents. Such a privilege shall be subject to the same oversight and disciplinary provisions as licenses issued under this title. The holder of a privilege issued under this

section shall register with the department as a privilege holder in the same manner and subject to the same provisions as required of a licensee pursuant to section six thousand five hundred two of this title, provided that, at the time of each registration, the privilege holder shall certify that he or she continues to meet the requirements for the privilege set forth in this section. The fee for such registration shall be two hundred ten dollars. The registration period for a privilege holder shall be coterminous with his or her registration as a podiatrist.

§ 7010. Ankle surgery limited permits. * A limited permit to perform podiatric standard ankle surgery, as described in subdivision two of section seven thousand one of this article, may be issued by the department to a podiatrist who is licensed pursuant to this article and who has met the residency and board qualification/certification requirements set forth in subdivision one of section seven thousand nine of this article in order to authorize such podiatrist to obtain the training and experience required for the issuance of a podiatric standard ankle surgery privilege pursuant to subdivision one of section seven thousand nine of this article. Such permits shall authorize the performance of podiatric standard ankle surgery only under the direct personal supervision of a licensed podiatrist holding a podiatric standard ankle surgery privilege or a podiatric advanced ankle surgery privilege issued pursuant to section seven thousand nine of this article or of a physician licensed pursuant to article one hundred thirty-one of this title and certified in orthopedic surgery by a national certifying board having certification standards acceptable to the department.

* NB Effective until June 12, 2027

* 1. A limited permit to perform podiatric standard ankle surgery, as described in subdivision two of section seven thousand one of this article, may be issued by the department to a podiatrist who is licensed pursuant to this article and who has met the residency and board qualification/certification requirements set forth in subdivision one of section seven thousand nine of this article in order to authorize such podiatrist to obtain the training and experience required for the issuance of a podiatric standard ankle surgery privilege pursuant to

subdivision one of section seven thousand nine of this article. Such permits shall authorize the performance of podiatric standard ankle surgery only under the direct personal supervision of a licensed podiatrist holding a podiatric standard ankle surgery privilege or a podiatric advanced ankle surgery privilege issued pursuant to section seven thousand nine of this article or of a physician licensed pursuant to article one hundred thirty-one of this title and certified in orthopedic surgery by a national certifying board having certification standards acceptable to the department.

* NB Effective June 12, 2027

* 2. A limited permit to perform podiatric advanced ankle surgery, as described in subdivision two of section seven thousand one of this article, may be issued by the department to a podiatrist who is licensed pursuant to this article and who has met the residency and board certification requirements set forth in subdivision two of section seven thousand nine of this article in order to authorize such podiatrist to obtain the training and experience required for the issuance of a podiatric advanced ankle surgery privilege pursuant to subdivision two of section seven thousand nine of this article. Such permits shall authorize the performance of podiatric advanced ankle surgery only under the direct personal supervision of a licensed podiatrist holding a podiatric advanced ankle surgery privilege issued pursuant to subdivision two of section seven thousand nine of this article or of a physician licensed pursuant to article one hundred thirty-one of this title and certified in orthopedic surgery by a national certifying board having certification standards acceptable to the department.

* NB Effective until June 12, 2027

* 2. (a) A limited permit to perform podiatric advanced ankle surgery, as described in subdivision two of section seven thousand one of this article, may be issued by the department, for the purposes of authorizing a podiatrist to obtain the training and experience required for the issuance of a podiatric advanced ankle surgery privilege pursuant to subdivision two of section seven thousand nine of this article, to a podiatrist who:

(i) is licensed pursuant to this article and who has met the residency and board certification requirements set forth in subdivision two of section seven thousand nine of this article; or

(ii) is licensed pursuant to this article and who has met the residency requirements set forth in subdivision two of section seven thousand nine of this article and who is board qualified but not yet certified in reconstructive rearfoot and ankle surgery by a national certifying board having certification standards acceptable to the department.

(b) Such permits shall authorize the performance of podiatric advanced ankle surgery only under the direct personal supervision of a licensed podiatrist holding a podiatric advanced ankle surgery privilege issued pursuant to subdivision two of section seven thousand nine of this article or of a physician licensed pursuant to article one hundred thirty-one of this title and certified in orthopedic surgery by a national certifying board having certification standards acceptable to the department.

* NB Effective June 12, 2027

3. For the purposes of this section, direct personal supervision means supervision of procedures based on instructions given directly by the supervising podiatrist or physician who remains in the immediate area where the procedures are being performed, authorizes the procedures and evaluates the procedures performed by the holder of the limited permit.

4. The holder of a limited permit issued pursuant to this section shall perform podiatric ankle surgery only in a hospital or health facility licensed pursuant to article twenty-eight of the public health law and appropriately authorized to provide such surgery.

5. Limited permits shall be issued for a period of one year, and may be renewed for additional one year periods when necessary to permit the completion of the training and experience required to obtain a podiatric standard ankle surgery privilege or podiatric advanced ankle surgery privilege, as applicable, provided that no permit may be renewed more than four times for each such privilege.

6. The fee for a limited permit shall be one hundred five dollars and the fee for a renewal shall be fifty dollars.

ARTICLE 143

OPTOMETRY

Section 7100. Introduction.
7101. Definition of the practice of optometry.
7101-a. Certification to use therapeutic drugs.
7102. Practice of optometry and use of title "optometrist".
7103. State board for optometry.
7104. Requirements for a professional license.
7105. Exempt persons.
7106. Special provisions.
7107. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses.

§ 7100. Introduction. This article applies to the profession of optometry. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7101. Definition of the practice of optometry. The practice of the profession of optometry is defined as diagnosing and treating optical deficiency, optical deformity, visual anomaly, muscular anomaly or disease of the human eye and adjacent tissue by prescribing, providing, adapting or fitting lenses or by prescribing, providing, adapting or fitting non-corrective contact lenses, or by prescribing or providing orthoptics or vision training, or by prescribing and using drugs. The practice of optometry shall not include any injection or invasive modality. For purposes of this section invasive modality means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive modality includes surgery, lasers, ionizing radiation, therapeutic ultrasound and the removal of foreign bodies from within the tissue of the eye. Nothing in this section or section seventy-one hundred one-a of this article shall be construed to limit the scope of optometric practice as authorized prior to January first, nineteen hundred ninety-five. The use of drugs by optometrists is authorized only in accordance with the provisions of

this article and regulations promulgated by the commissioner.

§ 7101-a. Certification to use therapeutic drugs. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) Clinical training. Clinical training shall mean the diagnosis, treatment and management of patients with ocular disease and shall be comparable to that acquired by a current graduate of the State University College of Optometry.

(b) Consultation. Consultation shall mean a confirmation of the diagnosis, a plan of co-management of the patient, and a periodic review of the patient's progress.

(c) Education review committee. Education review committee shall mean the committee established pursuant to subdivision nine of this section.

(d) Diagnostic pharmaceuticals. Diagnostic pharmaceuticals shall mean those drugs which shall be limited to topical applications to the surface of the eye for the purpose of diagnostic examination of the eye and shall be limited to:

(i) Anesthetic agents;

(ii) Mydriatics;

(iii) Cycloplegics;

(iv) Miotics;

(v) Disclosing agents and other substances used in conjunction with these drugs as part of a diagnostic procedure.

(e) Topical therapeutic pharmaceutical agents. Topical therapeutic pharmaceutical agents shall mean those drugs which shall be limited to topical application to the surface of the eye for therapeutic purposes and shall be limited to:

(i) antibiotic/antimicrobials;

(ii) decongestants/anti-allergenics;

(iii) non-steroidal anti-inflammatory agents;

(iv) steroidal anti-inflammatory agents;

(v) antiviral agents;

(vi) hyperosmotic/hypertonic agents;

(vii) cycloplegics;

(viii) artificial tears and lubricants; and

(ix) immunosuppressive agents.

(e-1) Nasal sprays as topical therapeutic pharmaceutical agents. Topical therapeutic pharmaceutical agents shall also include those drugs listed in subparagraph (iii) of paragraph (f) of this subdivision that are administered through a nasal spray for the treatment of dry eye disease.

(f) Therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension. Therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension shall mean those drugs which shall be limited to topical application to the surface of the eye and shall be limited to:

(i) beta blockers;

(ii) alpha agonists;

(iii) direct acting cholinergic agents;

(iv) prostaglandin analogs; and

(v) carbonic anhydrase inhibitors.

(g) Oral therapeutic pharmaceutical agents. Oral therapeutic pharmaceutical agents shall mean those orally administered drugs used for therapeutic purposes solely for the treatment of diseases of the eye and adnexa and shall be limited to:

(i) the following antibiotics:

(1) amoxicillin/clavulanate potassium;

(2) cephalexin;

(3) azithromycin;

(4) sulfamethoxazole/trimethoprim;

(5) doxycycline; and

(6) tetracycline;

(ii) the following antiglaucoma agents used for the management of acute increases in intraocular pressure; provided, however, an optometrist may use or prescribe a maximum of one twenty-four hour prescription and shall immediately refer the patient to a licensed physician specializing in diseases of the eye:

(1) acetazolamide; and

(2) methazolamide; and

(iii) the following antiviral agents used for herpes zoster ophthalmicus; provided an optometrist shall use or prescribe in maximum, one seven-day prescription; provided, however, if a patient is diagnosed

with herpes zoster ophthalmicus and has not already been examined by a primary care physician or other appropriate physician for such viral condition, an optometrist shall refer the patient to a licensed primary care physician, licensed physician specializing in diseases of the eye, or other appropriate physician within three days of such diagnosis:

(1) valacyclovir; and

(2) acyclovir.

2. Standard of care. An optometrist authorized to use pharmaceutical agents for use in the diagnosis, treatment or prevention of ocular disease shall be held to the same standard of care in diagnosis, use of such agents, and treatment as that degree of skill and proficiency commonly exercised by a physician in the same community.

3. Certificate. The commissioner shall issue appropriate certificates to use therapeutic pharmaceutical agents in accordance with the provisions of this section to those optometrists who have satisfactorily completed a curriculum in general and ocular pharmacology at a college of optometry with didactic and supervised clinical programs approved by the department are eligible to apply for the certificate issued pursuant to this section.

4. Topical therapeutic pharmaceutical agents. (a) Before using or prescribing topical therapeutic pharmaceutical agents, each optometrist shall have completed at least three hundred hours of clinical training in the diagnosis, treatment and management of patients with ocular disease other than glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to June thirtieth, nineteen hundred ninety-three and additionally shall either have taken and successfully passed the treatment and management of ocular diseases portion of the National Board of Examiners in Optometry test or have taken and successfully passed an examination acceptable to the board.

(b) Before using or prescribing therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, an optometrist must be certified for diagnostic and topical therapeutic agents and have completed an additional one hundred hours of clinical training in the

diagnosis, treatment and management of patients with glaucoma and ocular hypertension, not fewer than twenty-five hours of such training shall have been completed subsequent to July first, nineteen hundred ninety-four, and shall have taken and successfully passed an oral or written examination acceptable by the board.

(c) Before using or prescribing oral therapeutic pharmaceutical agents, an optometrist must be certified to prescribe diagnostic pharmaceutical agents and topical therapeutic and therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, have completed an oral therapeutic pharmaceutical agent certification course and have passed an examination within five years of the department's approval of the initial certification course or the initial examination, whichever is later provided, however, an optometrist who has commenced the oral therapeutic pharmaceutical agent certification course within the five year time period but has not yet passed an examination shall be allowed to take such examination and become certified after the five year time period provided for in this paragraph has ended.

(i) The curriculum for the oral therapeutic pharmaceutical agent certification course shall include, but not be limited to, instruction in pharmacology and drug interaction in treating ocular disease and be taught through clinical case scenarios and emphasize clinical decision making and shall be no less than forty hours, of which no less than twenty-four hours shall be live instruction.

(ii) Such course shall qualify towards meeting the continuing education per triennial registration requirement pursuant to subdivision seven of this section.

(iii) The examination shall assess the knowledge of materials in the curriculum and reflect the oral therapeutic pharmaceutical agents described in paragraph (g) of subdivision one of this section, and shall be acceptable to the department.

(iv) The initial, and any subsequent, curriculum and examination shall be subject to review and approval by the department.

(v) The requirement for the oral therapeutic pharmaceutical agent certification course and examination shall not apply to those optometrists who graduated from an accredited college of optometry subsequent to January first, two thousand twenty-two and have taken and

successfully passed the National Board of Examiners in Optometry examination or an examination acceptable to the department.

(d) The clinical training required by this section may have been acquired prior to the enactment of this section not inconsistent with paragraphs (a) and (b) of this subdivision. Approval of the pre-acquired clinical training shall be in accordance with subdivision nine-a of this section.

(e) The provisions of paragraphs (a) and (b) of this subdivision shall not apply to (i) graduates of an appropriate program approved by the department who have successfully passed the examination on the use of diagnostic and therapeutic drugs and who graduated subsequent to January first, nineteen hundred ninety-three; or (ii) optometrists who have been certified for at least five years to use phase one and phase two drugs in another jurisdiction, have demonstrated such use in independently managed patients, and have been licensed in accordance with section seventy-one hundred four of this chapter. Provided, however, no optometrist exempt under this paragraph shall be permitted to use phase one therapeutic pharmaceutical agents or phase two therapeutic pharmaceutical agents prior to the general authorization provided to optometrists licensed in this state.

5. Suspension of certification. The department shall suspend the certification for the use and prescribing of topical therapeutic agents of any optometrist who fails to receive certification for therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension within three years of having been certified for topical therapeutic pharmaceutical agents.

6. Consultation with use of certain topical therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension. (a) After the initial diagnosis of glaucoma or ocular hypertension and before initiating treatment of any patient, an optometrist shall engage in a written consultation with a licensed physician specializing in diseases of the eye.

(b) A consultation shall be required for a period of three years or until the optometrist has examined and diagnosed seventy-five patients having glaucoma or ocular hypertension which examinations require a

written consultation in accordance with paragraph (a) of this subdivision, whichever occurs later.

(c) The consultation provisions shall not apply to a graduate of an appropriate program approved by the department who successfully passed an examination in the use of diagnostic and therapeutic pharmaceutical agents approved by the department and graduated such school subsequent to January first, nineteen hundred ninety-nine and who has had at least seventy-five documented examinations and diagnosis of patients with glaucoma or ocular hypertension which examinations were part of their training and were under physician supervision.

7. Continuing education. (a) Each optometrist certified to use topical therapeutic pharmaceutical agents and therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension, shall complete a minimum of thirty-six hours of continuing education in the area of ocular disease and pharmacology per triennial registration period. Each optometrist certified to use oral therapeutic pharmaceutical agents shall, in addition to the minimum thirty-six hours of continuing education provided for in this subdivision, complete an additional minimum of eighteen hours of continuing education related to systemic disease and therapeutic treatment per triennial registration period. Such educational programs may include both didactic and clinical components and shall be approved in advance by the department. Beginning on January first, two thousand twenty-three, all sponsors of continuing education courses seeking advanced approval from the department shall file an application and pay a fee determined by the department in accordance with the regulations of the commissioner. An optometrist subject to the provisions of this subdivision whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand twenty-three, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand twenty-three up to the first registration date thereafter. An optometrist who has not satisfied the mandatory continuing education requirement pursuant to this subdivision shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional

registration is issued as provided for in paragraph (b) of this subdivision. Continuing education hours taken during one triennium may not be transferred to the subsequent triennium.

(b) The department, in its discretion, may issue a conditional registration to an optometrist who fails to meet the continuing education requirements established in paragraph (a) of this subdivision, but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department, but shall not exceed one year. Any optometrist who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(c) In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(d) An optometrist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of optometry during the triennial registration period shall notify the department prior to reentering the profession and shall meet such continuing education requirements as shall be prescribed by regulations of the commissioner.

(e) Optometrists subject to the provisions of this subdivision shall maintain adequate documentation of completion of acceptable continuing education credits and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(f) The mandatory continuing education fee shall be determined by the

department. Such fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by subdivision eight of section seventy-one hundred four of this article.

8. Notice to patient with the use or prescription of topical therapeutic pharmaceutical agents and therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension. (a) (i) An optometrist prescribing topical steroids or antiviral medication shall inform each patient that in the event the condition does not improve within five days, a physician of the patient's choice will be notified.

(ii) An optometrist engaged in a written consultation with an ophthalmologist shall inform a patient diagnosed with glaucoma that the optometrist will have the diagnosis confirmed and co-managed with an ophthalmologist of the patient's choice, or one selected by the optometrist.

(b) In addition, each optometrist certified to prescribe and use therapeutic drugs shall have posted conspicuously in the office reception area the following notice:

"Dr. (Name), O.D. is certified by New York State to use drugs to diagnose and treat diseases of the eye. In the event your condition requires the use of steroids or antiviral medication and your condition does not improve within five days, a physician of your choice will be notified.

In the event you are diagnosed with glaucoma, the optometrist will have your diagnosis confirmed and treatment co-managed with an ophthalmologist (MD) of your choice, or if you wish, one selected by Dr. (Name)."

The second paragraph of such notice shall only be required to be included during the period when the optometrist is engaged in a written consultation pursuant to subdivision six of this section.

9. Education review committee. An education review committee is hereby created to advise and assist the commissioner in evaluating pre-acquired clinical training. The members of the committee shall be appointed by

the commissioner in consultation with the chancellor of the state university of New York. The committee shall consist of five members, two of whom shall be optometrists on the faculty of the SUNY college of optometry, two of whom shall be ophthalmologists who, in addition to being members of the faculty of any approved medical school in this state and not also faculty members of SUNY college of optometry, have surgical privileges at a New York state hospital. The fifth member who shall be designated as chair shall be an expert in the field of public health and shall be neither an ophthalmologist nor an optometrist.

The commissioner shall submit each application to the committee for its review and recommendation. In making such recommendation, the committee shall advise as to the number of hours of pre-acquired clinical training, if any, to be approved, based upon the information submitted with the application. In evaluating such training, the committee shall be authorized to require the submission of such reasonable documentation needed to facilitate the committee's review of the adequacy and relevance of such training.

9-a. Pre-acquired clinical training. (a) Each optometrist requesting approval of pre-acquired clinical training shall submit a written application to the department. The commissioner, in consultation with the education review committee may provide credit for the following:

(i) clinical training acquired at an institution accredited by a regional or professional accreditation organization which is recognized or approved by the United States Department of Education, the department and the Board of Regents of the University of the state of New York;

(ii) clinical training acquired at a facility licensed by the state of New York in accordance with article twenty-eight of the public health law or at a comparable facility located in another state or country provided the licensing requirements or accreditation requirements of such institution are comparable to those of New York state;

(iii) hospital affiliations, including rounds and patient management for applicants having staff privileges at such facility;

(iv) consultation and co-management with ophthalmologists of patients with ocular disease and post-surgery recovery;

(v) postdoctoral accredited residency or fellowship programs;

(vi) experience at an accredited educational institution as a faculty instructor in clinical practice, ocular disease management and pharmacology;

(vii) experience in other states in which the applicant has been certified to use therapeutic pharmaceutical agents.

(b) Any optometrist disagreeing with the recommendation of the education review committee shall have a right to appeal in writing to the commissioner. The decision of the commissioner shall be final and binding on all parties.

10. Pharmaceutical agents. Optometrists who have been approved and certified by the department shall be permitted to use the following drugs:

(a) Diagnostic pharmaceuticals.

(b) Those optometrists having been certified for topical therapeutic pharmaceutical agents shall be authorized to use and prescribe all topical therapeutic pharmaceutical agents specified in paragraph (e) of subdivision one of this section, which are FDA approved and commercially available for topical use.

In the event an optometrist treats a patient with topical antiviral or steroidal drugs and the patient's condition either fails to improve or worsens within five days, the optometrist shall notify a physician designated by the patient or, if none, by the treating optometrist.

(c) Those optometrists having been certified for therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension shall be authorized to use and prescribe therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension specified in paragraph (f) of subdivision one of this section, which are FDA approved and commercially available.

(d) Those optometrists having been certified for oral therapeutic pharmaceutical agents shall be authorized to use and prescribe oral therapeutic pharmaceutical agents specified in paragraph (g) of subdivision one of this section, which are FDA approved and commercially available and shall comply with all safety information and side-effect and warning advisories contained in the most current physicians' desk reference.

(e) Those optometrists having been certified for topical therapeutic pharmaceutical agents, therapeutic pharmaceutical agents for treatment of glaucoma and ocular hypertension or oral therapeutic pharmaceutical agents shall be authorized to use and recommend all nonprescription medications, whether intended for topical or oral use, appropriate for the treatment of the eye and adnexa.

11. Responsibilities of the commissioner. The commissioner shall adopt regulations (a) providing for the certification of graduates of an appropriate program approved by the department who have successfully passed the examination on the use of diagnostic and therapeutic pharmaceutical agents and who have graduated subsequent to January first, nineteen hundred ninety-three; and (b) providing for the certification of optometrists who have graduated from other accredited colleges of optometry or who are licensed to practice in other jurisdictions, have demonstrated such use in independently managed patients and are seeking licensure and certification in New York.

12. Responsibilities of the commissioner of health. The commissioner of health may recommend to the commissioner additions or deletions to the department's regulations relating to optometric use of drugs except that such recommendations shall be limited only to additions which have been determined to be equivalent to those drugs already authorized or deletions based upon a finding that the drugs are no longer appropriate for their current use or for other similar reasons.

§ 7102. Practice of optometry and use of title "optometrist". Only a person licensed or exempt under this article shall practice optometry or use the title "optometrist".

§ 7103. State board for optometry. A state board for optometry shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The

board shall be composed of not less than seven optometrists who shall have been residents of this state engaged in the practice of optometry for at least five years in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 7104. Requirements for a professional license. To qualify for a license as an optometrist, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a degree of doctor of optometry or equivalent degree, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship: meet no requirement as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of two hundred ten dollars for each triennial registration period, for additional authorization for the purpose of utilizing diagnostic pharmaceutical agents, a fee of sixty dollars, and for certification to use or prescribe oral therapeutic pharmaceutical agents, a fee of two hundred fifty dollars.

§ 7105. Exempt persons. Nothing in this article shall be construed to affect or prevent:

a. A student actively enrolled in a school of optometry with accreditation acceptable to the department from engaging in clinical practice under the supervision of a licensed and currently registered optometrist or physician; or

b. A person licensed to practice optometry from using a degree conferred in course after resident study by an educational institution lawfully authorized by the state in which it is located to confer such a degree.

c. An optometrist licensed in another state or country who is employed on a full-time basis by a registered school of optometry as a faculty member with the rank of assistant professor or higher from conducting research and clinical demonstrations as part of such employment, under the supervision of a licensed optometrist and on the premises of the school. No fee may be charged for the practice of optometry authorized by this subdivision.

d. 1. A person in training or appropriately trained and deemed qualified by the supervising licensed optometrist, to assist a licensed optometrist in the care of a patient for the purpose of instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, provided that the person instilling such eye drops is:

(i) under the on-site supervision of a supervising licensed optometrist;

(ii) at least eighteen years of age; and

(iii) complies with standards issued by the department.

2. The supervising licensed optometrist shall submit a form prescribed by the department, detailing the identity of each person instilling mydriatic or cycloplegic eye drops and anesthetic eye drops in conjunction with such dilating drops to the surface of the eye of a patient, under his or her supervision, attesting to compliance with the above requirements.

3. The supervising licensed optometrist's use of any such person

pursuant to the terms of this subdivision shall be undertaken with professional judgment in order to ensure the safety and well-being of the patient. Such use shall subject the licensed optometrist to the full disciplinary and regulatory authority of the board of regents and the department pursuant to this title. The licensed optometrist must notify the patient or the patient's designated health care surrogate that the licensed optometrist may utilize the services of an individual to administer certain eye drops and must provide the patient or the patient's designated health care surrogate the opportunity to refuse the licensed optometrist's plan to utilize such person.

§ 7106. Special provisions. 1. The testimony and reports of a licensed optometrist shall be received by any official, board, commission or other agency of the state or of any of its subdivisions or municipalities as qualified evidence with respect to any matter defined in section seventy-one hundred one of this article; and no official, board, commission, or other agency of the state or any of its subdivisions or municipalities shall discriminate among the practitioners of optometry and any other ocular practitioners.

2. Eyeglasses or lenses for the correction of vision or non-corrective contact lenses may be sold by any person, firm or corporation at retail, only on prescription of a licensed physician or licensed optometrist and only if a licensed physician, optometrist or ophthalmic dispenser is in charge of and in personal attendance at the place of sale. This article shall not apply to binoculars, telescopes, or other lenses used for simple magnification; except, that a seller of non-prescription ready-to-wear magnifying spectacles or glasses shall have the following language attached to each pair of glasses or spectacles displayed or offered for sale and in at least ten point bold type permanently affixed in plain view to the top of any point of sale display or, if there is no display, in the area of sale: "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivision "non-prescription, ready to wear magnifying

spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

3. It shall be a class A misdemeanor to practice any fraud, deceit or misrepresentation in any advertising related to optometric services.

§ 7107. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses. 1. Any printed advertising for non-prescription ready-to-wear magnifying spectacles or glasses to be sold through the mail also shall include the statement, "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this section, "non-prescription, ready to wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

2. Any person, his or her agent or employee who shall violate any provision of this section shall be subject to a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each violation. For purposes of this section, the sale or offer for sale of each pair of non-prescription ready-to-wear magnifying spectacles or glasses which fail to meet the standards of this section shall constitute a violation.

ARTICLE 144

OPHTHALMIC DISPENSING

Section 7120. Introduction.
7121. Definition of practice of ophthalmic dispensing.

7122. Practice of ophthalmic dispensing and use of title "ophthalmic dispenser" or "optician".
7123. State board for ophthalmic dispensing.
7124. Requirements for a professional license.
7125. Exemptions.
7126. Special provisions.
7127. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses.
7128. Mandatory continuing education.

§ 7120. Introduction. This article applies to the profession of ophthalmic dispensing. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7121. Definition of practice of ophthalmic dispensing. The practice of the profession of ophthalmic dispensing is defined as adapting and fitting lenses, for the correction of deficiencies, deformities or anomalies of the human eyes, or adapting and fitting non-corrective contact lenses, on written prescriptions from a licensed physician or optometrist. Replacements or duplicates of such lenses may be adapted and dispensed without prescription. Contact lenses may be fitted by an ophthalmic dispenser only under the personal supervision of a licensed physician or optometrist.

§ 7122. Practice of ophthalmic dispensing and use of title "ophthalmic dispenser" or "optician". Only a person licensed or exempt under this article or a corporation, partnership or persons doing business under an assumed name and either composed of licensed ophthalmic dispensers or employing licensed ophthalmic dispensers shall practice ophthalmic dispensing or use the title "ophthalmic dispenser", "optician", "optical technician", "dispensing optician", or "optical dispenser".

§ 7123. State board for ophthalmic dispensing. A state board for ophthalmic dispensing shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven licensed ophthalmic dispensers who shall have been residents of this state engaged in the practice of ophthalmic dispensing for at least five years in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 7124. Requirements for a professional license. a. To qualify for a license as an ophthalmic dispenser, an applicant shall fulfill the following requirements;

(1) Application: file an application with the department;

(2) Education: have received an education, including high school graduation and completion, in accordance with the commissioner's regulations, of either (i) a two-year program in ophthalmic dispensing, or, (ii) two years of training and experience in ophthalmic dispensing under the supervision of a licensed ophthalmic dispenser, optometrist or physician;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least eighteen years of age;

(6) Citizenship: meet no requirement as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of fifty dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

b. A person licensed after July first, nineteen hundred seventy-three shall be permitted to fit contact lenses only if the licensee, in addition to the requirements of subdivision a of this section, shall (1) pass a separate examination satisfactory to the board and in accordance with the commissioner's regulations; and (2) have the requisite experience in the fitting of contact lenses satisfactory to the board and in accordance with the commissioner's regulations.

§ 7125. Exemptions. Nothing in this article shall be construed to affect or prevent:

a. An unlicensed person from performing merely mechanical work upon inert matter in an optical office, laboratory or shop; or

b. A student from engaging in clinical practice, under the supervision of a licensed ophthalmic dispenser or licensed optometrist or licensed physician, in an ophthalmic dispensing school or college registered by the department; or

c. The department from issuing a limited permit to an applicant who meets all requirements for admission to the licensing examination; provided, however, that:

(1) Practice under a limited permit shall be under the supervision of a licensed physician, optometrist or ophthalmic dispenser.

(2) A limited permit shall expire after two years, or upon notice to the applicant that the application for licensure has been denied, or ten days after notification to the applicant of failure on the professional licensing examination, whichever shall first occur. Notwithstanding the foregoing provisions of this subdivision, if the applicant is waiting the result of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the applicant of the results of such examination. A limited permit which has not expired as a result of notice of denial of licensure or of failure on the licensing examination may be renewed for a period of not more than one additional year, upon a showing satisfactory to the department that the applicant could not obtain a

license within two years.

(3) Supervision of a permittee by a licensed physician, optometrist or ophthalmic dispenser shall be on-site supervision but not necessarily direct personal supervision.

(4) The fee for each limited permit and for each renewal shall be thirty-five dollars. The fee for issuance of a training permit shall be thirty dollars.

§ 7126. Special provisions. 1. Eyeglasses or lenses for the correction of vision or non-corrective contact lenses may be sold by any person, firm or corporation at retail, only on prescription of a licensed physician or licensed optometrist and only if a licensed physician, optometrist or ophthalmic dispenser is in charge of and in personal attendance at the place of sale. This article shall not apply to binoculars, telescopes, or other lenses used for simple magnification; except, that a seller of non-prescription ready-to-wear magnifying spectacles or glasses shall have the following language attached to each pair of glasses or spectacles displayed or offered for sale and in at least ten point bold type permanently affixed in plain view to the top of any point of sale display or, if there is no display, in the area of sale: "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this subdivision, "non-prescription, ready to wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

2. It shall be a class A misdemeanor to practice any fraud, deceit or misrepresentation in any advertising related to ophthalmic dispensing.

§ 7127. Advertising of non-prescription ready-to-wear magnifying spectacles or glasses. 1. Any printed advertising for non-prescription

ready-to-wear magnifying spectacles or glasses to be sold through the mail also shall include the statement, "ATTENTION; READY-TO-WEAR NON-PRESCRIPTION GLASSES ARE NOT INTENDED TO REPLACE PRESCRIBED CORRECTIVE LENSES OR EXAMINATIONS BY AN EYE CARE PROFESSIONAL. CONTINUOUS EYE CHECK-UPS ARE NECESSARY TO DETERMINE YOUR EYE HEALTH STATUS AND VISION NEEDS." As used in this section, "non-prescription, ready to wear magnifying spectacles or glasses" means spherical convex lenses, uniform in each meridian, which are encased in eyeglass frames and intended to ameliorate the symptoms of presbyopia. The lenses in such glasses shall be of uniform focus power in each eye and shall not exceed 2.75 diopters.

2. Any person, his or her agent or employee who shall violate any provision of this section shall be subject to a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each violation. For purposes of this section, the sale or offer for sale of each pair of non-prescription ready-to-wear magnifying spectacles or glasses which fail to meet the standards of this section shall constitute a violation.

§ 7128. Mandatory continuing education. 1. (a) Each licensed ophthalmic dispenser required under this article to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Ophthalmic dispensers who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that an ophthalmic dispenser may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Ophthalmic dispensers shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section, adjustment to the mandatory continuing education requirement

may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed ophthalmic dispenser not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of ophthalmic dispensing during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as an ophthalmic dispenser shall complete a minimum of eighteen hours of acceptable formal continuing education, as specified in subdivision four of this section; provided that three hours may be in recognized areas of study pertinent to the dispensing and fitting of contact lenses. During each triennial registration period an applicant for registration as an ophthalmic dispenser and certified to fit contact lenses shall complete twenty hours of acceptable formal continuing education, as specified in subdivision four of this section; provided that ten hours shall be in recognized areas of study pertinent to the dispensing and fitting of contact lenses. Any ophthalmic dispenser whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-nine, shall complete continuing education hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, nineteen hundred ninety-eight up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require the fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this chapter.

4. As used in subdivision two of this section, "Acceptable Formal Education" shall mean formal courses of learning which contribute to professional practice in ophthalmic dispensing and which meet the standards prescribed by regulations of the commissioner. Such formal courses of learning shall include, but not be limited to, collegiate level credit and non-credit courses. Professional development programs and technical sessions offered by national, state and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement. Courses must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

5. Ophthalmic dispensers shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this chapter.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-one hundred twenty-four of this article.

ARTICLE 145

ENGINEERING, LAND SURVEYING AND GEOLOGY

Section 7200. Introduction.
7201. Definition of practice of engineering.
7202. Practice of engineering and use of title "professional engineer".
7203. Definition of practice of land surveying.
7204. Practice of land surveying and use of title "land surveyor".
7204-a. Definition of the profession of geology.
7204-b. Practice of geology and the use of title "professional geologist".
7205. State board for engineering, land surveying and geology.
7206. Requirements for a license as a professional engineer.
7206-a. Requirements for a license as a professional land surveyor.
7206-b. Requirements for a license as a professional geologist.
7207. Limited permits.
7208. Exempt persons for the professions of engineering and land surveying.
7208-a. Exempt persons in or related to the profession of geology.
7209. Special provisions.
7210. Certificates of authorization.
7211. Mandatory continuing education for professional engineers, land surveyors and professional geologists.

§ 7200. Introduction. This article applies to the professions of engineering, land surveying and geology. The general provisions for all

professions contained in article one hundred thirty of this title apply to this article.

§ 7201. Definition of practice of engineering. The practice of the profession of engineering is defined as performing professional service such as consultation, investigation, evaluation, planning, design or supervision of construction or operation in connection with any utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the safeguarding of life, health and property is concerned, when such service or work requires the application of engineering principles and data.

§ 7202. Practice of engineering and use of title "professional engineer". Only a person licensed or otherwise authorized under this article shall practice engineering or use the title "professional engineer".

§ 7203. Definition of practice of land surveying. The practice of the profession of land surveying is defined as practicing that branch of the engineering profession and applied mathematics which includes the measuring and plotting of the dimensions and areas of any portion of the earth, including all naturally placed and man- or machine-made structures and objects thereon, the lengths and directions of boundary lines, the contour of the surface and the application of rules and regulations in accordance with local requirements incidental to subdivisions for the correct determination, description, conveying and recording thereof or for the establishment or reestablishment thereof.

§ 7204. Practice of land surveying and use of title "land surveyor". Only a person licensed or otherwise authorized under this article shall practice land surveying or use the title "land surveyor".

§ 7204-a. Definition of the profession of geology. The practice of the profession of geology is defined as performing professional service such as researching, investigating, consulting and geological mapping, describing the natural processes that act upon the earth's materials, predicting the probable occurrence of natural resources, predicting and locating natural or human-induced phenomena which may be useful or hazardous to humankind and recognizing, determining and evaluating geological factors, and the inspection and performance of geological work and the responsible supervision thereof in furtherance of the health, safety and welfare of the public; provided, however, that geological mapping shall not include the practice of land surveying as defined in section seventy-two hundred three of this article.

§ 7204-b. Practice of geology and the use of title "professional geologist". Only a person licensed or otherwise authorized under this article shall practice geology or use the title "professional geologist".

§ 7205. State board for engineering, land surveying and geology. A state board for engineering, land surveying and geology shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven professional engineers, not less than two land surveyors and not less than two professional geologists licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a professional engineer, land surveyor or professional geologist licensed in this state.

§ 7206. Requirements for a license as a professional engineer. 1. To qualify for a license as a professional engineer an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a bachelor's or higher degree based on a program in engineering or the substantial equivalent, in accordance with the commissioner's regulations;

(3) Experience: have at least four years in work satisfactory to the board, provided that the board may accept study beyond the bachelor's degree in partial fulfillment of this requirement;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred thirty-five dollars for an initial license and a fee of two hundred ten dollars for each triennial registration period.

2. For an identification card as an "engineer in training", an applicant shall fulfill the requirements of paragraphs one, two, four and seven of subdivision one of this section. The fee for examination and identification card as an "engineer in training" shall be seventy dollars.

3. On recommendation of the board, the department may waive specific requirements, except as to age, character and citizenship, in the case of applicants who are possessed of established and recognized standing in the engineering profession and who have practiced lawfully for more than fifteen years.

4. Applicants who file with the department within two years of the effective date of this subdivision an application and fee requirements pursuant to paragraphs one and eight of subdivision one of this section and who, at such time or anytime thereafter, demonstrate to the satisfaction of the department that they have twelve years of practical experience in work satisfactory to the board may substitute such

experience for the degree and experience requirements specified in paragraphs two and three of subdivision one of this section, provided that each full year of study in engineering satisfactory to the department may at the discretion of the board be accepted in lieu of up to two years of the required twelve years of experience.

§ 7206-a. Requirements for a license as a professional land surveyor. 1. To qualify for a license as a professional land surveyor, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a bachelor's or higher degree based on a program in land surveying, in accordance with the commissioner's regulations;

(3) Experience: Have practical experience satisfactory to the department and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred thirty-five dollars to the department for an initial license, and a fee of two hundred ten dollars for each triennial registration period.

2. In lieu of the degree requirements specified in paragraph (2) of subdivision one of this section, an associate's degree in land surveying, or an associate's degree or higher in engineering, math, or related science with credits in land surveying acceptable to the department.

2-a. For admittance to the fundamentals of surveying examination, the applicant shall fulfill the education, experience, and examination requirements in accordance with the commissioner's regulations. Upon the

successful completion of the examination, an identification card as an "intern land surveyor" shall be issued by the department. The fee for examination qualification and identification card as an "intern land surveyor" shall be seventy dollars.

* 2-b. In lieu of the degree and experience requirements specified in paragraphs two and three of subdivision one of this section, eight years of practical experience in work satisfactory to the department may be accepted, provided that each full year of college study in engineering or land surveying satisfactory to the department may at the discretion of the department be accepted in lieu of one year of the required eight years of experience.

* NB Repealed April 3, 2029

§ 7206-b. Requirements for a license as a professional geologist. 1. To qualify for a license as a professional geologist, an applicant shall fulfill the following requirements:

(a) Application: file an application with the department;

(b) Education: have received an education, including a bachelor's or higher degree in geological sciences, in accordance with the commissioner's regulations;

(c) Experience: have at least five years practical experience satisfactory to the board in appropriate geological work; up to one year of experience may be credited for an advanced degree (masters, doctorate or an equivalent thereof) in accordance with the commissioner's regulations;

(d) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(e) Age: be at least twenty-one years of age;

(f) Character: be of good moral character as determined by the department; and

(g) Fees: pay a fee of two hundred twenty dollars to the department for an initial license, and a fee of two hundred ten dollars for each triennial registration period.

2. In lieu of the degree and experience requirements specified in paragraphs (b) and (c) of subdivision one of this section, twelve years

of practical experience in geological work of a grade and character satisfactory to the board may be accepted by the department.

3. For an identification card as an "intern geologist", an applicant shall fulfill the requirements of subdivision one of this section, except those in paragraphs (c) and (e) of such subdivision, provided that admission to the examination may be given when the applicant is within twenty credits of the completion of the requirements of the bachelor's degree or higher as prescribed in paragraph (b) of subdivision one of this section, or has completed the practical experience requirement of subdivision two of this section. The fee for the examination and identification card as an "intern geologist" shall be seventy dollars and the fee for each reexamination shall be seventy dollars.

4. An applicant who applies for licensure within one year after the effective date of this section shall be qualified for a license as a professional geologist without a written examination if the applicant has satisfied the requirements of education and experience described in paragraphs (b) and (c) of subdivision one or subdivision two of this section no later than one year after the effective date of this section.

§ 7207. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to practice engineering to an engineer not a resident of this state and having no established place of practice in this state who is legally qualified to practice as such in his own country or state and who submits satisfactory evidence of established and recognized professional standing in his own country or state and who submits satisfactory certifications as to character and qualifications from at least two licensed professional engineers, one of whom shall be a resident of this state. Such limited permit shall be issued solely in connection with the specific project for which such limited permit is granted.

2. A limited permit to practice as a professional engineer, land surveyor or professional geologist in this state may be issued by the

department to a person not a resident in this state and having no established place of practice in this state, when such practice does not aggregate more than thirty days in any calendar year, provided that such person is legally qualified to practice in his own state or country. The limited permit authorizing such right to practice in this state shall specify the dates within the calendar year when such right may be exercised.

3. On recommendation of the board, the department may issue a limited permit to practice geology to a geologist not a resident of this state and having no established place of practice in this state who is legally qualified to practice as such in his or her own country or state with standards equivalent to those enumerated in this article and who submits evidence satisfactory to the board established and recognized professional standing in his or her own country or state and who submits satisfactory certification as to character and qualifications from at least two professional geologists, one of whom shall be a resident of this state. Such limited permit shall be issued solely in connection with the specific project for which such limited permit is granted.

4. Fees. The fee for each limited permit shall be one hundred five dollars.

§ 7208. Exempt persons for the professions of engineering and land surveying. This article shall not be construed to affect or prevent the following, provided that no title, sign, card or device shall be used in such manner as to tend to convey the impression that the person rendering such service is a professional engineer or a land surveyor licensed in this state or is practicing engineering or land surveying:

a. Offering to practice in this state as a professional engineer or land surveyor by any person not a resident of, and having no established place of practice in this state, provided that such person is legally qualified for such practice in his own state or country;

b. Practice as a professional engineer or land surveyor in this state

by any person not a resident, or having no established place of practice in this state, or any person resident in this state but who has arrived in this state within six months, provided, however, such a person shall have filed an application for license as a professional engineer or land surveyor, and is legally qualified for such practice in the state or country in which he resides or has his place of practice or in which he had his previous residence or place of practice, such exemption continuing for only such reasonable time as the board requires to grant or deny the application for license, and a person intending to practice under this subdivision shall so state on the application;

c. Practice of engineering or land surveying, by an employee of a county or town, in the construction, improvement or maintenance of a county road or town highway, or by an employee of a county, city, town or village, in the construction, improvement or maintenance of any public work wherein the contemplated expenditure for the completed project does not exceed five thousand dollars;

d. Operation or maintenance of steam, power, or refrigeration plants by legally authorized persons not licensed under this article or persons engaged or employed as an engine man, operator or driver of any engine or of any mechanical, electrical, chemical or other device or machine;

e. Making of surveys by professional engineers, except that the determination of real property boundaries may be done only by a licensed land surveyor;

f. Employment or supervision of interns or other persons qualified by education or experience by professional engineers or land surveyors as assistants in the performance of engineering or land surveying, or as consultants or employees in special fields related to but not uniquely engineering or land surveying, provided that the engineers or land surveyors employing or supervising such persons shall not be relieved of any responsibility whatsoever by delegation to such persons, and provided further that such persons who have attained the bachelor's level of studies in accordance with the requirements of section seventy-two hundred six of this title may be employed as junior or

assistant engineers or junior or assistant land surveyors, or similar titles, to act under the general direction of a professional engineer or land surveyor, or in work not covered by this article;

g. Employment of any person as a junior or assistant engineer or junior or assistant land surveyor in the civil service of the state or its political subdivisions in a position the title of which was approved and in use as of July first, nineteen hundred seventy-one, provided such person acts under the general direction of a licensed professional engineer or land surveyor;

h. Execution by a contractor or by others of work designed by a professional engineer, or land surveyor, or the superintendence of such work as a superintendent, foreman, or inspector;

i. The practice of architecture by an architect licensed in this state, or the practice of landscape architecture by a landscape architect licensed in this state, provided that no such architect or landscape architect shall use the designation "engineer" or "engineering" unless licensed as a professional engineer in this state;

j. The practice of engineering or land surveying or having the title "engineer" or "surveyor" solely as an officer or an employee of a corporation engaged in interstate commerce;

k. The practice of engineering by a manufacturing corporation or by employees of such corporation, or use of the title "engineer" by such employees, in connection with or incidental to goods produced by, or sold by, or nonengineering services rendered by, such corporation or its manufacturing affiliates;

l. The practice of engineering or land surveying, or using the title "engineer" or "surveyor" (i) exclusively as an officer or employee of a public service corporation by rendering to such corporation such services in connection with its lines and property which are subject to supervision with respect to the safety and security thereof by the public service commission of this state, the interstate commerce

commission or other federal regulatory body and so long as such person is thus actually and exclusively employed and no longer, or (ii) exclusively as an officer or employee of the Long Island power authority or its service provider, as defined under section three-b of the public service law, by rendering to such authority or provider such services in connection with its lines and property which are located in such authority's service area and so long as such person is thus actually and exclusively employed and no longer;

m. The making of land surveys by a professional engineer where such land surveys are essential to engineering projects, provided he was licensed as a professional engineer in this state on or before the first day of January in the year in which this act shall become a law and files evidence satisfactory to the board on or before the first day of July in the year next succeeding the year in which this act shall have become law, that he is competent and experienced in such land surveys;

n. The design by a land surveyor of roads, drainage, water supply or sanitary sewerage facilities of a minor nature in connection with subdivisions and the extension and inspection thereof, but not including sewage disposal or treatment plants, lift stations, pumping stations, commercial buildings or bridges, provided the surveyor was licensed as a land surveyor in this state on or before the first day of January in the year in which this act shall have become a law and files evidence satisfactory to the board on or before the first day of July in the year next succeeding the year in which this act shall have become a law, attesting that he is competent and experienced in the engineering required for design of such facilities appurtenant to subdivisions; or

o. Using the title "marine operating engineer", "stationary engineer", "port of customs surveyor", or "ship surveyor".

p. Contractors or builders from engaging in construction management and administration of construction contracts.

§ 7208-a. Exempt persons in or related to the profession of geology.

Nothing in this article shall be construed to affect or prevent:

1. The employment and supervision of interns and other persons qualified by education or experience by professional geologists as assistants in the performance of geological services, or as consultants or employees in special fields related to but not uniquely geology, provided that the professional geologist employing or supervising such persons shall not be relieved of any responsibility whatsoever by delegation to such persons.

2. The practice of professional engineering by a professional engineer licensed pursuant to this article to practice engineering in this state or an entity authorized pursuant to section seventy-two hundred ten of this article to provide engineering in this state, including the investigation, acquisition, evaluation, and interpretation of the physical and chemical properties of the soil, rock, groundwater, earth materials and data related thereto, and the performance of activities as specified in section seventy-two hundred four-a of this article, provided that no such person shall use the designation, or hold himself or herself out as a "professional geologist," unless licensed as such in this state, and provided further that nothing in this chapter shall preclude a licensed professional engineer or authorized entity from offering to provide or providing the work enumerated in this subdivision, however categorized, on the grounds that such licensed professional engineer or authorized entity is not licensed to practice geology.

3. The practice of land surveying by any person that is licensed or otherwise authorized to practice land surveying in this state, provided that no such person shall use the designation or hold himself or herself out as a "professional geologist" unless licensed as such in this state.

4. The execution of work by contractors or by others of work prepared by a professional geologist, or the superintendence of such work as a superintendent, foreman or inspector.

5. The practice of the profession of geology by officers and employees

of this state practicing solely as officers and employees; provided, however, that this exemption shall not apply to officers and employees of the state of New York who commence employment or the performance of work related activities after the effective date of this section.

6. The execution of geological research and/or teaching conducted at accredited educational institutions and not-for-profit research institutions, conducted solely through those institutions.

7. Work customarily performed by physical or natural scientists provided such work does not include geological investigations, being in responsible charge of geological work, or the drawing of geological conclusions and recommendations.

8. Work customarily performed by water well drillers who have received a certificate of registration pursuant to section 15-1525 of the environmental conservation law.

§ 7209. Special provisions. 1. Every professional engineer, land surveyor and professional geologist shall have a seal, approved by the board, which shall contain the name of the professional engineer and the words "Licensed Professional Engineer", the name of the land surveyor and the words "Licensed Land Surveyor" or the name of the professional geologist and the words "Licensed Professional Geologist", and such other words or figures as the board may deem necessary. All plans, specifications, plats and reports relating to the construction or alteration of buildings or structures, or geologic drawings and reports prepared by such professional engineer, all plans, specifications, plats and reports prepared by such land surveyor and all geologic drawings and reports prepared by such professional geologist or by a full-time or part-time subordinate under his or her supervision, shall be stamped with such seal and shall also be signed, on the original with the personal signature of such professional engineer, land surveyor or professional geologist when filed with public officials. No official of this state, or of any city, county, town or village therein, charged with the enforcement of laws, ordinances or regulations shall accept or

approve any plans, specifications, or geologic drawings or reports that are not stamped:

a. With the seal of an architect or professional engineer or land surveyor or professional geologist licensed in this state and bearing the authorized facsimile of the signature of such architect or professional engineer or land surveyor or professional geologist, or

b. With the official seal and authorized facsimile of the signature of a professional engineer or land surveyor or professional geologist not a resident of this state and having no established business in this state, but who is legally qualified to practice as such in his or her own state or country, provided that such person may lawfully practice as such in this state, and provided further that the plans, specifications, or geologic drawings or reports are accompanied by and have attached thereto written authorization issued by the department certifying to such right to practice at such time.

2. a. To all plans, specifications, plats and reports to which the seal of a professional engineer or land surveyor has been applied, there shall also be applied a stamp with appropriate wording warning that it is a violation of this article for any person, unless he or she is acting under the direction of a licensed professional engineer or land surveyor, to alter an item in any way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his or her seal and the notation "altered by" followed by his or her signature and the date of such alteration, and a specific description of the alteration.

b. To all geologic drawings and reports to which the seal of a professional geologist or professional engineer has been applied, there shall also be applied a stamp with appropriate wording warning that it is a violation of this article for any person, unless he or she is acting under the direction of a professional geologist or professional engineer, to alter a drawing or report in any way. If an item bearing the seal of a licensed professional geologist or professional engineer is altered, the altering party shall affix to the item his or her seal

and the notation "altered by" followed by his or her signature and the date of such alteration, and a specific description of the alteration. Nothing contained in this article shall be deemed to authorize a professional geologist to practice professional engineering unless he or she is licensed as a professional engineer pursuant to this article.

3. No county, city, town or village or other political subdivision of this state shall engage in the construction or maintenance of any public work involving engineering or land surveying for which plans, specifications and estimates have not been made by, and the construction and maintenance supervised by, a professional engineer or land surveyor; provided that this section shall not apply to the construction, improvement or maintenance of county roads or town highways, nor to any other public works wherein the contemplated expenditure for the completed project does not exceed five thousand dollars. This section shall not be construed as affecting or preventing any county, city, town or village or other political subdivision of this state from engaging an architect licensed in this state for the preparation of plans, specifications and estimates for and the supervision of construction or maintenance of public works.

4. Engineers, land surveyors, geologists, architects, and landscape architects may join in the formation of a joint enterprise, or a partnership or a professional service corporation or a design professional service corporation or may form any desired combination of such professions and may use in the name of such corporation the title of any of the professions which will be practiced. After the name of each member his or her profession shall be indicated.

5. A firm name may be continued by employees having at least fifteen years of continuous service if the retired members and legal representatives of deceased members consent to such continuance.

6. It shall be lawful for a corporation organized and existing under the laws of the state of New York which on the fifteenth day of April, nineteen hundred thirty-five and continuously thereafter, was lawfully practicing engineering or land surveying in New York state, to continue

such practice provided that the chief executive officer shall be a professional engineer licensed under this article, if practicing engineering, or a land surveyor licensed under this article, if practicing land surveying, and provided further that the person or persons carrying on the actual practice of engineering or surveying on behalf of, or designated as "engineer" or "surveyor", with or without qualifying or characterizing word, by such corporation shall be authorized to practice engineering or land surveying as provided in this article. It shall be lawful for a corporation which, on account of or as a result of requirements, restrictions or provisions of federal law, was organized subsequent to April fifteenth, nineteen hundred thirty-five for the purpose of taking over an existing engineering organization established prior to such time and which has taken over such organization and continued its engineering activities, provided that the chief executive officer of such corporation shall be a professional engineer licensed under this article and provided further, that the person or persons carrying on the actual practice of engineering on behalf of, or designated as "engineer", with or without qualifying or characterizing word, by such corporation, shall be authorized to practice engineering as provided in this article. No such corporation shall change its name or sell its franchise or transfer its corporate rights, directly or indirectly to any person, firm or corporation without the consent of the department. Each such corporation shall obtain a triennial registration on payment of a fee of fifty dollars.

7. Nothing in this article shall be construed to apply:

a. To the preparation or execution of designs, drawings, plans or specifications for the construction or installation of machinery, or apparatus constructed or installed by the corporation preparing such designs, drawings, plans or specifications if the supervision of the preparation of any such designs, drawings, plans or specifications, construction or installation is done under the general direction of a professional engineer or land surveyor licensed under this article; or

b. To alterations to any building or structure costing ten thousand dollars or less which do not involve changes affecting the structural

safety or public safety thereof nor to farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes; nor to residence buildings of gross floor area of fifteen hundred square feet or less, not including garages, carports, porches, cellars, or uninhabitable basements or attics.

8. Nothing in this article shall prohibit a corporation organized and existing prior to the fifteenth day of April, nineteen hundred thirty-five under the laws of any state other than the state of New York, the name of which includes the word "engineers", from obtaining a certificate of authority to do business in the state of New York, provided that the business proposed to be done by such corporation within this state, as set forth in the statement and designation provided for by section thirteen hundred four of the business corporation law, shall not include the practice within this state of engineering or land surveying.

9. a. Any person who knowingly damages, destroys, disturbs, removes, resets, or replaces any boundary marker placed on any tract of land by a licensed land surveyor, or by any person at the direction of a licensed land surveyor, for the purpose of designating any point, course or line in the boundary of such tract of land in which he or she has no legal interest, shall be punished by a civil fine of not more than five hundred dollars and shall be liable for the cost of reestablishment of said boundary marker.

b. Notwithstanding the provisions of paragraph a of this subdivision, a licensed land surveyor licensed under section seventy-two hundred three of this article or a person acting at the direction of any such licensed land surveyor, may remove an existing marker if substandard in nature in order to place an upgraded marker in the same location and shall note the same on the map of survey.

§ 7210. Certificates of authorization. 1. Domestic or foreign professional service corporations, design professional service corporations, professional service limited liability companies, foreign

professional service limited liability companies, registered limited liability partnerships, New York registered foreign limited liability partnerships, partnerships and joint enterprises specified in subdivision four of section seventy-two hundred nine of this article, provided each of the foregoing entities is authorized to provide professional engineering, land surveying or professional geology services and general business corporations authorized to provide professional engineering or land surveying services pursuant to subdivision six of section seventy-two hundred nine of this article may offer to provide or provide professional engineering, land surveying or professional geology services only after obtaining a certificate of authorization from the department. Except as otherwise authorized by statute, rule or regulation, other business entities are not authorized to offer or provide professional engineering, land surveying or professional geology services and may not obtain certificates of authorization provided that nothing contained herein shall prohibit an individual who is licensed to practice professional engineering, land surveying or professional geology under this article from obtaining a certificate of authorization upon application and payment of the appropriate fees provided for under this section.

2. Upon application a certificate of authorization shall be issued by the department to all individuals, corporations, limited liability companies, limited liability partnerships, partnerships and joint enterprises specified in subdivision one of this section and which are authorized to provide professional engineering or land surveying services and pay the appropriate fee.

3. A "certificate of authorization" shall authorize such individual, corporation, limited liability company, limited liability partnership, partnership or joint enterprise to provide professional engineering or land surveying services for three years from the date of issuance subject to, as otherwise prescribed by law, the supervision of the regents of the university of the state of New York including the power to discipline and impose penalties in the same manner and to the same extent as is provided with respect to individuals and their licenses and registration pursuant to this title.

4. An application, triennial renewal, delinquent or replacement certificate fee must accompany the "certificate of authorization" request in the amount shown below. A business entity that fails to renew its certificate of authorization before the expiration date shall be required to pay the additional delinquent fee for late filing of ten dollars for each full month it has practiced after the expiration of its certificate of authorization.

Application fee and first triennial certificate of authorization - $125.00;

Triennial renewal fee - $75.00;

Delinquent fee - $10.00 per month of practice without a certificate of

authorization;

Replacement certificate fee - $10.00.

All checks shall be made payable to the state department of education, state of New York and submitted to the department. If a business enterprise is not eligible to receive a "certificate of authorization", the fee will be retained to cover the costs of processing. Triennial renewal fees for all "certificates of authorization" are due and payable on or before the filing date of each triennial registration period.

5. The department shall compile a registry of the holders of all certificates of authorization. Such registry shall include the name and address of all registrants, state whether a certificate of authorization has been issued, denied, suspended, or revoked, and disclose whether the certificate is current or expired. Access to the registry shall be made available electronically without cost. A record search of the registry may be obtained in person or by mail provided that a fee of ten dollars shall be paid for each putative registrant.

§ 7211. Mandatory continuing education for professional engineers, land surveyors and professional geologists. 1. (a) Each licensed professional required under this article to register triennially with the department to practice in this state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Licensed professionals who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and have been issued a registration certificate, except that a licensed professional may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section. For purposes of this section the term "licensed professional" shall mean any individual licensed under this article as a professional engineer, land surveyor or professional geologist.

(b) Licensed professionals shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed professional not engaged in practice as determined by the department shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of his or her profession during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

(d) Professional engineers directly employed on a full time basis by the state of New York, its agencies, public authorities, public benefit corporations or local governmental units prior to January first, two thousand four and who are represented by a collective bargaining unit or who are designated managerial or confidential pursuant to article fourteen of the civil service law, at all times when so employed shall

be deemed to have satisfied the continuing education requirements of this section, provided however that any such licensees who thereafter leave such employment and enter the practice of professional engineering in other capacities in New York, or otherwise engage in such practice, shall satisfy the requirements of this section in such manner as shall be prescribed by regulations of the commissioner.

(e) Professional geologists directly employed on a full-time basis by the state of New York, its agencies, public authorities, public benefit corporations or local governmental units prior to January first, two thousand twenty-two and who are represented by a collective bargaining unit or who are designated managerial or confidential pursuant to article fourteen of the civil service law, at all times when so employed shall be deemed to have satisfied the continuing education requirements of this section, provided however that any such licensees who thereafter leave such employment and enter the practice of professional geology in other capacities in New York, or otherwise engage in such practice, shall satisfy the requirements of this section in such manner as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a professional engineer and/or a professional geologist shall complete a minimum of thirty-six hours of acceptable continuing education and an applicant for registration as a land surveyor shall complete a minimum of twenty-four hours of acceptable continuing education as specified in subdivision four of this section. Any professional geologist whose first registration date following the effective date of the chapter of the laws of two thousand twenty which amended this section occurs less than three years from such effective date, but on or after January first, two thousand twenty-three, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand twenty-two up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during

the registration period immediately preceding the effective date of this section, no more than six continuing education hours taken during one triennium may be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices a licensed profession without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable continuing education" shall mean courses of learning and educational activities in architecture, engineering, interior design, land surveying, landscape architecture and geology that may contribute to professional practice in professional engineering, land surveying and/or geology and which meet the standards prescribed by regulations of the commissioner. Completing courses of learning and educational activities that fall within the scope of practice of another licensed profession does not authorize the licensed professional engineer, licensed land surveyor or licensed professional geologist to lawfully practice a profession that they are not authorized to practice as defined in sections seventy-two hundred one, seventy-two hundred three and seventy-two hundred four of this title. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects.

5. Licensed professionals shall maintain adequate documentation of completion of acceptable continuing education and educational activities and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fees required by sections seventy-two hundred six, seventy-two hundred six-a, and seventy-two hundred six-b of this article.

ARTICLE 147

ARCHITECTURE

Section 7300. Introduction.
7301. (Enacted without section heading).
7302. Practice of architecture and use of title "architect".
7303. State board for architecture.
7304. Requirements for a professional license.
7305. Limited permits.
7306. Exempt persons.
7307. Special provisions.
7308. Mandatory continuing education for architects.

§ 7300. Introduction. This article applies to the profession of architecture. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7301. The practice of the profession of architecture is defined as rendering or offering to render services which require the application of the art, science, and aesthetics of design and construction of buildings, groups of buildings, including their components and appurtenances and the spaces around them wherein the safeguarding of life, health, property, and public welfare is concerned. Such services include, but are not limited to consultation, evaluation, planning, the provision of preliminary studies, designs, construction documents, construction management, and the administration of construction contracts.

§ 7302. Practice of architecture and use of title "architect". Only a person licensed or otherwise authorized to practice under this article shall practice architecture or use the title "architect".

§ 7303. State board for architecture. A state board for architecture shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven architects licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be an architect licensed in this state.

§ 7304. Requirements for a professional license. 1. To qualify for a license as an architect, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a bachelor's or higher degree in architecture, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board in appropriate architectural work and of sufficient amount so that the combined college study and experience total eight years;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship: meet no requirement as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of three hundred forty-five dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred seventy dollars for each

reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period. The fee for a department conducted examination may be prorated for candidates taking parts of the examination.

2. In lieu of degree and experience requirements specified in subparagraphs (2) and (3) of subdivision one of this section, twelve years of practical experience in architectural work of a grade and character satisfactory to the board may be accepted by the department, provided that each complete year of college study satisfactory to the department may at the discretion of the board be accepted in lieu of two years of experience but not to exceed nine years toward the required total of twelve years.

3. In lieu of degree, experience and examination requirements specified in subparagraphs (2), (3) and (4) of subdivision one of this section, ten years of lawful practice of architecture outside the state satisfactory to the board may be accepted by the department upon the passing of a practical examination satisfactory to the board.

4. In lieu of degree, experience and examination requirements specified in subparagraphs (2), (3) and (4) of subdivision one of this section, a certificate of qualification issued by the national council of architectural registration boards on the basis of the fulfillment of requirments satisfactory to the board may be accepted by the department, provided further that the board shall be authorized to prepare and conduct examinations leading to certification of applicants by the national council of architectural registration boards.

§ 7305. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to practice architecture to an architect not a resident of this state and having no established business in this state who is legally qualified to practice as such in his own country or state and who submits evidence satisfactory to the board of established and recognized professional standing in his own

country or state and who submits satisfactory certifications as to character and qualifications. Such limited permit shall entitle the holder to practice architecture in this state but only in connection with the specific project for which it is granted.

2. Fees. The fee for each limited permit shall be one hundred five dollars.

§ 7306. Exempt persons. 1. This article shall not be construed to affect or prevent:

a. The preparation of details and shop drawings by persons, other than architects, for use in connection with the execution of their work;

b. Employees of those lawfully practicing as architects under the provisions of this article from acting under the instruction, control or supervision of their employers;

c. Builders, or superintendents employed by such builders, from supervising the construction or structural alteration of buildings or structures; or

d. A holder of a valid certificate of the national council of architectural registration boards, not licensed in this state, from coming into the state for interview, but not to perform any architectural services or enter into any contract until such time as he is licensed as an architect in this state.

e. The practice of engineering or land surveying by an engineer or land surveyor licensed in this state, or the practice of landscape architecture by a landscape architect licensed in this state, provided that no such engineer, land surveyor or landscape architect shall use the designation "architect," or "architectural" or "architecture" unless licensed as an architect in this state.

f. Employment of any person as a junior or assistant architect by the

City of New York in a position the title of which was approved and in use as of July first, nineteen hundred seventy-one, provided such person acts under the general direction of a licensed architect.

g. Contractors or builders from engaging in construction management and administration of construction contracts.

§ 7307. Special provisions. 1. Every architect shall have a seal, approved by the board, which shall contain the name of the architect and either the words "Registered Architect" and such other words or figures as the board may deem necessary. All working drawings and specifications, prepared by such architect or by a full-time or part-time subordinate employed under his supervision, shall be stamped with such seal and shall also be signed on the original with the personal signature of such architect when filed with public officials. Except for plans and specifications excluded from the provisions of this article by section seventy-three hundred six of this article, no official of this state, or of any county, city, town or village therein, charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings or structures, shall accept or approve any plans or specifications that are not stamped:

a. With the seal of an architect or professional engineer registered in this state and bearing the authorized facsimile of the signature of such architect or professional engineer; or

b. With the official seal and authorized facsimile of the signature of an architect or professional engineer not a resident of this state and having no established business in this state, but who is legally qualified to practice as such in his own state or country, provided that such person holds a limited permit issued by the department, and provided further that the plans or specifications are accompanied by and have attached thereto written authorization issued by the department for the specific project.

2. Engineers, land surveyors, geologists, architects and landscape

architects may join in the formation of a joint enterprise, or a partnership or a professional service corporation or a design professional service corporation or may form any desired combination of such professions and may use in the name of such corporation the title of any of the professions which will be practiced. After the name of each member his or her profession shall be indicated.

3. A firm name may be continued by employees having at least fifteen years of continuous service if the retired members and legal representatives of deceased members consent to such continuance.

4. It shall be lawful for a corporation organized and existing under the laws of the state of New York, and which on or before the twelfth day of April nineteen hundred twenty-nine and continuously thereafter was lawfully practicing in New York state to continue such practice, provided that the chief executive officer of such corporation in the state of New York shall be an architect licensed under this article, and provided further that the construction of buildings and structures shall be under the personal supervision of such architect and that drawings, plans, and specifications shall be prepared under the personal direction and supervision of such architect and bear the stamp of his official seal, and the drawings or specifications shall also be signed on the original, with the personal signature of such architect. No such corporation shall be permitted to change its name and continue to practice architecture, except upon the written approval of the department.

5. This article shall not apply to: 1. Farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes; nor to residence buildings of gross area of fifteen hundred square feet or less, not including garages, carports, porches, cellars, or uninhabitable basements or attics; or

2. Alterations, costing ten thousand dollars or less, to any building or structure within the city of New York and twenty thousand dollars or less, to any building or structure outside the city of New York which do not involve changes affecting the structural safety or public safety

thereof.

§ 7308. Mandatory continuing education for architects. 1. (a) Each licensed architect required under this article to register triennially with the department to practice in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Architects who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and have been issued a registration certificate, except that an architect may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) In accord with the intent of this section, an adjustment and/or exemption to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed architect not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of architecture during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of thirty-six hours of acceptable continuing education, as specified in subdivision four of this section, provided that a minimum of twenty-four hours of such continuing education shall be in the areas of health, safety and welfare. Any architect whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing

education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, no more than six continuing education hours taken during one triennium may be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices architecture without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable continuing education" shall mean courses of learning and educational activities in architecture, engineering, interior design, land surveying, landscape architecture and geology that may contribute to professional practice in architecture and which meet the standards prescribed by regulations of the commissioner. Completing courses of learning and educational activities that fall within the scope of practice of another licensed profession does not authorize the licensed architect to lawfully practice a profession that they are not authorized to practice as defined in section seventy-three hundred one of this article. The department may, in its discretion and as needed to contribute to the

health and welfare of the public, require the completion of continuing education courses in specific subjects.

5. Architects shall maintain adequate documentation of completion of acceptable continuing education and educational activities and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-three hundred four of this article.

ARTICLE 148

LANDSCAPE ARCHITECTURE

Section 7320. Introduction.
7321. Definition of practice of landscape architecture.
7322. Practice of landscape architecture and use of title "landscape architect".
7323. State board for landscape architecture.
7324. Requirements for a professional license.
7325. Limited permits.
7326. Exempt persons.
7327. Special provisions.
7328. Mandatory continuing education for landscape architects.

§ 7320. Introduction. This article applies to the profession of landscape architecture. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7321. Definition of practice of landscape architecture. The practice of the profession of landscape architecture is defined as performing services in connection with the development of land areas

where, and to the extent that the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to the erosion, wear and tear, blight or other hazards. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined herein but shall not include the design of structures or facilities with separate and self-contained purposes such as are ordinarily included in the practice of engineering or architecture; and shall not include the making of land surveys or final land plats for official approval or recording.

§ 7322. Practice of landscape architecture and use of title "landscape architect". Only a person licensed or otherwise authorized to practice under this article shall practice landscape architecture or use the title "landscape architect".

§ 7323. State board for landscape architecture. A state board for landscape architecture shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven landscape architects licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 7324. Requirements for a professional license. 1. To qualify for a license as a landscape architect, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a bachelor's or

higher degree in landscape architecture, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board in appropriate landscape architectural work and of sufficient amount so that the combined college study and experience total eight years;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

2. In lieu of degree and experience requirements specified in subparagraphs (2) and (3) of subdivision one of this section, twelve years of practical experience in landscape architecture of a grade and character satisfactory to the board may be accepted by the department provided that each complete year of study satisfactory to the department may at the discretion of the board be accepted in lieu of two years of experience but not to exceed eight years toward the required total of twelve years. Eight years of such experience satisfactory to the board may be accepted by the department for admission to that portion of the examination related to fundamental landscape architecture theory.

3. In lieu of degree, experience and examination requirements specified in subparagraphs (2), (3) and (4) of subdivision one of this section, ten years of lawful practice of landscape architecture outside the state satisfactory to the board may be accepted by the department upon the passing of a practical examination satisfactory to the board.

4. On recommendation of the board, the department may exempt from examination an applicant who holds a license or certificate to practice landscape architecture issued to him upon examination by a legally constituted board of examiners in any other state or political subdivision of the United States, provided the applicant's qualifications met the requirements in this state at the time such license was issued.

§ 7325. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to practice landscape architecture to a landscape architect not a resident of this state and having no established business in this state who is legally qualified to practice as such in his own country or state and who submits evidence satisfactory to the board of established and recognized professional standing in his own country or state and satisfactory certifications as to character and qualifications. Such limited permit shall be issued solely in connection with the specific project for which it is granted.

2. Fees. The fee for each limited permit shall be seventy dollars.

§ 7326. Exempt persons. This article shall not be construed to affect or prevent:

a. The preparation of details and shop drawings by persons, other than landscape architects, for use in connection with the execution of their work;

b. Employees of those lawfully practicing as landscape architects under the provisions of this article from acting under the instruction, control or supervision of their employers;

c. Supervision by builders, or superintendents employed by such builders, of the installation of landscape projects; or

d. Business conducted in this state by any agriculturist, horticulturist, tree expert, arborist, forester, nurseryman or landscape nurseryman, gardener, landscape gardener, landscape contractor, garden or lawn caretaker or grader or cultivator of land, as these terms are generally used, except that no such person shall use the designation landscape architect, landscape architectural or landscape architecture unless licensed under this article.

e. Employment of any person as a junior or assistant landscape architect by the City of New York in a position the title of which was approved and in use as of July first, nineteen hundred seventy-one, provided such person acts under the general supervision of a licensed landscape architect.

f. The practice of architecture by an architect licensed in this state, or the practice of engineering or land surveying by an engineer or land surveyor licensed in this state, provided that no such architect, engineer or land surveyor shall use the designation "landscape architect," "landscape architectural" or "landscape architecture" unless licensed as a landscape architect in this state.

§ 7327. Special provisions. 1. Every landscape architect shall have a seal, approved by the board, which shall contain the name of the landscape architect and either the words "Registered Landscape Architect" and such other words or figures as the board may deem necessary. All working drawings and specifications prepared by such landscape architect relating to the setting, approaches or environment for structures or other improvements or under the supervision of such landscape architect, shall be stamped with such seal and signed on the original, with the personal signature of such landscape architect when filed with public officials, or with the official seal and personal signature of a landscape architect granted a limited permit under section seventy-three hundred twenty-five of this article when such drawings and specifications are accompanied by a written authorization from the department for the specific project concerned.

2. Engineers, land surveyors, geologists, architects and landscape architects may join in the formation of a joint enterprise, or a partnership or a professional service corporation or a design professional service corporation or may form any desired combination of such professions and may use in the name of such corporation the title of any of the professions which will be practiced. After the name of each member his or her profession shall be indicated.

3. A firm name may be continued by employees having at least fifteen years of continuous service if the retired members and legal representatives of deceased members consent to such continuance.

4. It shall be lawful for a corporation organized and existing under the laws of the state of New York, and which on or before the first day of April nineteen hundred sixty-one was legally incorporated to practice landscape architecture, while conforming to the provisions of this title, and which has been continuously engaged in such practice since such time to continue such practice provided that the chief executive officer of such corporation in the state of New York shall be a landscape architect licensed under this article, and provided further that the supervision of such projects shall be under the personal supervision of such landscape architect and that such plans and designs shall be prepared under the personal direction and supervision of such landscape architect and bear the stamp of his official seal, and such drawings or specifications shall also be signed on the original, with the personal signature of such landscape architect. No such corporation shall be permitted to change its name and continue to practice landscape architecture, except upon the written approval of the department.

*** § 7328. Mandatory continuing education for landscape architects.** 1. (a) Each licensed landscape architect required under this article to register triennially with the department to practice in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Landscape architects who do not satisfy the mandatory continuing education

requirements shall not practice until they have met such requirements, and have been issued a registration certificate, except that a landscape architect may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Landscape architects shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed, in accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed landscape architect not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of landscape architecture during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of thirty-six hours of acceptable continuing education, as specified in subdivision four of this section, provided that a minimum of twenty-four hours of such continuing education shall be in the areas of health, safety and welfare. Up to one-half of the total hours of continuing education may consist of non-course activities. Any landscape architect whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand seven, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional

registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices landscape architecture without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable continuing education" shall mean courses of learning and educational activities which contribute to professional practice in landscape architecture and which meet the standards prescribed by regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects.

5. Landscape architects shall maintain adequate documentation of completion of acceptable continuing education and educational activities and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-three hundred twenty-four of this article.

* NB Effective until May 21, 2027

* § 7328. Mandatory continuing education for landscape architects. 1. (a) Each licensed landscape architect required under this article to register triennially with the department to practice in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Landscape architects who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and have been issued a registration certificate, except that a landscape architect may practice without having met such requirements if they are issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Landscape architects shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed, in accordance with the intent of this section, an adjustment and/or exemption to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed landscape architect not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of landscape architecture during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of thirty-six hours of acceptable continuing education, as specified in subdivision four of this section, provided that a minimum of twenty-four hours of such continuing education shall be in the areas of health, safety and welfare. Any landscape architect whose first registration date following the effective date of this section occurs less than three years from such

effective date, but on or after January first, two thousand seven, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. No more than six continuing education hours taken during one triennium may be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices landscape architecture without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable continuing education" shall mean courses of learning and educational activities in landscape architecture, architecture, engineering, interior design, land surveying, and geology that may contribute to professional practice in landscape architecture and which meet the standards prescribed by regulations of the commissioner. Completing courses of learning and educational activities that fall within the scope of practice of another licensed profession does not authorize a licensed landscape architect to lawfully practice a profession that they are not authorized to practice as defined in section seventy-three hundred twenty-one of this article. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing

education courses in specific subjects.

5. Landscape architects shall maintain adequate documentation of completion of acceptable continuing education and educational activities and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-three hundred twenty-four of this article.

* NB Effective May 21, 2027

ARTICLE 149

PUBLIC ACCOUNTANCY

Section 7400. Introduction.
7401. Definition of practice of public accountancy.
7401-a. Definitions.
7402. Practice of public accountancy and use of title "certified public accountant" or "public accountant".
7403. State board for public accountancy.
7404. Requirements for a license as a certified public accountant.
7405. Requirements for a license as a public accountant.
7406. Limited permits and practice privilege.
7407. Exempt persons.
7408. Special provisions.
7409. Mandatory continuing education.
7410. Mandatory peer review.

§ 7400. Introduction. This article applies to the profession of public accountancy. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7401. Definition of practice of public accountancy. The practice of the profession of public accountancy is defined as:

1. offering to perform or performing attest and/or compilation services, as defined in section seventy-four hundred one-a of this article;

2. incident to the services described in subdivision one of this section, offering to perform or performing professional services for clients, in any or all matters relating to accounting concepts and to the recording, presentation, or certification of financial information or data; or

3. offering to perform or performing, for other persons one or more types of the following services including but not limited to accounting, management advisory, financial advisory, and tax exclusive of services within subdivisions one and two of this section, involving the use of professional skills or competencies of the licensed accountant as described in the rules of the board of regents, including professional services rendered to one's employer not required to register under section seventy-four hundred eight of this article, in any and all matters related to accounting concepts and to the recording of financial data or information or the preparation or presentation of financial statements.

§ 7401-a. Definitions. As used in this article:

1. "Attest" means providing the following public accountancy services which all require the independence of licensees:

a. any audit to be performed in accordance with generally accepted auditing standards or other similar standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;

b. any review of a financial statement to be performed in accordance with standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations;

c. any examination to be performed in accordance with attestation standards developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations; or

d. any engagement to be performed in accordance with the auditing standards of the public company accounting oversight board.

2. "Certified public accountant" or "CPA" means any person who has received a license from the department or any other state as a certified public accountant for the practice of public accountancy.

3. "Compilation" means providing a service that presents, in the form of financial statements, information that is the representation of the management or owners of the client without undertaking to express any assurance of the accuracy of the information in the statements, to be performed in accordance with standards, developed by a federal governmental agency, commission or board or a recognized international or national professional accountancy organization, that are acceptable to the department in accordance with the commissioner's regulations.

4. "Firm" means a domestic or foreign entity organized as a sole proprietorship, a professional service corporation, a partnership, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign registered limited liability partnership, or any other form of organization that is established for the business purpose of lawfully engaging in the practice of public accountancy.

5. "Principal place of business" means the office location designated

by the licensee from which the person directs, controls, and coordinates his or her professional services.

6. "Public accountant" or "PA" means any person who has received a license from the department as a public accountant for the practice of public accountancy.

7. "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

§ 7402. Practice of public accountancy and use of title "certified public accountant" or "public accountant". Only a person licensed or otherwise authorized to practice under this article shall practice public accountancy or use the title "certified public accountant" or the designation CPA or "public accountant" or the designation PA or any other derivative or designation provided in section seventy-four hundred eight of this article.

§ 7403. State board for public accountancy. A state board for public accountancy shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than twenty licensed accountants, not less than fifteen of whom shall be licensed as certified public accountants in this state, and the board should be kept in such proportion if it is ever increased. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a certified public accountant licensed in this state.

§ 7404. Requirements for a license as a certified public accountant. 1. To qualify for a license as a certified public accountant, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

* (2) Education: have received an education, including a bachelor's or higher degree or a foreign equivalent based on a program in accountancy, in accordance with the commissioner's regulations;

* NB Effective until November 21, 2026

* (2) Education: have received an education, including a bachelor's or higher degree or a foreign equivalent from a program in accountancy that is registered by the department, or deemed comparable to a registered program as determined by the department. To meet the professional education requirements for licensure, the applicant shall present satisfactory evidence of completion of one of the following:

a. A curriculum of at least one hundred twenty semester hours in a program in accountancy, provided that the applicant shall satisfy the undergraduate curriculum semester hour requirements for the specified subjects set forth in the commissioner's regulations; or

b. A curriculum of at least one hundred fifty semester hours in a program in accountancy, provided that the applicant shall satisfy the curriculum semester hour requirements for the specified subjects set forth in the commissioner's regulations;

* NB Effective November 21, 2026

* (3) Experience: have experience satisfactory to the board of regents and in accordance with the commissioner's regulations;

* NB Effective until November 21, 2026

* (3) Experience:

Present evidence of completion of the following experience, satisfactory to the board of regents and in accordance with the commissioner's regulations:

(i) two years of acceptable full-time experience, or the equivalent thereof, for an applicant who is applying for licensure on the basis of the education described in subparagraph a of paragraph two of this subdivision; or

(ii) one year of acceptable full-time experience, or the equivalent thereof, for an applicant who is applying for licensure on the basis of the education described in subparagraph b of paragraph two of this

subdivision;

* NB Effective November 21, 2026

* (4) Examination: pass a written examination satisfactory to the board and in accordance with the commissioner's regulations and the requirement with respect to such examination may not be waived;

* NB Effective until November 21, 2026

* (4) Examination: pass a written examination satisfactory to the board and in accordance with the commissioner's regulations, provided that the required educational attainment for such examination shall not be greater than that set out in subparagraph a of paragraph two of this subdivision, and the requirement with respect to such examination may not be waived;

* NB Effective November 21, 2026

(5) Age: be at least twenty-one years of age;

(6) Citizenship: meet no requirements as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

2. In lieu of professional requirements specified in paragraphs two and three of subdivision one of this section, fifteen years in the practice of public accountancy satisfactory to the board may be accepted by the department.

§ 7405. Requirements for a license as a public accountant. To qualify for a license as a public accountant, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Declaration of intention: a. Have filed a declaration of intention to practice as a public accountant with the department on or before

October first, nineteen hundred fifty-nine, on the basis of evidence that the applicant was engaged for a total of six years during the ten years immediately preceding April twenty-third, nineteen hundred fifty-nine, in the practice of public accountancy as an individual practitioner or as a partner of a partnership or as an employee of such an individual practitioner or partnership engaged in the practice of public accountancy or as an employee of a department, agency or instrumentality of the United States, the state, or a political subdivision of the state in which employment his duties entailed the performance of all or some of the services which would constitute the practice of public accountancy, or a combination of the foregoing duties, or in the opinion of the board the equivalent thereof;

b. Establish by evidence satisfactory to the board that at the date of the filing of said declaration of intention, the applicant had complied with the conditions established by law on April twenty-third, nineteen hundred fifty-nine, has not violated the provisions relating to practice in public accountancy, and is about to engage in the practice of public accountancy as his principal occupation as an individual practitioner or as a partner of a partnership;

(3) Character: be of good moral character as determined by the department; and

(4) Fees: pay a fee to the department for an initial license of two hundred twenty dollars, and a fee of two hundred ten dollars for each triennial registration period.

§ 7406. Limited permits and practice privilege. 1. Limited permits. On recommendation of the board, the department may issue a limited permit to an applicant of good moral character, who is the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the performance in such country of the acts set forth in section seventy-four hundred one of this article, provided the applicant has professional qualifications that are determined by the board to be significantly comparable to the licensure requirements for certified public accountancy pursuant to this article, and the applicant resides or has a place for the regular transaction of business within

the state, and equal recognition is granted by the foreign country concerned to certified public accountants or public accountants licensed in the United States. Such limited permit shall be valid for a period of two years and may be renewed on recommendation of the board. Such permit shall authorize the applicant to use only the title or designation under which he or she is generally known in his or her own country, followed by the name of the country from which he or she received his or her certificate, license or degree, notwithstanding the provisions of subdivision two of section seventy-four hundred eight of this article. The fee for each limited permit and each renewal shall be established in regulation by the board of regents.

* 2. Practice privilege. a. Except as otherwise provided in subparagraph two or three of paragraph f of this subdivision, a certified public accountant, licensed by another state which the board of regents has determined to have substantially equivalent certified public accountant licensure requirements, or whose individual licensure qualifications are verified by the department to be substantially equivalent to New York's requirements, and in good standing, who intends to perform any of the services in subdivision one, two or three of section seventy-four hundred one of this article may practice public accountancy in this state, if the certified public accountant:

(1) holds a valid license to practice public accountancy in the other state, and

(2) practices public accountancy in another state that is his or her principal place of business.

b. The practice privilege allows such certified public accountant, who meets the requirements of paragraph a of this subdivision to practice public accountancy in this state.

c. An individual who has been granted practice privileges under this section who performs any of the services in subdivision one or two of section seventy-four hundred one of this article may only do so through a firm which has obtained a registration under section seventy-four hundred eight of this article. Such an individual, as well as an individual with a New York license who does not have a principal place of business in New York, may provide services in subdivision three of

section seventy-four hundred one of this article through a firm of certified public accountants that does not have a registration in this state but that holds a valid license, registration, or permit in another state.

d. Any certified public accountant who practices in this state pursuant to this section, and any firm that employs such certified public accountant to provide such services in New York, consents to all of the following as a condition of the exercise of such practice privilege:

(1) to the personal and subject matter jurisdiction and disciplinary authority of the board of regents as if the practice privilege is a license, and an individual with a practice privilege is a licensee;

(2) to comply with this article, the rules of the board of regents and the regulations of the commissioner; and

(3) to the appointment of the secretary of state or other public official acceptable to the department, in the certified public accountant's state of licensure or the state in which the firm has its principal place of business, as the certified public accountant or firm's agent upon whom process may be served in any action or proceeding by the department against such certified public accountant or firm.

e. For purposes of this subdivision, the board of regents may determine that nationally-recognized certified public accountant licensure requirements are substantially equivalent to New York's requirements, such that an individual licensed in a state determined to have licensure requirements substantially equivalent to the nationally-recognized CPA licensure requirements, or an individual whose licensure qualifications are determined to be substantially equivalent to the nationally-recognized CPA licensure requirements, may practice under the practice privilege pursuant to the requirements contained in this subdivision.

f. (1) A person who wishes to practice public accountancy in this state but does not meet the requirements of paragraph a of this subdivision is subject to the full licensing and registration requirements of this article.

(2) In the event the license from the other state of the certified public accountant's principal place of business is no longer valid or in good standing, or that the certified public accountant has had any final disciplinary action taken by the licensing or disciplinary authority of any other state concerning the practice of public accountancy that has resulted in (i) the suspension or revocation of his or her license, or (ii) other disciplinary action against his or her license that arises from (a) gross negligence, recklessness or intentional wrongdoing relating to the practice of public accountancy, (b) fraud or misappropriation of funds relating to the practice of public accountancy, or (c) preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports or information relating to the practice of public accountancy, the certified public accountant shall cease offering to perform or performing such services in this state individually and on behalf of his or her firm, until and unless such certified public accountant receives written permission from the department to resume the practice of public accountancy in this state pursuant to subparagraph three of this paragraph.

(3) Any certified public accountant who, within the last seven years, immediately preceding the date on which he or she wishes to practice in New York, (i) has been the subject of any final disciplinary action taken against him or her by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against him or her in any other jurisdiction, or (ii) has had his or her license in another jurisdiction reinstated after a suspension or revocation of said license, or (iii) has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error, or (iv) has been convicted of a crime or is subject to pending criminal charges in any jurisdiction, shall so notify the department, on a form prescribed by the department, and shall not practice public accountancy in this state under paragraph a of this subdivision until he or she has received from the department written permission to do so. In determining whether the certified public accountant shall be allowed to practice in this state, the department shall follow the procedure to determine whether an applicant for

licensure is of good moral character. Anyone failing to provide the notice required by this paragraph shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board of regents as if the practice privilege is a license, and an individual with a practice privilege is a licensee, and may be deemed to be practicing in violation of section sixty-five hundred twelve of this title.

g. (1) Notwithstanding subparagraph two of paragraph a of this subdivision or any other inconsistent law or rule to the contrary, a certified public accountant licensed by another state and in good standing who otherwise meets the practice privilege requirements under this section and files an application for licensure under section seventy-four hundred four of this article may continue to practice under such privilege for a period coterminous with the period during which his or her application for licensure remains pending with the department, including any period after the certified public accountant establishes a principal place of business in New York while his or her application is pending.

(2) Nothing in this section shall limit the applicability of section seventy-four hundred seven of this article.

* NB Effective until November 21, 2026

* 2. Practice privilege. a. Except as otherwise provided in subparagraph two or three of paragraph e of this subdivision, a certified public accountant, licensed by another state, who intends to perform any of the services in subdivision one, two or three of section seventy-four hundred one of this article may practice public accountancy in this state, if the certified public accountant:

(1) holds a valid license to practice public accountancy which is in good standing in the other state,

(2) practices public accountancy in another state that is such certified public accountant's principal place of business,

(3) has completed either of the professional education and experience requirements as described in paragraphs two and three of subdivision one of section seventy-four hundred four of this article, and

(4) has passed the written examination described in paragraph four of subdivision one of section seventy-four hundred four of this article.

b. The practice privilege allows such certified public accountant, who meets the requirements of paragraph a of this subdivision to practice public accountancy in this state.

c. An individual who has been granted practice privileges under this section who performs any of the services in subdivision one or two of section seventy-four hundred one of this article may only do so through a firm which has obtained a registration under section seventy-four hundred eight of this article. Such an individual, as well as an individual with a New York license who does not have a principal place of business in New York, may provide services in subdivision three of section seventy-four hundred one of this article through a firm of certified public accountants that does not have a registration in this state but that holds a valid license, registration, or permit in another state.

d. Any certified public accountant who practices in this state pursuant to this section, and any firm that employs such certified public accountant to provide such services in New York, consents to all of the following as a condition of the exercise of such practice privilege:

(1) to the personal and subject matter jurisdiction and disciplinary authority of the board of regents as if the practice privilege is a license, and an individual with a practice privilege is a licensee;

(2) to comply with this article, the rules of the board of regents and the regulations of the commissioner; and

(3) to the appointment of the secretary of state or other public official acceptable to the department, in the certified public accountant's state of licensure or the state in which the firm has its principal place of business, as the certified public accountant or firm's agent upon whom process may be served in any action or proceeding by the department against such certified public accountant or firm.

e. (1) A person who wishes to practice public accountancy in this state but does not meet the requirements of paragraph a of this subdivision is subject to the full licensing and registration

requirements of this article.

(2) In the event the license from the other state of the certified public accountant's principal place of business is no longer valid or in good standing, or that the certified public accountant has had any final disciplinary action taken by the licensing or disciplinary authority of any other state concerning the practice of public accountancy that has resulted in (i) the suspension or revocation of such certified public accountant's license, or (ii) other disciplinary action against such certified public accountant's license that arises from (a) gross negligence, recklessness or intentional wrongdoing relating to the practice of public accountancy, (b) fraud or misappropriation of funds relating to the practice of public accountancy, or (c) preparation, publication, or dissemination of false, fraudulent, or materially incomplete or misleading financial statements, reports or information relating to the practice of public accountancy, the certified public accountant shall cease offering to perform or performing such services in this state individually and on behalf of such certified public accountant's firm, until and unless such certified public accountant receives written permission from the department to resume the practice of public accountancy in this state pursuant to subparagraph three of this paragraph.

(3) Any certified public accountant who, within the last seven years, immediately preceding the date on which such certified public accountant wishes to practice in New York, (i) has been the subject of any final disciplinary action taken against such certified public accountant by the licensing or disciplinary authority of any other jurisdiction with respect to any professional license or has any charges of professional misconduct pending against such certified public accountant in any other jurisdiction, or (ii) has had such certified public accountant license in another jurisdiction reinstated after a suspension or revocation of said license, or (iii) has been denied issuance or renewal of a professional license or certificate in any other jurisdiction for any reason other than an inadvertent administrative error, or (iv) has been convicted of a crime or is subject to pending criminal charges in any jurisdiction, shall so notify the department, on a form prescribed by the department, and shall not practice public accountancy in this state under paragraph a of this subdivision until such certified public

accountant has received from the department written permission to do so. In determining whether the certified public accountant shall be allowed to practice in this state, the department shall follow the procedure to determine whether an applicant for licensure is of good moral character. Anyone failing to provide the notice required by this paragraph shall be subject to the personal and subject matter jurisdiction and disciplinary authority of the board of regents as if the practice privilege is a license, and an individual with a practice privilege is a licensee, and may be deemed to be practicing in violation of section sixty-five hundred twelve of this title.

f. (1) Notwithstanding subparagraph two of paragraph a of this subdivision or any other inconsistent law or rule to the contrary, a certified public accountant licensed by another state and in good standing who otherwise meets the practice privilege requirements under this section and files an application for licensure under section seventy-four hundred four of this article may continue to practice under such privilege for a period coterminous with the period during which such certified public accountant's application for licensure remains pending with the department, including any period after the certified public accountant establishes a principal place of business in New York while such certified public accountant's application is pending.

(2) Nothing in this section shall limit the applicability of section seventy-four hundred seven of this article.

* NB Effective November 21, 2026

§ 7407. Exempt persons. Nothing contained in this article shall be construed to prohibit:

a. Any individual other than a certified public accountant or public accountant who is an officer of a corporation or partner of a partnership or sole proprietor of a business enterprise or member of a joint venture or member of a committee appointed by stockholders, creditors, courts, trustees, executors or administrators, or an employee of any of the foregoing, in his capacity as such, from signing, delivering, or issuing any financial, accounting or related statement or

report thereon, relating to said corporation, partnership, business venture, joint venture, committee, trust or estate, provided, however, that in so doing such person does not hold himself or herself out to be a certified public accountant or public accountant;

b. An attorney-at-law, or a partnership, limited liability partnership, limited liability company or professional service corporation of attorneys-at-law from signing a financial, accounting or related statement or report thereon, prepared by such attorney or organizations of attorneys as incidental to the practice of law;

c. Any individual from serving as an employee of a certified public accountant, public accountant or firm licensed under this article;

d. Any individual, not engaged in practice as a certified public accountant or public accountant within the state, from performing services within the state which are incidental to the practice conducted by him outside the state;

e. Any official or employee of a governmental unit, agency or instrumentality other than a certified public accountant or public accountant in the performance of his official duties from signing, delivering or issuing any financial, accounting, or related statement or report thereon relating to said unit, agency or instrumentality; or

f. A corporation chartered in the state of New York to engage in the practice of public accountancy and so engaged as its principal activity on and before the first day of July, nineteen hundred fifty-nine, from continuing in such practice as long as its corporate acts comply with the board of regents rules, provided all employees of such corporation performing any acts constituting the practice of public accountancy as defined herein and who are not certified public accountants or public accountants licensed under this article shall in the performance of such acts be under the supervision of certified public accountants or public accountants licensed in this state; or

g. An individual other than a certified public accountant or public

accountant, or an entity not required to register under paragraph a of subdivision three of section seventy-four hundred eight of this article, from offering to perform or performing the types of services set forth in subdivision three of section seventy-four hundred one of this article or preparing financial statements in accordance with subdivision five of section seventy-four hundred eight of this article.

§ 7408. Special provisions. 1. Nothing contained in this article shall be deemed to prohibit one or more certified public accountants or one or more public accountants, or any combination thereof, from forming a firm.

2. No firm shall use the words "certified public accountant" or "certified public accountants" or the letters "CPA" or "CPAs" in connection with its name unless the sole proprietor of such firm or each partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation engaged within the United States in the practice of public accountancy is in good standing as a certified public accountant of one or more of the states of the United States.

3. a. Any firm that is established for the business purpose of lawfully engaging in the practice of public accountancy pursuant to subdivisions one and two of section seventy-four hundred one of this article or uses the title "CPA" or "CPA firm" or the title "PA" or "PA firm" must register with the department. A firm of certified public accountants or public accountants engaged in the practice of public accountancy pursuant to subdivision three of section seventy-four hundred one of this article, but not engaged in the practice of public accountancy pursuant to subdivisions one and two of section seventy-four hundred one of this article, may register with the department under this subdivision. As a condition of registration or renewal, the firm shall affirm that it has not violated the provisions of this article, any other applicable laws and such other requirements as the department may impose, consistent with this article, except that the provisions of section seventy-four hundred ten of this article shall not apply on

initial registration.

b. A registration shall be issued to a firm upon payment of the fee prescribed by the commissioner upon application showing that:

(1) At least one partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation or the sole proprietor is licensed or otherwise authorized to practice under this article and his or her license to practice is not currently suspended, annulled or revoked in any jurisdiction and he or she is regularly engaged in practice on behalf of the firm within the state or, in the case of a firm that holds a license, registration, or permit as a firm of certified public accountants in another state and is required to register in this state, an individual with practice privileges under subdivision two of section seventy-four hundred six of this article;

(2) The firm, other than a sole proprietorship, consists of at least two present partners, members or shareholders;

(3) The firm, other than a sole proprietorship, contains at least as many present partners, members or shareholders as the total number of names in the firm name, or, where the word "company" or abbreviation "co." is used, the number of present partners, members or shareholders shall be greater than the number of names in the firm name;

(4) Such application includes a list of the location of all offices within this state, including the names of the persons in charge of such offices; and

(5) Such application includes a list of all states in which the firm has applied for or holds registrations, licenses, or permits as a public accounting firm and a list of any past denial, revocation, or suspension of a license, registration or permit by any other state or jurisdiction within the last three years.

c. In addition to authority granted under any other provision of law, the board of regents may revoke such registration or take other action pursuant to a consent order or surrender of registration in accordance with this title and the rules of the board of regents, in the same manner and to the same extent as is provided with respect to individuals licensed pursuant to this article, or pursuant to a settlement in which

the firm neither admits nor denies the allegations of professional misconduct, or after a hearing conducted in accordance with the provisions of section sixty-five hundred ten of this title upon proof:

(1) That the registration was obtained by either misrepresentation or suppression of any material fact;

(2) That the license or authorization to practice of any sole proprietor, partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation is suspended, annulled or revoked in any jurisdiction;

(3) That any sole proprietor, partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation in such firm is or has been engaged in the practice of public accountancy in this state who is not licensed or otherwise authorized to practice in this state;

(4) That the firm failed to file the written notification required pursuant to paragraph e of this subdivision;

(5) That the firm failed to undergo a peer review of its attest services pursuant to section seventy-four hundred ten of this article at least once every three years; or

(6) That the firm has engaged in professional misconduct pursuant to section sixty-five hundred nine of this title.

d. Personal service on a sole proprietor, any general partner of a partnership or limited liability partnership, member of a limited liability company or shareholder of a professional service corporation licensed in this state of a notice of a hearing to revoke the registration of, or take other disciplinary action against a firm registered hereunder shall be deemed service on the firm.

e. A firm registered to practice pursuant to this section shall file with the department annually on or before the anniversary of the date of the firm's first registration written notification of:

(1) Any admission of a partner, member or shareholder,

(2) Any resignation, termination, retirement or death of a partner, member or shareholder,

(3) Any termination of a firm,

(4) Any change in the number or location of offices within this state and any change in the identity of the persons in charge of such offices, or

(5) Any occurrence of any event or events which would eliminate as to such firm conformity with the applicable requirements of this section.

f. The commissioner shall establish in regulations a registration process for certified public accountancy firms and public accountancy firms, including the imposition of application and registration fees and procedures to suspend or revoke a registration or take other disciplinary action for cause.

g. Firms shall register triennially.

h. An individual licensee or individual practicing under subdivision two of section seventy-four hundred six of this article who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of a firm shall meet the competency requirements set out in the professional standards for such services, as recognized in subdivision one of section seventy-four hundred one-a of this article, and as set out in the rules of the board of regents.

4. Any person shall be guilty of a class A misdemeanor who shall use, in connection with the practice of public accountancy, or in any manner tending to imply that he or she is an independent accountant or auditor, the designations "chartered accountant", "certified accountant", "expert accountant", "certified tax accountant", "tax accountant", "enrolled accountant", "enrolled public accountant", "registered accountant", "licensed accountant", "incorporated accountant", "registered public accountant", "licensed public accountant", or any abbreviation thereof, or the letters "C.A.", "E.A.", "C.T.A.", "T.A.", "E.P.A.", "R.A.", "L.A.", "I.A.", "P.A.", "R.P.A.", or, "L.P.A.", except as provided elsewhere in this article, or any other designation tending to imply that he or she has expert knowledge in accounting or auditing. The title "enrolled agent" or the designation "E.A." may only be used by individuals so designated by the United States Internal Revenue Service.

5. An individual not licensed as a certified public accountant or public accountant or otherwise authorized to practice public accountancy, or an entity not required to register under this section may prepare a financial statement so long as it is not accompanied by any statement, report, or wording indicating such individual is a certified public accountant or public accountant or that such entity is registered to practice public accountancy under this article. Such non-licensed individuals and non-registered entities shall include the following written language when preparing financial statements:

a. "(I, We) have prepared the accompanying financial statement(s) of (name of business or organization) as of the (time period) and for the (period) then ended. This presentation is limited to preparing, in the form of a financial statement(s), information that is the representation of (name of business or organization)"; and

b. "(I, We) have not audited or reviewed the accompanying financial statement(s) and accordingly do not express an opinion or any other form of assurance on them."

§ 7409. Mandatory continuing education. 1. a. Each certified public accountant and public accountant required under article one hundred thirty of this title to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements except as set forth in paragraphs (b) and (c) of this subdivision. Such certified public accountants and public accountants who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, they have paid all applicable fees, and they have been issued a registration or conditional registration certificate.

b. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health certified by a physician, for extended active duty with armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

c. Certified public accountants or public accountants not engaged in practice as defined in section seventy-four hundred one of this article, shall be exempt from the mandatory continuing education requirement upon the filing of a written statement with the department declaring such status pursuant to subdivision four of section sixty-five hundred two of this title. Any certified public accountant or public accountant who resumes practice during the triennial registration period shall notify the department prior to resuming practice and shall pay the current mandatory continuing education fee and shall meet such mandatory continuing education requirements as shall be prescribed by regulations of the commissioner.

2. a. During each year of the triennial registration period beginning September first, nineteen hundred ninety and ending September first, nineteen hundred ninety-three and each registration period thereafter but ending on the period that ends on December thirty-first, two thousand ten, an applicant for registration shall have the option of: (1) completing a minimum of forty contact hours of acceptable formal continuing education in recognized areas of study, or (2) completing a minimum of twenty-four contact hours of acceptable formal continuing education concentrated in any one of the following three subject areas: auditing, accounting, or taxation.

b. For applicants whose triennial registration date occurs on or after January first, two thousand nine, for each calendar year beginning with the two thousand nine calendar year, an applicant for registration shall have the option of (1) completing a minimum of forty contact hours of acceptable formal continuing education in recognized areas of study pursuant to subdivision four of this section, or (2) completing a minimum of twenty-four contact hours of acceptable formal continuing education concentrated in any one of the recognized areas of study pursuant to subdivision four of this section; provided, however, that any continuing education contact hours earned between September first, two thousand eight and December thirty-first, two thousand eight may be credited toward the minimum contact hours required for the calendar year beginning January first, two thousand nine.

c. A certified public accountant or public accountant who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a registration or conditional registration certificate is issued as provided in subdivision three of this section. No hourly credits may be transferred from one year to a subsequent year except as provided in paragraph b of this subdivision. The individual certified public accountant or public accountant shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a certified public accountant or public accountant who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department. Any certified public accountant or public accountant who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices public accountancy without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to the growth in the professional knowledge and professional competence of the licensee which meet the standards prescribed by regulations of the commissioner. Recognized areas of study shall include but not be limited to: accounting, attest, auditing, taxation, advisory services, specialized knowledge and applications related to specialized industries, and such other areas appropriately related to the practice of accounting as may be acceptable to the department. To fulfill the mandatory continuing education requirement, programs must be taken from

sponsors approved by the department, pursuant to the regulations of the commissioner.

5. The mandatory continuing education fee shall be determined by the regents, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-four hundred four of this article.

§ 7410. Mandatory peer review. 1. The department shall require as a condition to renewal of registrations under section seventy-four hundred eight of this article, that unless otherwise exempted by the department, applicants for firm registrations, undergo, no more frequently than once every three years, except pursuant to a disciplinary action brought under section seventy-four hundred eight of this article, peer reviews of the firm's attest services conducted in such manner as the commissioner shall specify in regulations, and such review shall include a verification that individuals in the firm who are responsible for supervising attest services sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such regulations:

a. shall include reasonable provisions for compliance by an applicant for firm registration showing that it has, within the preceding three years, undergone a peer review in this state or a peer review in another state that is a satisfactory equivalent to peer review required pursuant to this section;

b. shall require, with respect to any organization administering peer review programs contemplated by paragraph a of this subdivision, that it be subject to evaluations by the department or its designee, to periodically assess the effectiveness of the peer review program under its charge;

c. shall require the peer review to be conducted by reviewers

acceptable to the department in accordance with the commissioner's regulations; and

d. may require with respect to peer reviews contemplated by paragraph a of this subdivision that firms undergoing peer reviews and organizations administering peer review programs timely remit such peer review reports to the state board for public accountancy and such reports shall be maintained by the board in a manner consistent with subdivision two of this section.

2. Notwithstanding any provision of law to the contrary, the reports submitted in accordance with subdivision one of this section shall be confidential and shall not constitute a public record and shall not be subject to disclosure under articles six and six-A of the public officers law. However, when any such report is admitted into evidence in a hearing held by the department, it shall then be a public record subject to disclosure under articles six and six-A of the public officers law.

3. Notwithstanding any provision of law or regulation to the contrary, a firm that performs attest services for any New York state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office, or other governmental entity performing a governmental or proprietary function for New York state or any one or more municipalities thereof, or performs attest services specifically required to be performed pursuant to New York state law, or performs attest services for any federal governmental entity pursuant to federal law, shall be in conformity with the requirements pursuant to the government auditing standards of the comptroller general of the United States.

ARTICLE 151
SHORTHAND REPORTING

Section 7500. Introduction.
7501. Definition of practice as a certified shorthand reporter.
7502. Use of title "certified shorthand reporter".

7503. State board for certified shorthand reporting.
7504. Requirements for a professional license.

§ 7500. Introduction. This article applies to the use of the title "certified shorthand reporter". The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7501. Definition of practice as a certified shorthand reporter. The practice as a certified shorthand reporter is defined as engaging, under such title, in making by a written system of either manual shorthand or machine shorthand, a verbatim record of any oral court proceeding, disposition, hearing or proceeding before any grand jury, referee, commissioner, or arbitrator, or of any convention, deliberative assembly, or meeting of like character.

§ 7502. Use of title "certified shorthand reporter". Only a person licensed under this article shall be authorized to use the title "certified shorthand reporter".

§ 7503. State board for certified shorthand reporting. A state board for certified shorthand reporting shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than five shorthand reporters licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 7504. Requirements for a professional license. 1. To qualify for a license as a certified shorthand reporter, an applicant shall fulfill

the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including high school graduation and completion of a program in shorthand reporting, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of fifty dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

2. In lieu of professional qualifications specified in subparagraphs (2) and (3) of subdivision one of this section, five years of experience in shorthand reporting satisfactory to the board may be accepted by the department.

ARTICLE 153
PSYCHOLOGY

Section 7600. Introduction.
7601. Practice of psychology and use of the title "psychologist".
7601-a. Definition of the practice of psychology.
7602. State board for psychology.
7603. Requirements for a professional license.
7604. Limited permits.

7605. Exempt persons.
7606. Prohibitions.
7607. Mandatory continuing education.

§ 7600. Introduction. This article applies to the profession and practice of psychology and to the use of the title "psychologist". The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7601. Practice of psychology and use of the title "psychologist". Only a person licensed or otherwise authorized under this article shall be authorized to practice psychology or to use the title "psychologist" or to describe his or her services by use of the words "psychologist", "psychology" or "psychological" in connection with his or her practice.

§ 7601-a. Definition of the practice of psychology. 1. The practice of psychology is the observation, description, evaluation, interpretation, and modification of behavior for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior; enhancing interpersonal relationships, personal, group or organizational effectiveness and work and/or life adjustment; and improving behavioral health and/or mental health. The practice includes, but is not limited to psychological (including neuropsychological) testing and counseling; psychoanalysis; psychotherapy; the diagnosis and treatment of mental, nervous, emotional, cognitive or behavioral disorders, disabilities, ailments or illnesses, alcoholism, substance abuse, disorders of habit or conduct, the psychological aspects of physical illness, accident, injury or disability, psychological aspects of learning (including learning disorders); and the use of accepted classification systems.

2. The term "diagnosis and treatment" means the appropriate psychological diagnosis and the ordering or providing of treatment according to need. Treatment includes, but is not limited to counseling, psychotherapy, marital or family therapy, psychoanalysis, and other

psychological interventions, including verbal, behavioral, or other appropriate means as defined in regulations promulgated by the commissioner.

§ 7602. State board for psychology. A state board for psychology shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eleven psychologists licensed in this state. An executive secretary to the board shall be appointed by the board of regents upon the recommendation of the commissioner and shall be a psychologist, licensed in this state.

§ 7603. Requirements for a professional license. To qualify for a license as a psychologist, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including a doctoral degree in psychology, granted on the basis of completion of a program of psychology registered with the department or the substantial equivalent thereof, in accordance with the commissioner's regulations;

(3) Experience: have two years of supervised employment or engagement in appropriate psychology activities satisfactory to the board and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating pursuant to a waiver issued by the department pursuant to section sixty-five hundred three-a of this title may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver with the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the

experience, provided that such experience meets all other requirements for acceptable experience;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Citizenship: meet no requirement as to United States citizenship;

(7) Character: be of good moral character as determined by the department; and

(8) Fees: pay a fee of one hundred seventy dollars to the department for admission to a department conducted examination and for an initial license, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 7604. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to practice as psychologist to an applicant holding a certificate or license to practice psychology issued by another state or country, and whose qualifications have been approved for admission to the examination for a license as psychologist and who has resided in this state for a period of not more than six months prior to the filing of such application. The limited permit shall be valid for a period of not more than twelve months, or until ten days after notification to the applicant of failure of the professional licensing examination or until the results of a licensing examination for which the applicant is eligible are officially released, whichever comes first.

1-a. On the recommendation of the board, the department may issue a limited permit valid for an aggregate of three years to a person who has completed the doctoral dissertation and other doctoral degree requirements and is gaining supervised experience to meet the experience requirements for licensure. This permit may be re-issued for a maximum period of one year for good cause, as determined by the department.

2. Fees. The fee for each limited permit shall be seventy dollars.

§ 7605. Exempt persons. Nothing in this article shall be construed to affect or prevent:

* 1. The activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of such salaried position; or on the part of a person in the employ as a certified school psychologist on a full-time or part-time salary basis, which may include on an hourly, weekly, or monthly basis, or on a fee for evaluation services basis provided that such person employed as a certified school psychologist is employed by and under the dominion and control of a preschool special education program approved pursuant to paragraph b of subdivision nine or subdivision nine-a of section forty-four hundred ten of this chapter to provide activities, services and to use the title "certified school psychologist", so long as this shall not be construed to permit the use of the title "licensed psychologist", to students enrolled in such approved program or to conduct a multidisciplinary evaluation of a preschool child having or suspected of having a disability, where each such preschool special education program is authorized by paragraph a of subdivision six of section sixty-five hundred three-b of this title in the course of their employment. Nothing in this subdivision shall be construed to authorize a certified school psychologist or group of such school psychologists to engage in independent practice or practice outside of an employment relationship.

* NB Effective until June 30, 2028

* 1. The activities, services, and use of the title of psychologist, or any derivation thereof, on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a chartered elementary or secondary school or degree-granting educational institution insofar as such activities and services are a part of the duties of his salaried position.

* NB Effective June 30, 2028

2. The activities and services required of a student, intern, or resident in psychology, pursuing a course of study leading to a doctoral degree in psychology in an institution approved by the department, provided that such activities and services constitute a part of his supervised course of study in psychology. Such persons shall be designated by title as "psychological intern", "psychological trainee" or other such title which clearly indicates his training status.

3. The practice, conduct, activities or services by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title.

4. The practice, conduct, activities, or services by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within the state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice social work within the state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to article one hundred sixty-three of this title, or any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title or any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors, and certified substance abuse counselors from providing mental health services within their respective established authorities.

5. The conduct, activities, or services of any member of the clergy or Christian Science practitioner, in the provision of pastoral counseling services within the context of his or her ministerial charge or obligation.

6. The conduct, activities, or services of individuals, churches,

schools, teachers, organizations, or not-for-profit businesses in providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

7. The practice, conduct, activities, or services of an occupational therapist from performing work consistent with article one hundred fifty-six of this title.

8. The representation as a psychologist and the rendering of services as such in this state for a temporary period of a person who resides outside the state of New York and who engages in practice as a psychologist and conducts the major part of his practice as such outside this state, provided such person has filed with the department evidence that he has been licensed or certified in another state or has been admitted to the examination in this state pursuant to section seventy-six hundred three of this article. Such temporary period shall not exceed ten consecutive business days in any period of ninety consecutive days or in the aggregate exceed more than fifteen business days in any such ninety-day period.

9. The provision of psychotherapy as defined in subdivision two of section eighty-four hundred one of this title to the extent permissible within the scope of practice of psychology, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering psychology services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

10. (a) A person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of

benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

(b) A person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

(c)(i) A person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-four or one hundred sixty-three of this chapter; and provided, further, that the activities performed by members

of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one of this title.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(7) distributing paper copies of self-administered tests for the

individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

(d) Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

11. The conduct, activities or services of a technician to administer and score standardized objective (non-projective) psychological or neuropsychological tests which have specific predetermined and manualized administrative procedures which entail observing and describing test behavior and test responses, and which do not require evaluation, interpretation or other judgments; provided, however, that such technician shall: (i) hold no less than a Bachelor's degree in

psychology or a related field; (ii) undergo a process of regular training by a licensed psychologist, which shall include, but not be limited to a minimum of eighty total hours of (a) professional ethics, (b) studying and mastering information from test manuals, and (c) direct observation of a licensed psychologist or trained technician administering and scoring tests, in addition to a minimum of forty total hours of administering and scoring tests in the presence of a licensed psychologist or trained technician, provided such interaction with the licensed psychologist equals or exceeds fifty percent of the total training time; (iii) be under the direct and ongoing supervision of a licensed psychologist in no greater than a 3:1 ratio or the part time equivalent thereto; (iv) not be employed within a school setting and (v) not select tests, analyze patient data or communicate results to patients. The supervising licensed psychologist must submit, pursuant to a form to be prescribed and developed within ninety days of the effective date of this subdivision by the department, a sworn statement detailing compliance with the above requirements. The licensed psychologist's use of such individual pursuant to the terms of this subdivision shall be undertaken only with special care and professional judgment in order to ensure the safety and well-being of the patient considering the severity of the symptoms, the age of the patient and the length of the examination process, and shall include appropriate ongoing contact with the licensed psychologist at appropriate intervals. Such use shall be subject to the full disciplinary and regulatory authority of the board of regents and the department pursuant to this title. The licensed psychologist must notify the patient or designated health care surrogate that the licensed psychologist may utilize the services of a technician to administer certain exams, and must provide the patient or designated health care surrogate the opportunity to object to the licensed psychologist's plan to utilize a technician.

12. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local governmental unit as

that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided, however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

13. The activities or services provided by a person with a master's level degree in psychology or its equivalent, working under the supervision of a licensed psychologist in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

§ 7606. Prohibitions. Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

1. prescribing or administering drugs as defined in this chapter as a treatment, therapy, or professional service in the practice of his or her profession; or

2. using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human

tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 7607. Mandatory continuing education. 1. (a) Each psychologist required under this article to register triennially with the department to practice in this state, shall comply with the provisions for mandatory continuing education prescribed in subdivision two of this section, except as set forth in paragraphs (b) and (c) of this subdivision. Psychologists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and they have been issued a registration certificate, except that a psychologist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Each psychologist shall be exempt from the mandatory continuing education requirements for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A psychologist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of psychology during the triennial registration period shall notify the department prior to reentering the profession and shall meet such continuing education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period, an applicant for registration as a psychologist shall complete a minimum of thirty-six hours of acceptable learning activities, a minimum of three hours of which shall be course work in the area of professional ethics, including

the laws, rules and regulations for practice in New York. Any psychologist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand twenty-one, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand twenty-one up to the first registration date thereafter. A psychologist who has not satisfied the mandatory continuing education requirement shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to the subsequent triennium.

3. (a) The department, in its discretion, may issue a conditional registration to a psychologist who fails to meet the continuing education requirements established in subdivision two of this section, but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department, but shall not exceed one year. Any psychologist who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(b) For purposes of this section:

(i) "acceptable learning activities" shall include, but not be limited to, formal courses of learning which contribute to professional practice in psychology and/or self-study activities; independent study; formal mentoring activities; publication in professional journals; or lectures, which meet the standards prescribed by regulations of the commissioner; and

(ii) "formal courses of learning" shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state,

and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. Formal courses must be taken from a sponsor approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner.

(c) The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education credits in specific subjects to fulfill this mandatory continuing education requirement.

(d) Psychologists shall maintain adequate documentation of completion of acceptable continuing education credits and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(e) The mandatory continuing education fee shall be determined by the department. Such fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by subdivision eight of section seventy-six hundred three of this article.

ARTICLE 154
SOCIAL WORK

Section 7700. Introduction.
7701. Definitions.
7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker".
7703. State board for social work.
7704. Requirements for a license.
7705. Limited permits.
7706. Exempt persons.
7707. Special provisions.
7708. Boundaries of professional practice.
7709. Hospital privileges.
7710. Mandatory continuing education.

§ 7700. Introduction. This article applies to the profession and practice of social work, the practice of licensed master social work and the practice of clinical social work, and to the use of the titles "licensed master social worker", and "licensed clinical social worker". The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7701. Definitions. 1. Practice of licensed master social work.

(a) The practice of licensed master social work shall mean the professional application of social work theory, principles, and the methods to prevent, assess, evaluate, formulate and implement a plan of action based on client needs and strengths, and intervene to address mental, social, emotional, behavioral, developmental, and addictive disorders, conditions and disabilities, and of the psychosocial aspects of illness and injury experienced by individuals, couples, families, groups, communities, organizations, and society.

(b) Licensed master social workers engage in the administration of tests and measures of psychosocial functioning, social work advocacy, case management, counseling, consultation, research, administration and management, and teaching.

(c) Licensed master social workers provide all forms of supervision other than supervision of the practice of licensed clinical social work as defined in subdivision two of this section.

(d) Licensed master social workers practice licensed clinical social work in facility settings or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.

2. Practice of clinical social work. (a) The practice of clinical social work encompasses the scope of practice of licensed master social work and, in addition, includes the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities and of the psychosocial aspects of illness, injury, disability and impairment undertaken within a psychosocial framework; administration

and interpretation of tests and measures of psychosocial functioning; development and implementation of appropriate assessment-based treatment plans; and the provision of crisis oriented psychotherapy and brief, short-term and long-term psychotherapy and psychotherapeutic treatment to individuals, couples, families and groups, habilitation, psychoanalysis and behavior therapy; all undertaken for the purpose of preventing, assessing, treating, ameliorating and resolving psychosocial dysfunction with the goal of maintaining and enhancing the mental, emotional, behavioral, and social functioning and well-being of individuals, couples, families, small groups, organizations, communities and society.

(b) Diagnosis in the context of licensed clinical social work practice is the process of distinguishing, beyond general social work assessment, between similar mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities within a psychosocial framework on the basis of their similar and unique characteristics consistent with accepted classification systems.

(c) Psychotherapy in the context of licensed clinical social work practice is the use of verbal methods in interpersonal relationships with the intent of assisting a person or persons to modify attitudes and behavior which are intellectually, socially, or emotionally maladaptive.

(d) Development of assessment-based treatment plans in the context of licensed clinical social work practice refers to the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the client, to address mental, emotional, behavioral, developmental and addictive disorders, impairments and disabilities, reactions to illnesses, injuries, disabilities and impairments, and social problems.

§ 7702. Authorized practice and the use of the titles "licensed master social worker" and "licensed clinical social worker". 1. In addition to the licensed social work services included in subdivisions one and two of section seventy-seven hundred one of this article, licensed master social workers and licensed clinical social workers may perform the following social work functions that do not require a license under this article, including but not limited to:

(a) Serve as a community organizer, planner, or administrator for social service programs in any setting.

(b) Provide supervision and/or consultation to individuals, groups, institutions and agencies.

(c) Serve as a faculty member or instructor in an educational setting.

(d) Plan and/or conduct research projects and program evaluation studies.

(e) Maintain familiarity with both professional and self-help systems in the community in order to assist the client in those services when necessary.

(f) Provide advice and guidance and assist individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem.

(g) Consult with other agencies on problems and cases served in common and coordinating services among agencies or providing case management.

(h) Conduct data gathering on social problems.

(i) Serve as an advocate for those clients or groups of clients whose needs are not being met by available programs or by a specific agency.

(j) Assess, evaluate and formulate a plan of action based on client need.

(k) Provide training to community groups, agencies, and other professionals.

(l) Provide administrative supervision.

(m) Provide peer services.

(n) Collect basic information, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining the need for services.

2. Practice of "licensed master social work" and use of the title "licensed master social worker" and designation "LMSW". (a) Only a person licensed or exempt under this article shall practice "licensed master social work" as defined in subdivision one of section seventy-seven hundred one of this article.

(b) Only a person licensed pursuant to subdivision one of section

seventy-seven hundred four of this article shall use the title "licensed master social worker" or the designation "LMSW".

3. Practice of "licensed clinical social work" and use of the title "licensed clinical social worker" and designation "LCSW". (a) Only a person licensed or exempt under this article shall practice "licensed clinical social work" as defined in subdivision two of section seventy-seven hundred one of this article.

(b) Only a person licensed pursuant to subdivision two of section seventy-seven hundred four of this article shall use the title "licensed clinical social worker" or the designation "LCSW".

§ 7703. State board for social work. A state board for social work shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice, and conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than twelve members, of which five shall be licensed clinical social workers, five shall be licensed master social workers and two members of the public. Members of the first board need not be licensed prior to their appointment to the board. The terms of the first appointed members shall be staggered so that four are appointed for three years, four are appointed for four years, and four are appointed for five years. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be licensed pursuant to this article.

§ 7704. Requirements for a license. 1. To qualify for a license as a "licensed master social worker" an applicant shall fulfill the following requirements:

(a) Application: file an application with the department;

(b) Education: have received an education, including a master's of social work degree from a program registered by the department, or determined by the department to be the substantial equivalent, in accordance with the commissioner's regulations;

(c) Experience: meet no requirement as to experience;

(d) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(e) Age: be at least twenty-one years of age;

(f) Character: be of good moral character as determined by the department; and

(g) Fees: pay a fee of one hundred fifteen dollars to the department for an initial license, and a fee of one hundred fifty-five dollars for each triennial registration period. An additional surcharge in the amount of five dollars shall be paid with each triennial registration fee and shall be used for the marketing and evaluation of the regents licensed social worker loan forgiveness program established by section six hundred five of this chapter.

2. To qualify for a license as a "licensed clinical social worker", an applicant shall fulfill the following requirements:

(a) Application: file an application with the department;

(b) Education: have received an education, including a master's of social work degree from a program registered by the department, or determined by the department to be the substantial equivalent, that includes completion of a core curriculum which includes at least twelve credit hours of clinical courses, in accordance with the commissioner's regulations; a person who has received a master's, or equivalent degree in social work, during which they did not complete a core curriculum which includes clinical courses, may satisfy this requirement by completing equivalent post-graduate clinical coursework, in accordance with the commissioner's regulations;

(c) Experience: have at least three years full-time supervised post-graduate clinical social work experience in diagnosis, psychotherapy, and assessment-based treatment plans, or its part-time equivalent, obtained over a continuous period not to exceed six years, under the supervision, satisfactory to the department, of a psychiatrist, a licensed psychologist, or a licensed clinical social worker in a facility setting or other supervised settings approved by the department. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this title may be accepted by the department,

notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

(d) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(e) Age: be at least twenty-one years of age;

(f) Character: be of good moral character as determined by the department; and

(g) Fees: pay a fee of one hundred fifteen dollars to the department for an initial license and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 7705. Limited permits. 1. On recommendation of the board, the department may issue a limited permit to practice licensed clinical social work and use the title licensed clinical social worker, or to practice licensed master social work and use the title licensed master social worker to an applicant who has met all requirements for licensure as a licensed master social worker or a licensed clinical social worker except those relating to the examination and provided that the individual is under the general supervision of a licensed master social worker or a licensed clinical social worker, as determined by the department. This limited permit shall be valid for a period of not more than twelve months.

2. The fee for each limited permit shall be seventy dollars.

§ 7706. Exempt persons. Nothing contained in this article shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice occupational therapy within this state pursuant to article one hundred fifty-six of this title or by any person licensed or otherwise authorized to practice mental health counseling, marriage and family therapy, creative arts therapy, or psychoanalysis within the state pursuant to article one hundred sixty-three of this title or by any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title; provided, however, that no physician, physician assistant, registered professional nurse, nurse practitioner, psychologist, occupational therapist, licensed mental health counselor, licensed marriage and family therapist, licensed creative arts therapist, licensed psychoanalyst, licensed behavior analyst or certified behavior analyst assistant may use the titles "licensed clinical social worker" or "licensed master social worker", unless licensed under this article.

2. Prevent or prohibit an individual possessing a baccalaureate of social work degree or its equivalent from the performance of activities and services within the scope of practice of licensed master social work as defined in paragraphs (a) and (b) of subdivision one of section seventy-seven hundred one of this article under supervision by a licensed master social worker, a licensed clinical social worker or in accordance with the commissioner's regulations.

3. Prevent or prohibit a licensed master social worker from the performance of activities and services within the scope of practice of licensed clinical social work as defined in subdivision two of section

seventy-seven hundred one of this article in a facility setting and under supervision in accordance with the commissioner's regulations.

4. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work as defined in subdivision one of section seventy-seven hundred one of this article by individuals, churches, schools, teachers, organizations, or not-for-profit businesses which are providing instruction, advice, support, encouragement or information to individuals, families and relational groups.

5. Prevent or prohibit the performance of activities and services within the scope of practice of licensed master social work or licensed clinical social work as defined in section seventy-seven hundred one of this article by the following:

(a) any individual who is credentialed under any law, including attorneys, rape crisis counselors, credentialed alcoholism and substance abuse counselors whose scope of practice includes the practices defined in section seventy-seven hundred one of this article from performing or claiming to perform work authorized by applicable provisions of this chapter and the mental hygiene law;

(b) provision of pastoral counseling services by any member of the clergy or christian science practitioner, from providing pastoral counselling services within the context of his or her ministerial charge or obligation;

(c) students who are enrolled in a baccalaureate of social work or professional graduate level social work program of study, and which are required to perform as part of the field work component of that program, services provided under the supervision of a field work supervisor approved by the program;

(d) on the part of a student or trainee who is enrolled in an institution or program registered by the department or accredited by an accrediting organization acceptable to the department to provide training in a discipline or profession, other than social work or clinical social work, that is licensed pursuant to this title, where such activities and services are authorized within the definition of the scope of practice of the profession, or discipline in which he or she is

being trained as set forth in the education law or the commissioner's regulations, provided that such services are performed under the regular and ongoing supervision of a licensee in the profession or discipline in which he or she is being trained who assumes professional responsibility for the services performed under his or her supervision and that such activities and the provision of such services are a formal part of the professional training program in which he or she is enrolled;

(e) any federal, state, county or municipal employee performing clinical social work services upon the effective date of this section for the period during which they maintain such employment with such governmental unit within the context of such employment and shall be limited to the services provided upon such effective date; and

(f) any employee performing clinical social work services on the effective date of this section for the period during which they maintain such employment with such entity within the context of such employment, and shall be limited to the services provided prior to such effective date.

6. Prohibit the practice of licensed master social work or licensed clinical social work, to the extent permissible within the scope of practice of such professions, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering licensed master social work or licensed clinical social work services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

7. (a) Prevent a person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems

such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

(b) Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

(c)(i) Prevent a person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred sixty-three of this chapter; and provided, further, that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and

those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one of this article.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(7) distributing paper copies of self-administered tests for the individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

(d) Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

8. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of

the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

§ 7707. Special provisions. 1. Any person who is licensed as a certified social worker on the effective date of this article shall be licensed as a licensed master social worker without meeting any additional requirements.

2. Any person who possesses a master's of social work degree on the effective date of this section, who has five years of post-graduate social work employment and meets the requirements for a license pursuant to this article, except for examination, and who files with the department within one year of the effective date of this section shall be licensed as a licensed master social worker.

3. Any person who is licensed as a certified social worker on the effective date of this section and who has been authorized pursuant to section three thousand two hundred twenty-one or section four thousand three hundred three of the insurance law shall be licensed as a licensed clinical social worker without meeting any additional requirements.

4. Any person who is licensed as a certified social worker on the effective date of this section, but who has not received authorization pursuant to section three thousand two hundred twenty-one or four

thousand three hundred three of the insurance law, who files with the department within one year of the effective date of this section an application pursuant to subdivision two of section seventy-seven hundred four of this article, who demonstrates to the satisfaction of the department that they meet the experience requirements for authorization pursuant to section three thousand two hundred twenty-one or four thousand three hundred three of the insurance law, shall be licensed as a licensed clinical social worker without meeting any further requirements.

5. Licensed master social workers and licensed clinical social workers may use accepted classifications of signs, symptoms, dysfunctions and disorders, including, but not limited to, classifications used in the practice setting for the purpose of providing mental health services.

§ 7708. Boundaries of professional practice. Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

1. Prescribing or administering drugs as defined in this chapter or as a treatment, therapy, or professional service in the practice of his or her profession; or

2. Using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 7709. Hospital privileges. Nothing herein contained shall be deemed to authorize, grant, or extend hospital privileges to individuals licensed under this article.

§ 7710. Mandatory continuing education. 1. (a) Each licensed master social worker or licensed clinical social worker required under this article to register triennially with the department to practice in this state, shall comply with the provisions of mandatory continuing education requirements prescribed in subdivision two of this section, except as set forth in paragraphs (b) and (c) of this subdivision. Licensed master social workers or licensed clinical social workers who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and they have been issued a registration certificate, except that a licensed master social worker or licensed clinical social worker may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Each licensed master social worker or licensed clinical social worker shall be exempt from the mandatory continuing education requirements for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed master social worker or a licensed clinical social worker not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of social work during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

(d) A licensed clinical social worker who is also licensed and registered to practice as a licensed master social worker in the same triennial registration period, shall not be required to complete more than thirty-six hours of continuing education in the triennial registration period, or one hour per month for a registration period other than thirty-six months.

2. During each triennial registration period an applicant for registration as a licensed master social worker or licensed clinical social worker shall complete a minimum of thirty-six hours of acceptable formal continuing education. Any licensed master social worker or licensed clinical social worker whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand fifteen, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand fifteen up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirement shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to the subsequent triennium.

3. (a) The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(b) For purposes of this section "acceptable formal education" shall mean formal courses of learning which contribute to professional practice in social work and which meet the standards prescribed by regulations of the commissioner. Such formal courses of learning shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and other

organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. Continuing education courses must be taken from a provider who has been approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement. Licensed master social workers or licensed clinical social workers shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(c) The mandatory continuing education fee shall be determined by the department. Such fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by paragraph (g) of subdivision one and paragraph (g) of subdivision two of section seventy-seven hundred four of this article.

ARTICLE 155

MASSAGE THERAPY

Section 7800. Introduction.
7801. Definition of practice of massage therapy.
7802. Practice of massage therapy and use of title "masseur", "masseuse" or "massage therapist" or the term "massage" or "massage therapy".
7803. State board for massage therapy.
7804. Requirements for a professional license.
7805. Exempt persons.
7806. Limited permits.
7807. Mandatory continuing education.

§ 7800. Introduction. This article applies to the profession of massage therapy. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7801. Definition of practice of massage therapy. The practice of the profession of massage therapy is defined as engaging in applying a scientific system of activity to the muscular structure of the human body by means of stroking, kneading, tapping and vibrating with the hands or vibrators for the purpose of improving muscle tone and circulation.

§ 7802. Practice of massage therapy and use of title "masseur", "masseuse" or "massage therapist" or the term "massage" or "massage therapy". Only a person licensed or authorized pursuant to this chapter shall practice massage therapy and only a person licensed under this article shall use the title "masseur", "masseuse" or "massage therapist". No person, firm, partnership or corporation claiming to be engaged in the practice of massage or massage therapy shall in any manner describe, advertise, or place any advertisement for services as defined in section seventy-eight hundred one of this article unless such services are performed by a person licensed or authorized pursuant to this chapter.

§ 7803. State board for massage therapy. A state board for massage therapy shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven persons, four of whom shall have been engaged in the teaching, research, or practice of massage therapy for at least three years. The remaining three members of the board shall be physicians licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 7804. Requirements for a professional license. To qualify for a license as a massage therapist, masseur or masseuse, an applicant shall fulfill the following requirements:

(1) Application: file an application with the department;

(2) Education: have received an education, including high school graduation and graduation from a school or institute of massage therapy with a program registered by the department, or its substantial equivalent in both subject matter and extent of training, provided that the program in such school or institute shall consist of classroom instruction of a total of not less than five hundred hours in subjects satisfactory to the department;

(3) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(4) Age: be at least eighteen years of age;

(5) Citizenship or immigration status: be a United States citizen or a noncitizen lawfully admitted for permanent residence in the United States;

(6) Character: be of good moral character as determined by the department; and

(7) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty-five dollars for each reexamination, a fee of fifty dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

§ 7805. Exempt persons. Nothing contained in this article shall be construed to prohibit:

1. The practice of massage therapy by any person who is authorized to practice medicine, nursing, osteopathy, physiotherapy, chiropractic, or podiatry in accordance with the provisions of this title.

2. The practice of that massage which is customarily given in barber

shops or beauty parlors for the purpose of beautification by any licensed barber or beauty culturist.

3. The practice of massage therapy by any person employed in a medical institution licensed or chartered by the state of New York, provided that such person is under the on-site supervision of a person licensed to practice massage therapy or authorized to practice massage therapy by subdivision one of this section, or by any person enrolled in a program of a school or institute of massage therapy registered by the department, or enrolled in a program which satisfies the requirements of section seventy-eight hundred four of this article, provided that such person is under the on-site supervision of a person licensed to practice massage therapy or authorized to practice massage therapy by subdivision one of this section.

4. The practice of massage therapy by any person duly employed as a trainer by a professional athletic association, club or team, or as a member of the physical education department of an accredited university, college or high school.

5. The practice of massage therapy by any person employed by a corporation or association organized exclusively for the moral or mental improvement of men, women or children.

6. A massage therapist licensed and in good standing in another state or country from conducting a teaching demonstration of modalities and techniques that are within the practice of massage therapy in connection with a program of continuing education that is conducted by approved sponsors of continuing education by the department. Any massage therapist conducting a teaching demonstration of modalities and techniques in New York state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such massage therapist shall comply with the provisions of this article, the rules of the board of regents, and the regulations of the commissioner, relating to professional misconduct, disciplinary

proceedings and penalties for professional misconduct.

§ 7806. Limited permits. 1. The department may issue a limited permit to practice massage therapy as a licensed massage therapist, masseur or masseuse to a person who has not previously held such a permit and who fulfills all except the examination and citizenship requirements for a license, provided however that a permit shall not be issued to a person who has failed the state licensing examination.

2. The limited permit shall be valid for a period of not more than twelve months or until the results of the next licensing examination for which the person is eligible are officially available, whichever comes first.

3. A limited permit shall entitle the holder to practice massage therapy only under the personal supervision of a person currently licensed and registered to practice massage therapy in this state.

4. The fee for a limited permit shall be thirty-five dollars.

§ 7807. Mandatory continuing education. 1. (a) Each massage therapist licensed pursuant to this article required to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Massage therapists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a massage therapist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Massage therapists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section,

adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed massage therapist not engaged in professional practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of massage therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a massage therapist shall complete a minimum of thirty-six hours of acceptable formal continuing education, a maximum of twelve hours of which may be self-instructional course work acceptable to the department. Any massage therapist whose first registration date following the effective date of this section occurs less than three years from such effective date, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand twelve up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section, or until he or she has otherwise met the requirements of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration

shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this chapter.

4. As used in subdivision two of this section, "acceptable formal continuing education" may mean formal programs of learning which contribute to professional practice in massage therapy which are offered by sponsors of massage therapy continuing education approved by the department in consultation with the state board for massage therapy, to fulfill the mandatory continuing education requirement. Sponsors of massage therapy continuing education may include, but are not limited to, state or national professional associations established to further the massage therapy profession, and may include any affiliates of international massage therapy conferences at which professional continuing education is a major component of such conferences, as well as programs registered as licensure-qualifying for the profession of massage therapy by the department. Sponsors of massage therapy shall file an application with the department and pay a fee of nine hundred dollars. While presenters of didactic instruction may be provided by persons who are not licensed by the state of New York as massage therapists, the practical application of such modalities and techniques must be done by licensed massage therapists, or those otherwise authorized, when this continuing education occurs in the state of New York.

5. Massage therapists shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this chapter.

6. The mandatory continuing education fee shall be forty-five dollars, shall be payable on or before the first day of each triennial

registration period, and shall be paid in addition to the triennial registration fee required by section seventy-one hundred twenty-four of this chapter.

ARTICLE 156

OCCUPATIONAL THERAPY

Section 7900. Introduction.
7901. Definition.
7902. Practice of occupational therapy and use of title "occupational therapist".
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§ 7900. Introduction. This article applies to the profession of occupational therapy. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 7901. Definition. 1. The practice of the profession of occupational therapy is defined as the functional evaluation of the client, the planning and utilization of a program of purposeful activities, the development and utilization of a treatment program, and/or consultation with the client, family, caregiver or organization in order to restore, develop or maintain adaptive skills, and/or performance abilities designed to achieve maximal physical, cognitive and mental functioning of the client associated with his or her activities of daily living and

daily life tasks. A treatment program designed to restore function, shall be rendered on the prescription or referral of a physician, nurse practitioner or other health care provider acting within his or her scope of practice pursuant to this title, except as provided for in subdivision two of this section. However, nothing contained in this article shall be construed to permit any licensee hereunder to practice medicine or psychology, including psychotherapy or to otherwise expand such licensee's scope of practice beyond what is authorized by this chapter.

2. Treatment may be rendered by a licensed occupational therapist for ten visits, or thirty days, whichever shall occur first, without a referral from a physician or nurse practitioner provided that:

(a) the licensed occupational therapist has practiced occupational therapy on a full time basis equivalent to not less than three years; and

(b) each occupational therapist licensed pursuant to this article shall provide written notice to each patient receiving treatment absent a referral from a physician or nurse practitioner that occupational therapy may not be covered by the patient's health care plan or insurer without such a referral and that such treatment may be a covered expense if rendered pursuant to a referral. The occupational therapist shall keep on file with the patient's records a form attesting to the patient's notice of such advice. Such form shall be in duplicate, with one copy to be retained by the patient, signed and dated by both the occupational therapist and the patient in such form as prescribed pursuant to regulations promulgated by the commissioner.

§ 7902. Practice of occupational therapy and use of title "occupational therapist". Only a person licensed or otherwise authorized to practice under this article shall practice occupational therapy or use the title "occupational therapist".

§ 7902-a. Practice of occupational therapy assistant and use of the title "occupational therapy assistant." Only a person licensed or

otherwise authorized under this title shall participate in the practice of occupational therapy as an occupational therapy assistant or use the title "occupational therapy assistant." Practice as an occupational therapy assistant shall include the providing of occupational therapy and client related services under the direction and supervision of an occupational therapist or licensed physician in accordance with the commissioner's regulations.

§ 7903. State board for occupational therapy. A state board for occupational therapy shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than six licensed occupational therapists, one licensed occupational therapy assistant, one physician, and two members of the public who are not licensed under this title. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 7904. Requirements for a professional license. To qualify for a license as an occupational therapist, an applicant shall fulfill the following requirements:

(1) File an application with the department.

(2) Have satisfactorily completed an approved occupational therapy curriculum in at least a baccalaureate or masters program, or its equivalent, as determined by the department in accordance with the commissioner's regulations.

(3) Have a minimum of six months of supervised occupational therapy experience which supervision and experience shall be satisfactory to the board of occupational therapy and in accordance with the commissioner's regulations.

(4) Pass an examination satisfactory to the board of occupational therapy and in accordance with the commissioner's regulations.

(5) Be at least twenty-one years of age.

(6) Meet no requirements as to United States citizenship.

(7) Be of good moral character as determined by the department.

(8) Pay a fee of one hundred forty dollars to the department for admission to a department conducted examination and for an initial license, a fee of seventy dollars for each re-examination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 7904-a. Requirements for license as an occupational therapy assistant. To qualify for a license as an occupational therapy assistant an applicant shall fulfill the following requirements:

(a) file an application with the department;

(b) have received an education as follows: completion of at least a two-year associate degree program for occupational therapy assistants registered by the department or accredited by a national accreditation agency which is satisfactory to the department, or its equivalent, as determined by the department in accordance with the commissioner's regulations;

(c) have a minimum of sixteen weeks clinical experience satisfactory to the state board for occupational therapy and in accordance with standards established by a national accreditation agency which is satisfactory to the department;

(d) be at least eighteen years of age;

(e) be of good moral character as determined by the department;

(f) pay a fee for an initial license and a fee for each triennial registration period that shall be one-half of the fee for initial license and for each triennial registration period established for occupational therapists; and

(g) except as otherwise provided by subdivision two of section seventy-nine hundred seven of this article, pass an examination acceptable to the department.

§ 7905. Limited permits. Permits limited as to eligibility, practice, and duration, shall be issued by the department to eligible applicants, as follows:

(1) The following persons shall be eligible for a limited permit:

(a) An occupational therapist who has graduated from an occupational therapy curriculum with a baccalaureate degree or certificate in occupational therapy which is substantially equivalent to a baccalaureate degree satisfactory to the board of occupational therapy and in accordance with the commissioner's regulations; or

(b) A foreign occupational therapist who is in this country on a non-immigration visa for the continuation of occupational therapy study, pursuant to the exchange student program of the United States Department of State.

(c) An occupational therapy assistant who has graduated from an accredited occupational therapy assistant curriculum with an associate's degree satisfactory to the board of occupational therapy and in accordance with the commissioner's regulations.

(2) A limited permittee shall be authorized to practice occupational therapy, or in the case of a limited permit issued pursuant to paragraph (c) of subdivision one of this section, only under the direct supervision of a licensed occupational therapist or a licensed physician and shall practice only in a public, voluntary, or proprietary hospital, health care agency or in a preschool or an elementary or secondary school for the purpose of providing occupational therapy as a related service for a handicapped child.

For purposes of this subdivision, supervision of an individual with a limited permit to practice occupational therapy issued by the department shall be direct supervision as defined by the commissioner's regulations.

(3) A limited permit shall be valid for one year. It may be renewed once for a period not to exceed one additional year, at the discretion of the department, upon the submission of an explanation satisfactory to the department for an applicant's failure to become licensed within the original one-year period.

(4) The fee for a limited permit shall be seventy dollars.

§ 7906. Exempt persons. This article shall not be construed to affect or prevent the following, provided that no title, sign, card or device

shall be used in such manner as to tend to convey the impression that the person rendering such service is a licensed occupational therapist:

(1) A licensed physician from practicing his or her profession as defined under article one hundred thirty-one and article one hundred thirty-one-B of this title.

(2) Qualified members of other licensed or legally recognized professions from performing work incidental to the practice of their profession, except that such persons may not hold themselves out under the title occupational therapist or as performing occupational therapy.

(3) A student from engaging in clinical practice as part of an accredited program in occupational therapy, pursuant to subdivision three of section seventy-nine hundred four of this article.

(4) An occupational therapy assistant student from engaging in clinical practice under the direction and supervision of an occupational therapist or an occupational therapy assistant who is under the supervision of an occupational therapist, as part of an accredited occupational therapy assistant program, as defined by the commissioner and in accordance with the commissioner's regulations.

(5) The care of the sick by any person, provided such person is employed primarily in a domestic capacity. This shall not authorize the treatment of patients in a home care service of any hospital, clinic, institution or agency.

(6) An employee of a federal agency from using the title or practicing as an occupational therapist insofar as such activities are required by his salaried position and the use of such title shall be limited to such employment.

(7) The following people from working under the direct supervision of a licensed occupational therapist:

An individual employed by the state or municipal government at the effective date of this article who performs supportive services in occupational therapy solely for the time such person continues in that employment.

(8) Any occupational therapist who is licensed in another state, United States possession or country or who has received at least a baccalaureate degree or its equivalent in occupational therapy and who is either in this state for the purposes of (a) consultation, provided

such practice is limited to such consultation; or (b) an occupational therapist authorized to practice in another state or country from conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education or post graduate education in an approved school of occupational therapy or its affiliated clinical facility or health care agency or before a group of licensed occupational therapists; or (c) because he or she resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and said occupational therapist does not maintain an office or place to meet patients or receive calls in this state.

§ 7907. Special conditions. (1) A person who on the effective date of this article:

(a) submits evidence of a minimum of three years experience with training satisfactory to the board in occupational therapy and in accordance with the regulations of the commissioner; or

(b) a baccalaureate degree or its equivalent in occupational therapy, shall be licensed upon the filing of an application with the department within six months of the effective date of this article.

(2) A person who on the effective date of chapter four hundred sixty of the laws of two thousand eleven which added this subdivision has a current registration with the department as an occupational therapy assistant, if such person meets the requirements for a license established within this article, except for examination, the department shall issue a license without examination.

§ 7908. Mandatory continuing competency. (1)(a) Each licensed occupational therapist and occupational therapy assistant required under this article to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing competency requirements prescribed in subdivision two of this section, except as provided in paragraphs (b) and (c) of this subdivision. Occupational therapists and occupational therapy assistants who do not satisfy the mandatory continuing competency requirements shall not be

authorized to practice until they have met such requirements, and they have been issued a registration certificate, except that an occupational therapist or occupational therapy assistant may practice without having met such requirements if he or she is issued a conditional registration pursuant to subdivision three of this section.

(b) Occupational therapists and occupational therapy assistants shall be exempt from the mandatory continuing competency requirement for the triennial registration period during which they are first licensed. Adjustment to the mandatory continuing competency requirements may be granted by the department for reasons of health of the licensee where certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed occupational therapist or occupational therapy assistant not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing competency requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of occupational therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing competency requirements as shall be prescribed by regulations of the commissioner.

(2) (a) During each triennial registration period an applicant for registration as an occupational therapist shall complete a minimum of thirty-six hours of learning activities which contribute to continuing competence, as specified in subdivision four of this section, provided further that at least twenty-four hours shall be in areas of study pertinent to the scope of practice of occupational therapy. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

(b) During each triennial registration period an applicant for registration as an occupational therapy assistant shall complete a minimum of thirty-six hours of learning activities which contribute to continuing competence as specified in subdivision four of this section, provided further that at least twenty-four hours shall be in recognized

areas of study pertinent to the licensee's professional scope of practice of occupational therapy. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours taken during one triennium may not be transferred to a subsequent triennium.

(c) Any occupational therapist or occupational therapy assistant whose first registration date following the effective date of this section occurs less than three years from such effective date but on or after January first, two thousand thirteen, shall complete continuing competency hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, two thousand thirteen up to the first registration date.

(d) Thereafter, a licensee who has not satisfied the mandatory continuing competency requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section.

(3) The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing competency requirements established in subdivision two of this section, but who agrees to make up any deficiencies and complete any additional learning activities which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing competency learning activities and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(4) As used in subdivision two of this section, "acceptable learning activities" shall mean activities which contribute to professional practice in occupational therapy, and which meet the standards prescribed in the regulations of the commissioner. Such learning activities shall include, but not be limited to, collegiate level credit and non-credit courses, self-study activities, independent study, formal

mentoring activities, publications in professional journals, professional development programs and technical sessions; such learning activities may be offered and sponsored by national, state and local professional associations and other organizations or parties acceptable to the department, and any other organized educational and technical learning activities acceptable to the department. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing competency learning activities in specific subjects to fulfill this mandatory continuing competency requirement. Learning activities must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

(5) Occupational therapists and occupational therapy assistants shall maintain adequate documentation of completion of (a) a learning plan that shall record current and anticipated roles and responsibilities but shall not require the records of peer review or self-assessment of competencies, and (b) acceptable continuing competency learning activities and shall provide such documentation at the request of the department. Failure to provide such documentation upon request of the department shall be an act of misconduct subject to the disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(6) The mandatory continuing competency fee shall be forty-five dollars for occupational therapists and twenty-five dollars for occupational therapy assistants, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section seventy-nine hundred four of this article.

ARTICLE 157

DIETETICS AND NUTRITION

Section 8000. Introduction.
8001. Definitions.
8002. Use of titles.
8003. State board for dietetics and nutrition.
8004. Requirements for certification.
8005. Special provisions.

8006. Special conditions.

§ 8000. Introduction. This article applies to the use of the titles "certified dietitian" and "certified nutritionist". The general provision for all professions contained in article one hundred thirty of this title shall apply to this article.

§ 8001. Definitions. 1. Dietetics and nutrition are herein each defined as the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's health.

2. Where the title "certified dietitian" or "certified nutritionist" is used in this article it shall mean "certified dietitian", "certified dietician", or "certified nutritionist".

3. A certified dietitian or certified nutritionist is one who engages in the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's health, and who is certified as such by the department pursuant to section eight thousand four of this article. The primary function of a certified dietitian or certified nutritionist is the provision of nutrition care services that shall include:

(a) Assessing nutrition needs and food patterns;

(b) Planning for and directing the provision of food appropriate for physical and nutrition needs; and

(c) Providing nutrition counseling.

§ 8002. Use of titles. Only a person certified under this article shall be authorized to use the title "certified dietitian", "certified dietician", or "certified nutritionist".

§ 8003. State board for dietetics and nutrition. A state board for dietetics and nutrition shall be appointed by the board of regents, on recommendation of the commissioner, for the purpose of assisting the board of regents and the department on matters of certification and professional conduct in accordance with section sixty-five hundred eight of this chapter.

The board shall consist of not less than thirteen members, ten of whom shall be certified dietitians or certified nutritionists, except that the members of the first board need not be certified but shall be persons who are eligible for certification under the provisions of this article prior to their appointment to the board. The first board, with respect to members representing the profession, shall consist of five members registered by a national dietetic association having registration standards acceptable to the department and five members who are members of or registered by a national nutritional association having membership and/or registration standards acceptable to the department. Thereafter, members of the profession appointed to such board shall be certified pursuant to this article. To the extent reasonable, the board of regents should insure the state board is broadly representative of various professional interests within the dietetic and nutritional community. Three members shall be representatives of the general public. An executive secretary to the board shall be appointed by the board of regents on the recommendation of the commissioner.

§ 8004. Requirements for certification. To qualify for certification, an applicant shall fulfill the following requirements:

1. File an application with the department;

2. (a)(1) Have received an education including a bachelor's degree, or its equivalent as determined by the department, in dietetics/nutrition or an equivalent major course of study which shall include appropriate core curriculum courses in dietetics/nutrition from an accredited college or university as approved by the department, in accordance with

the commissioner's regulations; and

(2) Have completed a planned, continuous, experience component, in accordance with the commissioner's regulations, in dietetic or nutrition practice under the supervision of a certified dietitian or certified nutritionist or a dietitian or nutritionist who is registered by or is a member of a national dietetic association or national nutrition association having registration or membership standards acceptable to the department; such experience shall be satisfactory to the board and in accordance with the commissioner's regulations; or

(b)(1) Have received an education including an associates degree in dietetics or nutrition acceptable to the department,

(2) In the last fifteen years have completed ten years of experience and education in the field of dietetics or nutrition satisfactory to the board in accordance with the commissioner's regulations. These ten years must be the full time equivalent of any combination of post secondary dietetic or nutrition education and dietetic or nutrition work experience satisfactory to the board in accordance with the commissioner's regulations, and

(3) Have obtained the endorsement of three dietitians or nutritionists acceptable to the department;

3. Pass an examination satisfactory to the board and in accordance with the commissioner's regulations; provided that such examination shall test a level of knowledge and experience equivalent to that obtained by an individual satisfactorily meeting the requirements of paragraph (a) of subdivision two of this section;

4. Pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for initial certification, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial certification for persons not requiring admission to a department conducted examination, a fee of one hundred fifty-five dollars for each triennial registration period;

5. Be at least eighteen years of age.

§ 8005. Special provisions. Nothing contained in this article shall be deemed to alter, modify or impair any conditions of employment relating to service in the federal government, the state of New York, its political subdivisions, including school districts, or special districts and authorities or any facilities or institutions under the jurisdiction of or subject to the certification of any agency of the state of New York or its political subdivisions.

§ 8006. Special conditions. A person shall be certified without examination provided that, within three years of the effective date of this article, the individual:

1. files an application and pays the appropriate fees to the department; and

2. (a) is registered as a dietitian or nutritionist by a national dietetic or national nutrition association having registration standards acceptable to the department;

(b) meets the requirements of subparagraph one of paragraph (a) of subdivision two and subdivision five of section eight thousand four of this article and has been actively engaged in the provision of nutrition care services for a minimum of three years during the five years immediately preceding the effective date of this article; or

(c) meets all the requirements of paragraph (b) of subdivision two and subdivision five of section eight thousand four of this article.

ARTICLE 159

SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Section 8200. Introduction.
8201. Definition of practice of speech-language pathology.
8202. Practice of speech-language pathology.
8203. Definition of practice of audiology.
8204. Practice of audiology.
8205. State board for speech-language pathology and audiology.

8206. Requirements for a professional license.
8206-a. Limited license.
8207. Exempt persons.
8208. Special provisions.
8209. Mandatory continuing competency.

§ 8200. Introduction. This article applies to the professions of speech-language pathology and audiology. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8201. Definition of practice of speech-language pathology. The practice of the profession of speech-language pathology shall mean the application of principles, methods and procedures of measurement, prediction, non-medical diagnosis, testing, counselling, consultation, rehabilitation and instruction related to the development and disorders of speech, voice, swallowing, and/or language for the purpose of preventing, ameliorating or modifying such disorder conditions in individuals and/or groups of individuals.

§ 8202. Practice of speech-language pathology. Only a person licensed or otherwise authorized under this article shall practice speech-language pathology or use the title of speech-language pathologist.

§ 8203. Definition of practice of audiology. The practice of the profession of audiology shall mean the application of principles, methods and procedures of measurement, testing, evaluation, consultation, counselling, instruction and habilitation or rehabilitation related to hearing and its disorders, related communication impairments and vestibular disorders for the purpose of non-medical diagnosis, prevention, identification, amelioration or modification of such disorders and conditions in individuals and/or

groups of individuals.

§ 8204. Practice of audiology. Only a person licensed or otherwise authorized under this article shall practice audiology or use the title audiologist.

§ 8205. State board for speech-language pathology and audiology. A state board for speech-language pathology and audiology shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall consist of not less than seven members, three of whom shall be audiologists and four of whom shall be speech-language pathologists. Each speech-language pathologist and audiologist on the board shall be licensed and have practiced in this state for at least five years, as provided under this article except that the members of the first board need not be licensed prior to their appointment to the board. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 8206. Requirements for a professional license. To qualify for a license as a speech-language pathologist or audiologist, an applicant shall fulfill the following requirements.

(1) Application: file an application with the department;

(2) Education: have obtained at least a Masters degree in speech-language pathology and/or audiology or its equivalent, as determined by the department, in accordance with the commissioner's regulations;

(3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(5) Age: be at least twenty-one years of age;

(6) Character: be of good moral character as determined by the department; and

(7) Fees: pay a fee of one hundred forty dollars to the department for admission to a department conducted examination and for an initial license, a fee of seventy dollars for each reexamination, a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of one hundred fifty-five dollars for each triennial registration period.

§ 8206-a. Limited license. 1. The department shall issue a limited license to an applicant for a license as a speech-language pathologist who meets all requirements set forth in this section.

2. Any person engaging in clinical or academic practice under the supervision of a licensed speech-language pathologist for such period of time as may be necessary to complete an experience requirement for a professional license as a speech-language pathologist shall be eligible for a limited license.

3. A limited licensee shall be authorized to practice speech-language pathology only under the supervision of a licensed speech-language pathologist.

4. A limited license shall be valid for one year. It may be renewed for additional one year periods until such time as may be necessary to complete an experience requirement for a professional license as a speech-language pathologist.

5. The fee for a limited license shall be seventy dollars.

§ 8207. Exempt persons. This article shall not be construed as prohibiting:

(1) The practice of any other professions licensed or registered under this title.

(2) Any person employed by the federal, state or a local government or

by a public or non-public elementary or secondary school or an institution of higher learning from performing the duties of a speech-language pathologist, an audiologist, a teacher of the speech and hearing handicapped, or a teacher of the deaf in the course of such employment.

(3) Any person from engaging in clinical or academic practice under the supervision of a licensed speech-language pathologist or audiologist for such period of time as may be necessary to complete an experience requirement for a professional license, as provided in this article and in rules or regulations approved by the board of regents with the advice of the state board for speech-language pathology and audiology.

(4) A person from another state from performing speech-language pathology or audiology services in this state provided such services are performed for no more than thirty days in any calendar year and provided that such services are performed in conjunction with and/or under the supervision of a speech-language pathologist or audiologist licensed under this article.

(5) Any hearing aid dealer from performing hearing measurements by means of an audiometer or other testing equipment when used solely for the purpose of selecting, fitting, selling or dispensing an instrument designed to aid or improve human hearing, including the taking of impressions for the making and fitting of ear molds and the demonstration of use and instructions of persons in the use of such hearing aids and accessories thereto.

(6) A student from engaging in clinical practice, under the supervision of a licensed audiologist or a licensed speech-language pathologist as part of a nationally accredited program or a state licensure qualifying program in speech-language pathology or audiology, pursuant to subdivision three of section eighty-two hundred six of this article.

§ 8208. Special provisions. (1) Every person regularly employed in teaching or working as a speech-language pathologist or audiologist for not less than two years prior to the effective date of this article shall be issued a license by the department, if he is a person of good moral character; twenty-one years or older, has been engaged in such

practice in the state for at least two years in accordance with regulations of the commissioner of education, and possesses

(a) the American Speech-Language-Hearing Association certificate of clinical competence in speech-language pathology and/or audiology, or the equivalent thereof as determined by the board in accordance with the commissioner's regulations; or

(b) a masters degree in speech-language pathology, audiology or communication disorders appropriate to the license being sought and a total of five years experience; or

(c) a bachelors degree in speech-language pathology, audiology or communication disorders appropriate to the license being sought and thirty postgraduate semester hours in subjects satisfactory to the board and a total of five years experience; or

(d) a bachelors degree and sufficient postgraduate study to be the equivalent of a masters degree in speech-language pathology, audiology or communication disorders as determined by the board in accordance with the commissioner's regulations and a total of five years experience.

Applications for a license under this section shall be submitted by January first, nineteen hundred eighty and applicants shall have until that date to fulfill the requirements set forth by this chapter.

(2) This article shall not prohibit the practice of speech-language pathology or audiology by a corporation provided that such practice is carried on by a licensed speech-language pathologist or audiologist or persons exempt under this article and a violation of this provision shall be a class A misdemeanor.

(3) Any person or firm offering the services of a speech-language pathologist or audiologist shall employ only persons licensed or exempt under this article and a violation of this provision shall be a Class A misdemeanor.

(4) (a) The commissioner, pursuant to the recommendation of the board shall promulgate regulations defining appropriate standards of conduct for the dispensing of hearing aids by licensed audiologists. Such regulations shall also define continuing education requirements which such dispensing audiologist shall meet as a condition of maintaining registration pursuant to this article.

(b) Audiologists engaged in the practice of dispensing hearing aids

shall comply with the applicable provisions of article thirty-seven-a of the general business law.

§ 8209. Mandatory continuing competency. (1)(a) Each licensed speech-language pathologist and audiologist required under this article to register triennially with the department to practice in the state shall comply with the provisions of the mandatory continuing competency requirements prescribed in subdivision two of this section, except as provided in paragraphs (b) and (c) of this subdivision. Speech-language pathologists and audiologists who do not satisfy the mandatory continuing competency requirements shall not be authorized to practice until they have met such requirements, and they have been issued a registration certificate, except that a speech-language pathologist or audiologist may practice without having met such requirements if he or she is issued a conditional registration pursuant to subdivision three of this section.

(b) Speech-language pathologists and audiologists shall be exempt from the mandatory continuing competency requirement for the triennial registration period during which they are first licensed. Adjustment to the mandatory continuing competency requirements may be granted by the department for reasons of health of the licensee where certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed speech-language pathologist or audiologist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing competency requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of speech-language pathology or audiology during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing competency requirements as shall be prescribed by regulations of the commissioner.

(2) During each triennial registration period an applicant for registration as either a speech-language pathologist or audiologist shall complete a minimum of thirty hours of learning activities which

contribute to continuing competence, as specified in subdivision four of this section, provided further that at least twenty hours shall be in recognized areas of study pertinent to the licensee's professional scope of practice of speech language pathology and/or audiology. Any speech-language pathologist or audiologist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing competency hours on a prorated basis at the rate of one-half hour per month for the period beginning January first, two thousand one up to the first registration date. Thereafter, a licensee who has not satisfied the mandatory continuing competency requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing competency hours taken during one triennium may not be transferred to a subsequent triennium.

(3) The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing competency requirements established in subdivision two of this section, but who agrees to make up any deficiencies and complete any additional learning activities which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing competency learning activities and who practices without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(4) As used in subdivision two of this section, "acceptable learning activities" shall mean activities which contribute to professional practice in speech-language pathology and/or audiology, and which meet the standards prescribed in the regulations of the commissioner. Such learning activities shall include, but not be limited to, collegiate level credit and non-credit courses, self-study activities, independent study, formal mentoring activities, publications in professional journals, professional development programs and technical sessions; such

learning activities may be offered and sponsored by national, state and local professional associations and other organizations or parties acceptable to the department, and any other organized educational and technical learning activities acceptable to the department. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing competency learning activities in specific subjects to fulfill this mandatory continuing competency requirement. For speech-language pathologists who are employed in school settings as teachers of the speech and hearing handicapped or as teachers of students with speech and language disabilities, acceptable learning activities shall also include professional development programs and technical sessions specific to teaching students with speech and language disabilities including those designed to improve methods for teaching such students, aligned with professional development plans in accordance with regulations of the commissioner and promoting the attainment of standards for such students. Learning activities must be taken from a sponsor approved by the department, pursuant to the regulations of the commissioner.

(5) Speech-language pathologists and audiologists shall maintain adequate documentation of completion of acceptable continuing competency learning activities and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(6) The mandatory continuing competency fee shall be fifty dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section eighty-two hundred six of this article.

ARTICLE 160
ACUPUNCTURE

Section 8210. Introduction.
8211. Definitions.

8212. Practice of acupuncture and use of title "licensed acupuncturist" or "certified acupuncturist".
8213. State board for acupuncture.
8214. Requirements for a professional license.
8215. Limited permits.
8216. Exemptions; waiver.

§ 8210. Introduction. This article applies to the profession of acupuncture. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8211. Definitions. As used in this article the following terms shall have the following meanings:

(1) (a) "Profession of acupuncture" is the treating, by means of mechanical, thermal or electrical stimulation effected by the insertion of needles or by the application of heat, pressure or electrical stimulation at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points for diseases, disorders and dysfunctions of the body for the purpose of achieving a therapeutic or prophylactic effect. The profession of acupuncture includes recommendation of dietary supplements and natural products including, but not limited to, the recommendation of diet, herbs and other natural products, and their preparation in accordance with traditional and modern practices of East Asian (Chinese, Korean or Japanese) medical theory.

(b) Each acupuncturist licensed pursuant to this article, shall advise each patient as to the importance of consulting with a licensed physician regarding the patient's condition and shall keep on file with the patient's records, a form attesting to the patient's notice of such advice. Such form shall be in duplicate, one copy to be retained by the patient, signed and dated by both the acupuncturist and the patient and shall be prescribed in the following manner:

WE, THE UNDERSIGNED, DO AFFIRM THAT (THE PATIENT) HAS

BEEN ADVISED BY , (A LICENSED ACUPUNCTURIST), TO CONSULT A PHYSICIAN REGARDING THE CONDITION OR CONDITIONS FOR WHICH SUCH PATIENT SEEKS ACUPUNCTURE TREATMENT.

_____ _____

(Signature) Date

_____ _____

(Signature) Date

(c) Nothing herein shall be construed to prohibit an individual who is not subject to regulation in this state as a licensed acupuncturist from engaging in the recommendation of traditional remedies and supplements as defined herein, nor shall this section be construed to authorize an individual to practice pharmacy under article one hundred thirty-seven of this title.

(2) "Board" is the state board for acupuncture as created by section eighty-two hundred thirteen of this article.

§ 8212. Practice of acupuncture and use of title "licensed acupuncturist" or "certified acupuncturist". Only a person licensed or authorized pursuant to section eighty-two hundred fourteen of this article or certified pursuant to section eighty-two hundred sixteen of this article shall practice acupuncture. Only a person licensed pursuant to section eighty-two hundred fourteen of this article shall use the title "licensed acupuncturist" and only a person certified pursuant to section eighty-two hundred sixteen of this article shall use the title "certified acupuncturist".

§ 8213. State board for acupuncture. (1) There is hereby established within the department a state board for acupuncture. The board shall consist of not less than eleven members to be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this chapter, four of whom shall be licensed acupuncturists, four of whom shall be licensed physicians certified to use acupuncture and three of whom shall be public members

representing the consumer and community. Of the acupuncturists first appointed to the board, one may be a registered specialist's assistant-acupuncture provided that the term of such registered specialist's assistant-acupuncture shall not be more than four years. Of the members first appointed, three shall be appointed for a one year term, three shall be appointed for a two year term and three shall be appointed for a three year term, and two shall be appointed for a four year term. Thereafter all members shall serve for five year terms. In the event that more than eleven members are appointed, a majority of the additional members shall be licensed acupuncturists. The members of the board shall select one of themselves as chairman to serve for a one year term.

(2) An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

(3) The board of regents and the commissioner shall promulgate such rules and regulations as they deem necessary and appropriate to effectuate the provisions of this article.

§ 8214. Requirements for a professional license. To qualify for a license as a licensed acupuncturist an applicant shall fulfill the following requirements.

(1) Application: file an application with the department;

(2) Education: provide evidence of satisfactory completion of a course of formal study or its substantial equivalent in accordance with the commissioner's regulations;

(3) Experience: have experience in accordance with the commissioner's regulations;

(4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations. Such examination shall be given at least once within twelve months of the effective date of this article, and at least once annually thereafter, and shall consist of both written and practical parts. Either part may be given at the discretion of the department in English and/or Chinese or other language. Nothing in this subdivision is to be construed to require the department to issue an exam in a language other than English. The practical part of the exam must be directly administered by an

acupuncturist acceptable to the department, who may also be a member of the board. The cost of the initial examination or reexamination shall be borne by the applicant in accordance with a schedule established by the department and approved by the director of the budget;

(5) Age: be at least twenty-one years of age;

(6) Character: be of good moral character as determined by the department;

(7) Fees: pay a fee of five hundred dollars to the department for initial licensure, and a fee of two hundred fifty dollars for each triennial registration;

(8) Registration: if a license is granted, register triennially with the department, including present home and business address and such other pertinent information as the department requires.

§ 8215. Limited permits. (1) The department shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination;

(2) All practice under a limited permit shall be under the supervision of a licensed or certified acupuncturist in a public hospital, an incorporated hospital or clinic, a licensed proprietary hospital, a licensed nursing home, a public health agency, the office of a licensed or certified acupuncturist or in the civil service of the federal or state government;

(3) Limited permits shall be for one year and may be renewed at the discretion of the department for one additional year;

(4) Supervision of a permittee by a licensed or certified acupuncturist shall be on-site supervision and not necessarily direct personal supervision;

(5) No practitioner shall supervise more than one permittee;

(6) The fee for each limited permit and for each renewal shall be determined by the department.

§ 8216. Exemptions; waiver. (1) A person who is validly registered as a "specialist's assistant-acupuncture" in accordance with section sixty-five hundred forty-one of this chapter and the commissioner's

regulations shall not be subject to the provisions of this article;

(2) Any person who is validly licensed under the provisions of the former chapter nine hundred fifty-nine of the laws of nineteen hundred seventy-four is deemed to be licensed pursuant to this article;

(3) Any person who is validly certified under the provisions of the former chapter nine hundred fifty-nine of the laws of nineteen hundred seventy-four shall continue to be certified to practice acupuncture and may continue to use the title certified acupuncturist. The department may establish rules and regulations providing for the certification of physicians and dentists as acupuncturists, provided that such certified acupuncturists do not represent themselves as licensed acupuncturists. Certified acupuncturists seeking to become licensed acupuncturists shall be subject to all provisions of this article;

(4) A person who does not otherwise possess the credentials or qualifications required for the practice of acupuncture prescribed by this article or the regulations promulgated hereunder or any other law but who is authorized by the division of alcoholism and alcohol abuse, the division of substance abuse services, or the department of health to provide treatment for alcoholism, substance dependence, or chemical dependency in a hospital or clinical program which has been approved for such treatment by the division of alcoholism and alcohol abuse, the division of substance abuse services, or the department of health and who has been trained to practice acupuncture for the treatment of alcoholism, substance dependence, or chemical dependency through an educational program acceptable to the education department may nevertheless practice acupuncture provided such practice is limited to the treatment of alcoholism, substance dependence, or chemical dependency in such clinical or hospital programs, or in a program that if statutorily exempt from such approval meets standards approved by the division of alcoholism and alcohol abuse, the division of substance abuse services, or the department of health, and further provided that such practice is done in accordance with regulations promulgated by the division of alcoholism and alcohol abuse, the division of substance abuse services, or the department of health. Such person shall work only under the general supervision of a physician or dentist certified to practice acupuncture or an individual licensed to practice acupuncture in the state of New York pursuant to this article. Notwithstanding any

other law, rule or regulation to the contrary, persons authorized on or before the effective date of this article to practice acupuncture for the treatment of alcoholism, substance dependence, or chemical dependency within a hospital or clinical program which has been approved for such treatment by the division of alcoholism and alcohol abuse, the division of substance abuse services, or the department of health may nevertheless continue to practice acupuncture under the provisions of this subdivision;

(5) Any person who is pursuing qualification for licensure through a course of formal study pursuant to this article may practice acupuncture without a license, provided such practice is limited to such study;

(6) Any person who has completed a formal course of study or a tutorial apprenticeship acceptable to the department and in accordance with the commissioner's regulations, prior to the effective date of this article, and presents satisfactory proof of such completion, shall be exempt from the education requirements set forth in subdivision two of section eighty-two hundred fourteen of this article provided an application pursuant to subdivision one of section eighty-two hundred fourteen of this article is filed with the department not later than one year from the effective date of this article, and in no event shall participation in such tutorial apprenticeship or formal course of study constitute a violation of this chapter.

(7) Any person who is pursuing qualification for certification through a formal course of study in a registered program and any person appointed to the faculty of such program may practice acupuncture without a license, provided that such practice is limited to such research, study and training.

(8) Any person who is licensed and in good standing to practice acupuncture in another state or country may practice acupuncture in this state without a license solely for the purpose of conducting clinical training, practice demonstrations or clinical research that is within the practice of acupuncture in connection with a program of basic clinical education, graduate education, or post-graduate education in an approved school of acupuncture or in its affiliated clinical facility or health care agency, or before a group of licensed acupuncturists who are members of a professional society. Any person practicing acupuncture in New York state pursuant to this subdivision shall be subject to the

personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents as if he or she is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with the provisions of this article, the rules of the board of regents, and the regulations of the commissioner, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

ARTICLE 161

INTERIOR DESIGN

Section 8300. Application.
8301. Use of the title "certified interior designer".
8302. Signature of a certified interior designer.
8303. Definition of practice of interior design.
8304. State board for interior design.
8305. Requirements for certification.
8306. Limited permits.
8307. Separability.

§ 8300. Application. This article applies to the use of a title by a certified interior designer. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8301. Use of the title "certified interior designer". Only a person certified pursuant to this article may use the title "certified interior designer". Authorization contained within this article to use the title "certified interior designer" shall not be construed to permit the practice of engineering, as described in article one hundred forty-five of this title, or the practice of architecture, as described in article one hundred forty-seven of this title, by persons not otherwise authorized to engage in such practices.

§ 8302. Signature of a certified interior designer. All original final interior design documents, plans and specifications, prepared by a certified interior designer or by a full-time or part-time subordinate employed under his or her supervision, shall be manually signed by the certified interior designer.

§ 8303. Definition of practice of interior design. For the purposes of this article, the practice of interior design is defined as rendering or offering to render services for a fee or other valuable consideration, in the preparation and administration of interior design documents (including drawings, schedules and specifications) which pertain to the planning and design of interior spaces including furnishings, layouts, fixtures, cabinetry, lighting, finishes, materials, and interior construction not materially related to or materially affecting the building systems, all of which shall comply with applicable laws, codes, regulations, and standards. The scope of work described herein shall not be construed as authorizing the planning and design of engineering and architectural interior construction as related to the building systems, including structural, electrical, plumbing, heating, ventilating, air conditioning or mechanical systems and shall not be construed as authorizing the practice of engineering or architecture as described in article one hundred forty-five or one hundred forty-seven of this title. The interior design plans as described above are not to be construed as those required to be filed with local municipalities or building departments as required by the state education law regulating the practices of architecture or engineering.

§ 8304. State board for interior design. 1. A state board for interior design shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of certification and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of nine members, four of whom shall be interior designers certified in this state, two of whom shall

be licensed architects who practice primarily interior design in this state, one who shall be a professional engineer in this state with an expertise in interior design, one who shall be a full-time interior design educator in this state and one who shall be the public representative. Notwithstanding the foregoing, the members of the first board who are interior designers need not be certified prior to their appointment to the board.

2. Two interior designers and a licensed architect who practices primarily interior design shall serve initial five year terms. Two interior designers and a professional engineer with an expertise in interior design shall serve initial four year terms. One licensed architect who practices primarily interior design, the interior design educator, and the public representative shall serve initial two year terms. Following the establishment of the initial membership of the board, all succeeding appointments shall be for five year terms. Any vacancy on the board shall be filled by appointment for the remainder of such member's terms in accordance with the provisions of this section.

§ 8305. Requirements for certification. 1. To qualify for certification to use the title "certified interior designer", an applicant shall fulfill all the following requirements:

(a) Application: file an application with the department;

(b) Education: have received at least seven years of professional training consisting of academic study and work experience relating to interior design and in accordance with the commissioner's regulations. These seven years shall contain at least two but not more than five years of post secondary education, including an associate degree or the equivalent, in an approved program of interior design;

(c) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

(d) Examination: (1) pass an examination satisfactory to the board in accordance with the commissioner's regulations, and (2) pass a separate examination satisfactory to the board relative to the fire, safety and building codes of the state;

(e) Age: be at least twenty-one years of age;

(f) Citizenship: meet no requirements as to United States citizenship;

(g) Character: be of good moral character as determined by the department; and

(h) Fees: pay a fee of three hundred dollars to the department for admission to the two department conducted examinations and for an initial license, a fee of one hundred fifty dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

2. On recommendation of the board, the department may exempt:

(a) from the requirement of subparagraph one of paragraph (d) of subdivision one of this section, an applicant who holds a license of certification to practice as an interior designer issued to him or her upon examination by a legally constituted board of examiners in any other state or political subdivision of the United States, provided that at the time the license or certificate was issued by such state or political subdivision the applicant met the requirements of paragraph (b) of subdivision one of this section for certification to use the title "certified interior designer" established by this article; or

(b) from the requirements specified in paragraph (b) of subdivision one of this section provided the applicant submits, prior to January first, nineteen hundred ninety-six, satisfactory evidence that the applicant has held himself or herself out as an interior designer and has prepared interior design documents in accordance with the requirements set forth in section eighty-three hundred three of this article for a minimum of seven years, has received a secondary school diploma or equivalent, and has passed the examinations required under paragraph (d) of subdivision one of this section.

§ 8306. Limited permits. 1. On recommendation of the board, the department may issue a limited permit, valid for a period of two years and renewable once on the recommendation of the board, for use of the title "certified interior designer" in accordance with this article by one who is not a resident of this state and has no established business

in this state. This individual shall (a) be qualified to practice or engage, under such title, in the practice of interior design in his or her own country or state, (b) submit evidence satisfactory to the board of established and recognized professional standing in his or her own country or state, and (c) submit satisfactory certifications as to his or her qualifications.

2. The limited permit shall authorize the holder to use the title "certified interior designer".

3. A limited permit of a certified interior designer shall be used only in connection with the specific project for which the limited permit is issued and authorized in writing by the department.

4. The fee for each limited permit shall be one hundred five dollars.

§ 8307. Separability. If any section of this article, or part thereof, shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder or any other section or part thereof.

ARTICLE 162

ATHLETIC TRAINERS

Section 8350. Introduction.
8351. Definition.
8352. Definition of athletic training.
8353. Use of the title "licensed athletic trainer".
8354. State committee for athletic trainers.
8355. Requirements and procedure for professional licensure.
8356. Exempt persons.
8356-a. Mandatory continuing education.
8357. Non-liability of licensed athletic trainers for first aid or emergency treatment.
8358. Limited permits.
8359. Special provisions.

8360. Separability.

§ 8350. Introduction. This article applies to the profession of athletic training. The general provisions of all professions contained in article one hundred thirty of this chapter shall apply to this article.

§ 8351. Definition. 1. As used in this article "athletic trainer" means any person who is duly licensed in accordance with this article to perform athletic training under the supervision of a physician and limits his or her practice to secondary schools, institutions of postsecondary education, professional athletic organizations, amateur athletic organizations, non-profit athletic organizations, dance organizations, military academies and facilities of the United States, fire training programs or academies, and police training schools and academies. An athletic trainer may also, under the supervision of a physician in a health care organization or a physician's private practice, carry out comparable functions on orthopedic athletic injuries.

2. Supervision of an athletic trainer by a physician shall be continuous but shall not be construed as requiring the physical presence of the supervising physician at the time and place where such services are performed, provided however, that such supervision shall include a signed written agreement or protocol created collaboratively between the supervising physician and licensed athletic trainer. The written agreement or protocol shall address and describe the nature and scope of athletic training services to be performed by such licensed athletic trainer, in accordance with this title. Such written agreement or protocol shall be reviewed at least once a year by the supervising physician and athletic trainer and revised if necessary. No physician shall supervise more than four athletic trainers, except that such limitation shall not apply for athletic trainers practicing in secondary schools, and institutions of postsecondary education, who are practicing under the supervision of a physician who serves as the medical director

for such school or institution.

3. An athletic trainer shall make a written or oral referral to a physician of any individual being treated for an orthopedic athletic injury whose symptoms have not improved for a period of four days from the day of onset. An individual treated for an orthopedic athletic injury by an athletic trainer in a healthcare organization or a physician's private practice shall receive a medical evaluation or reevaluation if treatment by the athletic trainer exceeds two weeks.

4. The scope of work described in this section shall not be construed as authorizing the management and treatment of acute, subacute, or chronic neurological pathologies and comorbidities or neurological disease processes. Athletic trainers may, however, perform an initial evaluation and triage of emergent neurological conditions such as potential concussions, spinal cord injuries or nerve injuries that result from engagement in athletic activity, and following the individual's clearance by the supervising physician, the athletic trainer may work with the individual pursuant to the signed written agreement or protocol to manage, monitor and treat concussions and peripheral nerve injuries in such settings as part of the rehabilitation to return to athletic activity subject to the limitations of subdivision one of this section.

§ 8352. Definition of athletic training. The practice of the profession of athletic training is defined as:

1. The prevention, recognition, examination, evaluation, assessment, management, treatment and rehabilitation of athletic injuries;

2. The recognition of illness and referral to the appropriate medical professional with implementation of treatment pursuant to physician's orders;

3. Instruction to coaches, athletes, parents, medical personnel, and communities in the area of care and prevention of athletic injuries; and

4. The use of clinically appropriate therapeutic modalities and techniques, including the use of:

(a) Physical, chemical, and mechanical means including the use of heat, cold, light, air, water, sound, electricity, massage, mobilization as it relates to athletic training, including non-thrust mobilization, and exercise; and

(b) Appropriate preventative and supportive devices and temporary splinting or bracing.

§ 8353. Use of the title "licensed athletic trainer". Only a person licensed or otherwise authorized under this article shall use the title "licensed athletic trainer", "athletic trainer", or the abbreviation "AT" or "LAT" in connection with his or her name or with any trade name in the conduct of his or her profession. Only a person licensed or otherwise authorized under this article shall practice athletic training.

§ 8354. State committee for athletic trainers. A state committee for athletic trainers shall be appointed by the board of regents, upon the recommendation of the commissioner and shall assist on matters of professional licensing and professional conduct in accordance with section six thousand five hundred eight of this title. The committee shall consist of seven members, five of whom are athletic trainers licensed in this state, one physician who is licensed in the state and certified by a physician specialty certification organization acceptable to the department in the specialties of orthopedic surgery, primary care, family practice, sports medicine, or neurology, and one public member that is a consumer of the profession. The committee shall assist the state board for medicine in athletic training matters. Nominations and terms of office of the members of the state committee for athletic trainers shall conform to the corresponding provisions relating thereto for state boards under article one hundred thirty of title eight of this chapter.

§ 8355. Requirements and procedure for professional licensure. To qualify for a license as an athletic trainer under this article, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education including a bachelor's, its equivalent or higher degree in accordance with the commissioner's regulations;

3. Experience: have experience in accordance with the commissioner's regulations;

4. Examination: pass an examination in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age;

6. Fees: pay a fee for an initial license of one hundred fifty-eight dollars to the department; and a fee of fifty-eight dollars for each triennial registration period; and

7. Character: be of good moral character as determined by the department.

§ 8356. Exempt persons. This article shall not be construed to affect or prevent:

1. Qualified members of other licensed or legally recognized professions from performing work incidental to the practice of their profession, except that such persons may not hold themselves out under the title athletic trainer or as performing athletic training.

2. An athletic training student from engaging in clinical practice under the supervision of a licensed athletic trainer as part of a

program of study approved by the department.

3. An athletic trainer licensed in another state or country from conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or post-graduate education in an approved school of athletic training, or in a clinical facility, or a health care agency.

4. (a) Any person who is licensed or title-protected as an athletic trainer, or as an athletic therapist credentialed by a foreign government and in good standing in another state, territory, or country, and who has a written agreement to provide athletic training services to athletes and team personnel of a United States sports team recognized by the United States Olympic and Paralympic Committees or an out-of-state secondary school, an institution of postsecondary education, a professional or amateur athletic organization sports team, or a performing arts troupe, may provide athletic training services to such athletes and team personnel at a discrete sanctioned team sporting event or performance at a secondary school, institution of postsecondary education, professional athletic organization, amateur athletic organization, non-profit athletic organization, dance organization, military academy or facility of the United States, fire training program or academy, or police training school or academy in this state, provided such services are provided only to such athletes and team personnel at such discrete sanctioned team sporting event or performance. Any such athletic training services shall be provided only five days before through three days after each such discrete sanctioned team sporting event or traveling performance.

(b) Any person practicing as an athletic trainer in this state pursuant to this subdivision shall be subject to the personal and subject matter jurisdiction and disciplinary and regulatory authority of the board of regents as if such person is a licensee and as if the exemption pursuant to this subdivision is a license. Such individual shall comply with applicable provisions of the rules of the board of regents, and the regulations of the commissioner, relating to professional misconduct, disciplinary proceedings and penalties for professional misconduct.

*** § 8356-a. Mandatory continuing education.** 1. (a) Each licensed athletic trainer, licensed pursuant to this article, shall be required to register triennially with the department to practice in the state and shall comply with the provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Licensed athletic trainers who do not satisfy such mandatory continuing education requirements shall not practice until they have met such requirements, and have been issued a registration certificate, except that a licensed athletic trainer may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Each licensed athletic trainer shall be exempt from the mandatory continuing education requirement for the triennial registration period during which he or she is first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed athletic trainer not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of athletic training during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period, an applicant for registration as a licensed athletic trainer shall complete a minimum of forty-five hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than fifteen hours of such continuing education shall consist of self-study courses. Any licensed athletic trainer whose first registration date following

the effective date of this section occurs less than three years from such effective date shall complete continuing education hours on a prorated basis, as determined by the department, beginning on such effective date until his or her first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium shall not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. For purposes of this section: (a) "Acceptable learning activities" shall include, but not be limited to, formal courses of learning which contribute to professional practice in athletic training and/or self-study activities; independent study; formal mentoring activities; publication in professional journals; or lectures, which meet the standards prescribed by regulations of the commissioner; and

(b) "Formal courses of learning" shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and any other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the department. Formal courses shall be taken from a

sponsor approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner.

5. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education credits in specific subjects to fulfill the mandatory continuing education requirement under this section.

6. A licensed athletic trainer shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

7. The mandatory continuing education fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section eighty-three hundred fifty-five of this article.

* NB Effective December 22, 2028

§ 8357. Non-liability of licensed athletic trainers for first aid or emergency treatment. Notwithstanding any inconsistent provision of any general, special or local law, any licensed athletic trainer who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside a hospital, doctor's office or any other place having proper and necessary athletic training equipment, to a person who is unconscious, ill or injured, shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such athletic trainer. Nothing in this section shall be deemed or construed to relieve a licensed athletic trainer from liability for damages for injuries or

death caused by an act or omission on the part of an athletic trainer while rendering professional services in the normal and ordinary course of his or her practice.

§ 8358. Limited permits. 1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination, in accordance with regulations promulgated therefor.

2. Limited permits shall be valid for one year, and such limited permits may be renewed, at the discretion of the department, for one additional year.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

4. A limited permit holder shall practice only under the supervision of a physician as determined in accordance with the commissioner's regulations.

§ 8359. Special provisions. Any person who is certified as an athletic trainer on the effective date of this article shall be licensed as an athletic trainer without meeting any additional requirements.

§ 8360. Separability. If any section of this article, or part thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of any other section or part thereof.

ARTICLE 163

MENTAL HEALTH PRACTITIONERS

Section 8400. Introduction.
8401. Definitions.
8401-a. Diagnostic privilege.

8402. Mental health counseling.
8403. Marriage and family therapy.
8404. Creative arts therapy.
8405. Psychoanalysis.
8406. State board for mental health practitioners.
8407. Boundaries of professional competency.
8408. Hospital privileges.
8409. Limited permits.
8410. Exemptions.
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§ 8400. Introduction. This article applies to the professions of mental health counseling, marriage and family therapy, creative arts therapy, and psychoanalysis and provides for the licensing of such practitioners. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8401. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Board" means the state board for mental health practitioners authorized by section eighty-four hundred six of this article.

2. "Psychotherapy" means the treatment of mental, nervous, emotional, behavioral and addictive disorders, and ailments by the use of both verbal and behavioral methods of intervention in interpersonal relationships with the intent of assisting the persons to modify attitudes, thinking, affect, and behavior which are intellectually, socially and emotionally maladaptive.

3. "Diagnosis" means the process of distinguishing, beyond a general assessment, between similar mental, emotional, behavioral, developmental, and addictive disorders, impairments, and disabilities within a psychosocial framework on the basis of their similar and unique

characteristics consistent with accepted classification systems.

4. "Development of assessment-based treatment plans" means the development of an integrated plan of prioritized interventions, that is based on the diagnosis and psychosocial assessment of the client, to address mental, emotional, behavioral, developmental, and addictive disorders, impairments, and disabilities.

§ 8401-a. Diagnostic privilege. 1. For issuance of a privilege to diagnose and develop assessment-based treatment plans, as defined in section eighty-four hundred one of this article, the applicant shall fulfill the following requirements:

(a) Application: File an application with the department;

(b) License: Be licensed and registered as a mental health counselor, marriage and family therapist, or a psychoanalyst in the state;

(c) Education: Verify the completion of a sixty semester hour master's degree or higher, or the clock hour equivalent program of study in a psychoanalytic institute, that includes completion of a core curriculum which includes at least twelve semester hours or clock hour equivalent of clinical courses that prepares the applicant to diagnose and develop assessment-based treatment plans acceptable to the department. A person who has received a master's or higher degree during which they did not complete the required hours, may satisfy such requirement by completing the equivalent post-graduate courses in accordance with the commissioner's regulations;

(d) Experience: (i) Have completed at least two thousand hours of supervised, direct client contact that shall include, but not be limited to, diagnosis, psychotherapy and the development of assessment-based treatment plans, as defined in section eighty-four hundred one of this article, satisfactory to the department.

(ii) Subparagraph (i) of this paragraph shall not apply to a mental health counselor, marriage and family therapist, or psychoanalyst who was licensed prior to June twenty-fourth, two thousand twenty-four, and who provides attestation, on a form prescribed by the department, from a supervisor in a facility setting or other supervised setting approved by the department under supervision in accordance with the commissioner's

regulations, that such licensee has at least three years of experience engaged in direct client contact that shall include diagnosis, psychotherapy and the development of assessment-based treatment plans. Such licensee shall submit an application to the department within three years of the effective date of this section.

(e) Fee: Pay a fee of one hundred seventy-five dollars for issuance of a privilege to diagnose and develop assessment-based treatment plans.

2. A mental health counselor, marriage and family therapist or psychoanalyst who engages in diagnosis and the development of assessment-based treatment plans without a privilege may be charged with professional misconduct under section sixty-five hundred nine of this title.

3. A privilege issued under this section shall be valid for the life of the holder, unless revoked, annulled, or suspended by the board of regents. Such a privilege shall be subject to the same oversight and disciplinary provisions as licenses issued under this title. The holder of a privilege issued under this section shall register with the department as a privilege holder in the same manner and subject to the same provisions as required of a licensee pursuant to section sixty-five hundred two of this title, provided that, at the time of each registration, the privilege holder shall certify that he or she continues to meet the requirements for the privilege set forth in this section. The fee for such registration shall be one hundred seventy-five dollars. The registration period for a privilege holder shall be coterminous with his or her registration under this article.

§ 8402. Mental health counseling. 1. Definition of the practice of mental health counseling. The practice of the profession of mental health counseling is defined as:

(a) the evaluation, assessment, amelioration, treatment, modification, or adjustment to a disability, problem, or disorder of behavior, character, development, emotion, personality or relationships by the use of verbal or behavioral methods with individuals, couples, families or groups in private practice, group, or organized settings; and

(b) the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate mental health counseling services.

2. Practice of mental health counseling and use of the titles "mental health counselor" and "licensed mental health counselor". Only a person licensed or exempt under this article shall practice mental health counseling or use the title "mental health counselor". Only a person licensed under this article shall use the title "licensed mental health counselor" or any other designation tending to imply that the person is licensed to practice mental health counseling.

3. Requirements for a professional license. To qualify for a license as a "licensed mental health counselor", an applicant shall fulfill the following requirements:

(a) Application: File an application with the department;

(b) Education: Have received an education, including a master's or higher degree in counseling from a program registered by the department or determined by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations. The graduate coursework shall include, but not be limited to, the following areas:

(i) human growth and development;

(ii) social and cultural foundations of counseling;

(iii) counseling theory and practice and psychopathology;

(iv) group dynamics;

(v) lifestyle and career development;

(vi) assessment and appraisal of individuals, couples and families and groups;

(vii) research and program evaluation;

(viii) professional orientation and ethics;

(ix) foundations of mental health counseling and consultation;

(x) clinical instruction; and

(xi) completion of a minimum one year supervised internship or practicum in mental health counseling;

(c) Experience: An applicant shall complete a minimum of three thousand hours of post-master's supervised experience relevant to the practice of mental health counseling satisfactory to the board and in

accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this title may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

(d) Examination: Pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(e) Age: Be at least twenty-one years of age;

(f) Character: Be of good moral character as determined by the department; and

(g) Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8403. Marriage and family therapy. 1. Definition of the practice of marriage and family therapy. The practice of the profession of marriage and family therapy is defined as:

(a) the assessment and treatment of nervous and mental disorders, whether affective, cognitive or behavioral, which results in dysfunctional interpersonal family relationships including, but not limited to familial relationships, marital/couple relationships, parent-child relationships, pre-marital and other personal relationships;

(b) the use of mental health counseling, psychotherapy and therapeutic techniques to evaluate and treat marital, relational, and family systems, and individuals in relationship to these systems;

(c) the use of mental health counseling and psychotherapeutic techniques to treat mental, emotional and behavioral disorders and

ailments within the context of marital, relational and family systems to prevent and ameliorate dysfunction; and

(d) the use of assessment instruments and mental health counseling and psychotherapy to identify and evaluate dysfunctions and disorders for purposes of providing appropriate marriage and family therapy services.

2. Practice of marriage and family therapy and use of the titles "marriage and family therapist" and "licensed marriage and family therapist". Only a person licensed or exempt under this article shall practice marriage and family therapy or use the title "marriage and family therapist". Only a person licensed under this article shall use the titles "licensed marriage and family therapist", "licensed marriage therapist", "licensed family therapist" or any other designation tending to imply that the person is licensed to practice marriage and family therapy.

3. Requirements for a professional license. To qualify for a license as a "licensed marriage and family therapist", an applicant shall fulfill the following requirements:

(a) Application: File an application with the department;

(b) Education: Have received a master's or doctoral degree in marriage and family therapy from a program registered by the department, or determined by the department to be the substantial equivalent, in accordance with the commissioner's regulations or a graduate degree in an allied field from a program registered by the department and graduate level coursework determined to be equivalent to that required in a program registered by the department. This coursework shall include, but not be limited to:

(i) the study of human development, including individual, child and family development;

(ii) psychopathology;

(iii) marital and family therapy;

(iv) family law;

(v) research;

(vi) professional ethics; and

(vii) a practicum of at least three hundred client contact hours;

(c) Experience: The completion of at least one thousand five hundred

client contact hours of supervised clinical experience, by persons holding a degree from a master's or doctoral program, or the substantial equivalent, in accordance with the commissioner's regulations or the completion of at least one thousand five hundred client hours of supervised post-master's clinical experience in marriage and family therapy satisfactory to the department in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this title may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

(d) Examination: Pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(e) Age: Be at least twenty-one years of age;

(f) Character: Be of good moral character as determined by the department; and

(g) Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8404. Creative arts therapy. 1. Definition of the practice of creative arts therapy. The practice of the profession of creative arts therapy is defined as:

(a) the assessment, evaluation, and the therapeutic intervention and treatment, which may be either primary, parallel or adjunctive, of mental, emotional, developmental and behavioral disorders through the use of the arts as approved by the department; and

(b) the use of assessment instruments and mental health counseling and

psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate creative arts therapy services.

2. Practice of creative arts therapy and use of the titles "creative arts therapist" and "licensed creative arts therapist". Only a person licensed or exempt under this article shall practice creative arts therapy or use the title "creative arts therapist". Only a person licensed under this article shall use the title "licensed creative arts therapist" or any other designation tending to imply that the person is licensed to practice creative arts therapy.

3. Requirements for a professional license. To qualify for a license as a "licensed creative arts therapist", an applicant shall fulfill the following requirements:

(a) Application: File an application with the department;

(b) Education: Have received an education, including a master's or higher degree in creative arts therapy from a program registered by the department or determined by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations. The graduate coursework shall include, but not be limited to, the following areas:

(i) human growth and development;

(ii) theories in therapy;

(iii) group dynamics;

(iv) assessment and appraisal of individuals and groups;

(v) research and program evaluation;

(vi) professional orientation and ethics;

(vii) foundations of creative arts therapy and psychopathology; and

(viii) clinical instruction;

(c) Experience: Have completed at least fifteen hundred hours of postmaster's supervised experience in one or more creative arts therapies satisfactory to the department and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this title may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a

and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

(d) Examination: Pass an examination in creative arts therapy satisfactory to the department and in accordance with the commissioner's regulations;

(e) Age: Be at least twenty-one years of age;

(f) Character: Be of good moral character as determined by the department; and

(g) Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8405. Psychoanalysis. 1. Definition of the practice of psychoanalysis. The practice of the profession of psychoanalysis is defined as:

(a) the observation, description, evaluation, and interpretation of dynamic unconscious mental processes that contribute to the formation of personality and behavior in order to identify and resolve unconscious psychic problems which affect interpersonal relationships and emotional development, to facilitate changes in personality and behavior through the use of verbal and nonverbal cognitive and emotional communication, and to develop adaptive functioning; and

(b) the use of assessment instruments and mental health counseling and psychotherapy to identify, evaluate and treat dysfunctions and disorders for purposes of providing appropriate psychoanalytic services.

2. Practice of psychoanalysis and use of the titles "psychoanalyst" and "licensed psychoanalyst". Only a person licensed or exempt under this article shall practice psychoanalysis or use the title "psychoanalyst". Only a person licensed under this article shall use

the title "licensed psychoanalyst" or any other designation tending to imply that the person is licensed to practice psychoanalysis.

3. Requirements for a professional license. To qualify for a license as a "licensed psychoanalyst", an applicant shall fulfill the following requirements:

(a) Application: File an application with the department;

(b) Education: Have received a master's degree or higher from a degree-granting program registered by the department or the substantial equivalent and have completed a program of study registered by the department in a psychoanalytic institute chartered by the board of regents or the substantial equivalent as determined by the department. The program of study in a psychoanalytic institute shall include coursework substantially equivalent to coursework required for a master's degree in a health or mental health field of study. The coursework shall include, but not be limited to, the following areas:

(i) personality development;

(ii) psychoanalytic theory of psychopathology;

(iii) psychoanalytic theory of psychodiagnosis;

(iv) sociocultural influence on growth and psychopathology;

(v) practice technique (including dreams and symbolic processes);

(vi) analysis of resistance, transference, and countertransference;

(vii) case seminars on clinical practice;

(viii) practice in psychopathology and psychodiagnosis;

(ix) professional ethics and psychoanalytic research methodology; and

(x) a minimum of three hundred hours of personal analysis and one hundred fifty hours of supervised analysis;

(c) Experience: Have completed a minimum of fifteen hundred hours of supervised clinical practice satisfactory to the department and in accordance with the commissioner's regulations. Satisfactory experience obtained in an entity operating under a waiver issued by the department pursuant to section sixty-five hundred three-a of this title may be accepted by the department, notwithstanding that such experience may have been obtained prior to the effective date of such section sixty-five hundred three-a and/or prior to the entity having obtained a waiver. The department may, for good cause shown, accept satisfactory experience that was obtained in a setting that would have been eligible

for a waiver but which has not obtained a waiver from the department or experience that was obtained in good faith by the applicant under the belief that appropriate authorization had been obtained for the experience, provided that such experience meets all other requirements for acceptable experience;

(d) Examination: Pass an examination in psychoanalysis satisfactory to the department and in accordance with the commissioner's regulations;

(e) Age: Be at least twenty-one years of age;

(f) Character: Be of good moral character as determined by the department; and

(g) Fees: Pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8406. State board for mental health practitioners. A state board for mental health practitioners shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of licensing and regulation. The board shall be composed of at least three licensed members from each profession licensed pursuant to this article and at least three public representatives who do not hold interests in the organization, financing, or delivery of mental health services. Additionally, the board shall contain one physician who shall be a psychiatrist. Members of the first board need not be licensed prior to their appointment to the board. The terms of the first appointed members shall be staggered so that five are appointed for three years, five are appointed for four years, and six are appointed for five years. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 8407. Boundaries of professional competency. 1. It shall be deemed practicing outside the boundaries of his or her professional competence for a person licensed pursuant to this article, in the case of treatment of any serious mental illness, to provide any mental health service for such illness on a continuous and sustained basis without a medical

evaluation of the illness by, and consultation with, a physician regarding such illness, unless such licensed professional has been issued a privilege to diagnosis and develop assessment-based treatment plans by the department. Such medical evaluation and consultation shall be to determine and advise whether any medical care is indicated for such illness. For purposes of this section, "serious mental illness" means schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention-deficit hyperactivity disorder and autism.

2. Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

(a) prescribing or administering drugs as defined in this chapter as a treatment, therapy, or professional service in the practice of his or her profession; or

(b) using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 8408. Hospital privileges. Nothing herein contained shall be deemed to authorize, grant, or extend hospital privileges to individuals licensed under this article.

§ 8409. Limited permits. The following requirements for a limited permit shall apply to all professions licensed pursuant to this article:

1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination and/or experience requirements, or to an applicant who is gaining experience for the diagnostic privilege, in accordance with regulations promulgated therefor.

2. Limited permits shall be for two years; such limited permits may be renewed, at the discretion of the department, for up to two additional one year periods.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

§ 8410. Exemptions. Nothing contained in this article shall be construed to:

1. Apply to the practice, conduct, activities, services or use of any title by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one of this title or by any person registered to perform services as a physician assistant within the state pursuant to article one hundred thirty-one-B of this title or by any person licensed or otherwise authorized to practice psychology within this state pursuant to article one hundred fifty-three of this title or by any person licensed or otherwise authorized to practice social work within this state pursuant to article one hundred fifty-four of this title, or by any person licensed or otherwise authorized to practice nursing as a registered professional nurse or nurse practitioner within this state pursuant to article one hundred thirty-nine of this title or by any person licensed or otherwise authorized to practice applied behavior analysis within the state pursuant to article one hundred sixty-seven of this title; provided, however, that no physician, physician's assistant, registered professional nurse, nurse practitioner, psychologist, licensed master social worker, licensed clinical social worker, licensed behavior analyst or certified behavior analyst assistant may use the titles "licensed mental health counselor", "licensed marriage and family therapist", "licensed creative arts therapist", or "licensed psychoanalyst", unless licensed under this article.

2. Prohibit or limit any individual who is credentialed under any law, including attorneys, rape crisis counselors, certified alcoholism counselors and certified substance abuse counselors from providing

mental health services within their respective established authorities.

3. Prohibit or limit the practice of a profession licensed pursuant to this article by a student, intern or resident in, and as part of, a supervised educational program in an institution approved by the department.

4. Prohibit or limit the provision of pastoral counseling services by any member of the clergy or Christian Science practitioner, within the context of his or her ministerial charge or obligation.

5. Prohibit or limit individuals, churches, schools, teachers, organizations, or not-for-profit businesses, from providing instruction, advice, support, encouragement, or information to individuals, families, and relational groups.

6. Prohibit or limit an occupational therapist from performing work consistent with article one hundred fifty-six of this title.

7. Prohibit the practice of mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis, to the extent permissible within the scope of practice of such professions, by any not-for-profit corporation or education corporation providing services within the state of New York and operating under a waiver pursuant to section sixty-five hundred three-a of this title, provided that such entities offering mental health counseling, marriage and family therapy, creative arts therapy or psychoanalysis services shall only provide such services through an individual appropriately licensed or otherwise authorized to provide such services or a professional entity authorized by law to provide such services.

8. (a) Prevent a person without a license from: performing assessments including but not limited to basic information collection, gathering of demographic data, and informal observations, screening and referral used for general eligibility for a program or service and determining the functional status of an individual for the purpose of determining need for services; advising individuals regarding the appropriateness of

benefits they are eligible for; providing general advice and guidance and assisting individuals or groups with difficult day to day problems such as finding employment, locating sources of assistance, and organizing community groups to work on a specific problem; providing peer services; selecting for suitability and providing substance abuse treatment services or group re-entry services to incarcerated individuals in state correctional facilities; or providing substance abuse treatment services or re-entry services to incarcerated individuals in local correctional facilities.

(b) Prevent a person without a license from creating, developing or implementing a service plan or recovery plan that is not a behavioral health diagnosis or treatment plan. Such service or recovery plans shall include, but are not limited to, coordinating, evaluating or determining the need for, or the provision of the following services: job training and employability; housing; homeless services and shelters for homeless individuals and families; refugee services; residential, day or community habilitation services; general public assistance; in home services and supports or home-delivered meals; recovery supports; adult or child protective services including investigations; detention as defined in section five hundred two of the executive law; prevention and residential services for victims of domestic violence; services for runaway and homeless youth; foster care, adoption, preventive services or services in accordance with an approved plan pursuant to section four hundred four of the social services law, including, adoption and foster home studies and assessments, family service plans, transition plans, permanency planning activities, and case planning or case management as such terms are defined in the regulations of the office of children and family services; residential rehabilitation; home and community based services; and de-escalation techniques, peer services or skill development.

(c)(i) Prevent a person without a license from participating as a member of a multi-disciplinary team to assist in the development of or implementation of a behavioral health services or treatment plan; provided that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three or one hundred fifty-four of this chapter; and provided, further, that the activities performed by members

of the team shall be consistent with the scope of practice for each team member licensed or authorized under title VIII of this chapter, and those who are not so authorized may not engage in the following restricted practices: the diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; the provision of psychotherapeutic treatment; the provision of treatment other than psychotherapeutic treatment; or independently developing and implementing assessment-based treatment plans as defined in section seventy-seven hundred one of this chapter.

(ii) For the purposes of this paragraph, "assist" shall include, but not be limited to, the provision or performance of the following tasks, services, or functions by an individual who has obtained the training and experience required by the applicable state oversight agency to perform such task, service or function in facilities or programs operating pursuant to article nineteen-G of the executive law; articles seven, sixteen, thirty-one or thirty-two of the mental hygiene law; or title three of article seven of the social services law:

(1) helping an individual with the completion of forms or questionnaires;

(2) reviewing existing case records and collecting background information about an individual which may be used by the licensed professional or multi-disciplinary team;

(3) gathering and reporting information about previous behavioral health interventions, hospitalizations, documented diagnosis, or prior treatment for review by the licensed professional and multi-disciplinary team;

(4) discussing with the individual his or her situation, needs, concerns, and thoughts in order to help identify services that support the individual's goals, independence, and quality of life;

(5) providing advice, information, and assistance to individuals and family members to identify needs and available resources in the community to help meet the needs of the individual or family member;

(6) engaging in immediate and long-term problem solving, engaging in the development of social skills, or providing general help in areas including, but not limited to, housing, employment, child care, parenting, community based services, and finances;

(7) distributing paper copies of self-administered tests for the

individual to complete when such tests do not require the observation and judgment of a licensed professional;

(8) monitoring treatment by the collection of written and/or observational data in accordance with the treatment plan and providing verbal or written reports to the multi-disciplinary team;

(9) identifying gaps in services and coordinating access to or arranging services for individuals such as home care, community based services, housing, employment, transportation, child care, vocational training, or health care;

(10) offering education programs that provide information about disease identification and recommended treatments that may be provided, and how to access such treatment;

(11) reporting on behavior, actions, and responses to treatment by collecting written and/or observational data as part of a multi-disciplinary team;

(12) using de-escalation techniques consistent with appropriate training;

(13) performing assessments using standardized, structured interview tools or instruments;

(14) directly delivering services outlined in the service plan that are not clinical in nature but have been tailored to an individual based on any diagnoses such individual may have received from a licensed professional; and

(15) advocating with educational, judicial or other systems to protect an individual's rights and access to appropriate services.

(d) Provided, further, that nothing in this subdivision shall be construed as requiring a license for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision.

9. Notwithstanding any other provision of law to the contrary, nothing in this article shall be construed to prohibit or limit the activities or services provided under this article by any person who is employed or who commences employment in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability

assistance, the state office for the aging and the department of health or a local governmental unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law on or before two years from the date that the regulations issued in accordance with section six of part Y of chapter fifty-seven of the laws of two thousand eighteen appear in the state register or are adopted, whichever is later. Such prohibitions or limitations shall not apply to such employees for as long as they remain employed by such programs or services and whether they remain employed by the same or other employers providing such programs or services. Provided however, that any person who commences employment in such program or service after such date and performs services that are restricted under this article shall be appropriately licensed or authorized under this article. Each state oversight agency shall create and maintain a process to verify employment history of individuals exempt under this subdivision.

10. The activities or services provided by a person with a master's level degree required for licensure pursuant to this article, working under the supervision of a professional licensed pursuant to article one hundred fifty-three, one hundred fifty-four or this article in a program or service operated, regulated, funded, or approved by the department of mental hygiene, the office of children and family services, the department of corrections and community supervision, the office of temporary and disability assistance, the state office for the aging and the department of health or a local government unit as that term is defined in section 41.03 of the mental hygiene law or a social services district as defined in section sixty-one of the social services law.

* 11. Prohibit or limit a mental health counselor, marriage and family therapist, or psychoanalyst licensed and registered pursuant to this article from engaging in diagnosis and the development of assessment-based treatment plans, as defined in section eighty-four hundred one of this article, in a facility setting or other supervised settings approved by the department under supervision in accordance with the commissioner's regulations.

* NB Repealed June 24, 2027

§ 8411. Special provisions. 1. This section shall apply to all professions licensed pursuant to this article, unless otherwise provided.

2. Any nonexempt person practicing a profession to be licensed pursuant to this article shall apply for a license of said profession within one year of the effective date of the specified profession.

(a) If such person does not meet the requirements for a license established within this article, such person may meet alternative criteria determined by the department to be the substantial equivalent of such criteria.

(b) If such person meets the requirements for a license established within this article, except for examination, and has been certified or registered by a national certifying or registering body having certification or registration standards acceptable to the commissioner, the department shall license without examination.

(c) If such person meets the requirements for a license established within this article, except for examination, and there exists no national certifying or registering body having certification or registration standards acceptable to the commissioner, the department shall license without examination if the applicant submits evidence satisfactory to the department of having been engaged in the practice of the specified profession for at least five of the immediately preceding eight years.

3. Any person licensed pursuant to this article may use accepted classifications of signs, symptoms, dysfunctions and disorders, as approved in accordance with regulations promulgated by the department, in the practice of such licensed profession.

§ 8412. Mandatory continuing education. 1. (a) Each licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist required under this article to register triennially with the department to practice in this state, shall comply with the provisions of mandatory continuing education requirements

prescribed in subdivision two of this section, except as set forth in paragraphs (b) and (c) of this subdivision. Licensed mental health counselors, marriage and family therapists, psychoanalysts, and creative arts therapists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements, and they have been issued a registration certificate, except that a licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Each licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist shall be exempt from the mandatory continuing education requirements for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health that are certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist not engaged in practice, as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of mental health counseling, marriage and family therapy, psychoanalysis, and creative arts therapy during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a licensed mental health counselor, marriage and family therapist, psychoanalyst, and creative arts therapist shall complete a minimum of thirty-six hours of acceptable formal continuing education, a maximum of twelve hours of which may be self-instructional course work acceptable to the department. Any licensed mental health counselor,

marriage and family therapist, psychoanalyst, and creative arts therapist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand seventeen, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand seventeen up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirement shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. Continuing education hours taken during one triennium may not be transferred to the subsequent triennium.

3. (a) The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices without such registration may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(b) For purposes of this section "acceptable formal education" shall mean formal courses of learning which contribute to professional practice in mental health counseling, marriage and family therapy, psychoanalysis, or creative arts therapies and which meet the standards prescribed by regulations of the commissioner. Such formal courses of learning shall include, but not be limited to, collegiate level credit and non-credit courses, professional development programs and technical sessions offered by national, state and local professional associations and other organizations acceptable to the department, and any other organized educational and technical programs acceptable to the

department. Continuing education courses must be taken from a provider who has been approved by the department, based upon an application and fee, pursuant to the regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement. Licensed mental health counselors, marriage and family therapists, psychoanalysts, and creative arts therapists shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department. Failure to provide such documentation upon the request of the department shall be an act of misconduct subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

(c) The mandatory continuing education fee shall be determined by the department. Such fee shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fees required by paragraph (g) of subdivision three of section eighty-four hundred two of this article and paragraph (g) of subdivision three of section eighty-four hundred five of this article.

ARTICLE 164

RESPIRATORY THERAPISTS AND RESPIRATORY THERAPY TECHNICIANS

Section 8500. Introduction.
8501. Definition of the practice of respiratory therapy.
8502. Practice of respiratory therapy and use of the title "respiratory therapist".
8503. State board for respiratory therapy.
8504. Requirements for licensure as a respiratory therapist.
8504-a. Mandatory continuing education for respiratory therapists.
8505. Exempt persons.
8506. Limited permits.
8507. Special provisions.
8508. Definition of the practice of respiratory therapy

technician.
8509. Duties of respiratory therapy technicians and use of the title "respiratory therapy technician".
8510. Requirements for licensure as a respiratory therapy technician.
8510-a. Mandatory continuing education for respiratory therapy technicians.
8511. Limited permits.
8512. Exempt persons.
8513. Special provisions.

§ 8500. Introduction. This article applies to the practice of respiratory therapy and provides for the licensing of respiratory therapists and respiratory therapy technicians. The general provisions for all professions contained in article one hundred thirty of this title shall apply to this article.

§ 8501. Definition of the practice of respiratory therapy. The practice of the profession of respiratory therapy, which shall be undertaken pursuant to the direction of a duly licensed physician, is defined as the performance of cardiopulmonary evaluation, respiratory therapy treatment techniques, and education of the patient, family and public.

1. Evaluation shall include the acquisition, analysis and interpretation of data obtained from physiological specimens, performing diagnostic tests, studies and research of the cardiopulmonary system and neurophysiological studies related to respiratory care.

2. Therapy shall include the application and monitoring of medical gases (excluding anesthetic gases) and environmental control systems, mechanical ventilatory support, artificial airway care, bronchopulmonary hygiene, pharmacologic agents related to respiratory care procedures, and cardiopulmonary rehabilitation related and limited to respiratory care.

3. Respiratory therapy services may be performed pursuant to a prescription of a licensed physician or certified nurse practitioner.

§ 8502. Practice of respiratory therapy and use of the title "respiratory therapist". 1. Only a person licensed or exempt under this article shall practice respiratory therapy or use the title "respiratory therapist".

2. A licensed respiratory therapist may supervise respiratory therapy technicians in the practice of their profession in such capacities as are prescribed by law and as from time to time may be set by the commissioner.

§ 8503. State board for respiratory therapy. A state board for respiratory therapy shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than five licensed respiratory therapists, two licensed respiratory therapy technicians, and four additional members who shall include at least one licensed physician and at least one public member. Members of the first board who are respiratory therapy practitioners need not be licensed prior to appointment on the board, provided, however, that the first appointed respiratory therapists shall be registered by a national certifying or accrediting board, acceptable to the department and the first appointed respiratory therapy technicians shall be certified by a national certifying or accrediting board, acceptable to the department. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner.

§ 8504. Requirements for licensure as a respiratory therapist. To qualify for a license as a respiratory therapist, an applicant shall

fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including completion of an approved associate degree program in respiratory therapy or in a program determined by the department to be the equivalent;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for an initial license; a fee of eighty-five dollars for each re-examination; a fee of one hundred fifteen dollars for an initial license for persons not requiring admission to a department conducted examination and a fee of one hundred fifty-five dollars for each triennial registration period commencing on and after June first, nineteen hundred ninety-three.

§ 8504-a. Mandatory continuing education for respiratory therapists. 1. (a) Each licensed respiratory therapist required under this article to register triennially with the department to practice in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Respiratory therapists who do not satisfy the mandatory continuing education requirement shall not practice until they have met such requirements,

and have been issued a registration certificate, except that a respiratory therapist may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Respiratory therapists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed respiratory therapist not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to their respective practice as a respiratory therapist during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a respiratory therapist shall complete a minimum of thirty hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than fifteen hours of such continuing education shall consist of self-study courses. Any respiratory therapist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing education hours on a prorated basis at the rate of five-sixths of one hour per month for the period beginning January first, two thousand up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours

completed during the registration period immediately preceding the effective date of this section, continuing education hours completed during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices as a respiratory therapist without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable formal continuing education" for respiratory therapy shall mean formal courses of learning which contribute to professional practice in respiratory therapy and which meet the standards prescribed by regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects.

5. Respiratory therapists shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee for respiratory therapists shall be thirty dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section eighty-five hundred four of this article.

§ 8505. Exempt persons. This article shall not prohibit:

1. The practice of respiratory therapy as an integral part of a program of study by students enrolled in approved respiratory therapy education programs;

2. The performance of any of the modalities included in the definition of respiratory therapy by any other duly licensed, certified or registered health care provider, provided that such modalities are within the scope of his or her practice;

3. Unlicensed assistants from being employed in a hospital, as defined in article twenty-eight of the public health law, for purposes other than the practice of respiratory therapy;

4. The practice of respiratory therapy by any legally qualified respiratory therapy practitioner of any other state or territory who is serving in the armed forces or the public health service of the United States or who is employed by the veterans administration, while engaged in the performance of his or her duties.

5. The provision of polysomnographic technology services, as defined by the commissioner, by an individual, under the direction and supervision of a licensed physician, who has obtained authorization issued by the department. Such authorization shall be issued to individuals who have met standards, including those relating to education, experience, examination and character, as promulgated in regulations of the commissioner. Such authorization shall be subject to the full disciplinary and regulatory authority of the board of regents and the department, pursuant to this title, as if such authorization were a professional license issued under this article. The application fee for such authorization shall be three hundred dollars. Each authorization holder shall register with the department every three years and shall pay a registration fee of three hundred dollars.

§ 8506. Limited permits. Permits limited as to eligibility, practice

and duration shall be issued by the department to eligible applicants as follows:

1. Eligibility. A person who fulfills all requirements for registration as a respiratory therapist except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. All practice under a limited permit shall be under the direct supervision of a licensed respiratory therapist physician specializing in pulmonary medicine, an anesthesiologist or an otherwise legally authorized physician.

3. Duration. A limited permit shall expire one year from the date of issuance or upon notice to the permittee by the department that the application for licensure has been denied, or ten days after notification to the permittee of failure on the professional licensing examination, whichever first occurs; provided, however, that if the permittee is awaiting the results of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the permittee of the result of such examination.

4. Fees. The fee for each limited permit shall be seventy dollars.

§ 8507. Special provisions. A person shall be licensed without examination provided that, within one year of the effective date of this article, the individuals:

1. files an application and pays the appropriate fees to the department; and

2. (a) is registered by a national certifying or accrediting board for respiratory therapy acceptable to the department, or

(b) has practiced respiratory therapy in a hospital, as defined in article twenty-eight of the public health law, in the state for not less than three years within the last five years prior to the effective date

of this article, or

(c) has met the educational standards of a hospital, as defined in article twenty-eight of the public health law, or, in the case of a hospital operated by a public benefit corporation, has met the educational standards of such corporation, and has practiced as a respiratory therapist for at least one year in such hospital.

§ 8508. Definition of the practice of respiratory therapy technician. A respiratory therapy technician means a person licensed in accordance with this article who works under the supervision of a licensed respiratory therapist or a licensed or otherwise legally authorized physician performing tasks and responsibilities within the framework of the practice of respiratory therapy.

§ 8509. Duties of respiratory therapy technicians and use of the title "respiratory therapy technician". Only a person licensed or otherwise authorized under this article shall participate in the practice of respiratory therapy as a respiratory therapy technician and only a person licensed under this article shall use the title "respiratory therapy technician".

§ 8510. Requirements for licensure as a respiratory therapy technician. To qualify for a license as a respiratory therapy technician an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education including completion of high school or its equivalent and have completed an approved one-year certificate respiratory therapy education program, or a program determined equivalent, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in

accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of ninety dollars to the department for admission to a department conducted examination and for an initial license; a fee of sixty dollars for each re-examination; a fee of fifty dollars for an initial license for persons not requiring admission to a department conducted examination and a fee of ninety dollars for each triennial registration period commencing on and after June first, nineteen hundred ninety-three.

§ 8510-a. Mandatory continuing education for respiratory therapy technicians. 1. (a) Each licensed respiratory therapy technician required under this article to register triennially with the department to practice in the state shall comply with provisions of the mandatory continuing education requirements prescribed in subdivision two of this section except as set forth in paragraphs (b) and (c) of this subdivision. Respiratory therapy technicians who do not satisfy the mandatory continuing education requirement shall not practice until they have met such requirements, and have been issued a registration certificate, except that a respiratory therapy technician may practice without having met such requirements if he or she is issued a conditional registration certificate pursuant to subdivision three of this section.

(b) Respiratory therapy technicians shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section, adjustment to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by an

appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) A licensed respiratory therapy technician not engaged in practice as determined by the department, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to their respective practice as a respiratory therapy technician during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory education requirements as shall be prescribed by regulations of the commissioner.

2. During each triennial registration period an applicant for registration as a respiratory therapy technician shall complete a minimum of twenty-four hours of acceptable formal continuing education, as specified in subdivision four of this section, provided that no more than twelve hours of such continuing education shall consist of self-study courses. Any respiratory therapy technician whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing education hours on a prorated basis at the rate of two-thirds of one hour per month for the period beginning January first, two thousand up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, continuing education hours completed during one triennium may not be transferred to a subsequent triennium.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and complete any additional education

which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The duration of such conditional registration shall be determined by the department but shall not exceed one year. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of required continuing education and who practices as a respiratory therapy technician without such registration, may be subject to the disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in subdivision two of this section, "acceptable formal continuing education" for respiratory therapy technicians shall mean formal courses of learning which contribute to professional practice as a respiratory therapy technician and which meet the standards prescribed by regulations of the commissioner. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects.

5. Respiratory therapy technicians shall maintain adequate documentation of completion of acceptable formal continuing education and shall provide such documentation at the request of the department.

6. The mandatory continuing education fee for respiratory therapy technicians shall be twenty-five dollars, shall be payable on or before the first day of each triennial registration period, and shall be paid in addition to the triennial registration fee required by section eighty-five hundred ten of this article.

§ 8511. Limited permits. 1. Eligibility. The department may issue a limited permit to an applicant who meets all requirements for admission to the licensing examination.

2. Limit of practice. All practice under a limited permit shall be under the direct supervision of a licensed respiratory therapist or a licensed or otherwise legally authorized physician.

3. Duration. A limited permit shall expire one year from the date of issuance or upon notice to the permittee by the department that the application for registration has been denied, or ten days after notification to the permittee of failure on the professional licensing examination, whichever first occurs; provided, however, that if the permittee is awaiting the results of a licensing examination at the time such limited permit expires, such permit shall continue to be valid until ten days after notification to the permittee of the result of such examination.

4. Fees. The fee for each limited permit shall be fifty dollars.

§ 8512. Exempt persons. This article shall not prohibit:

1. a respiratory therapy student or a respiratory therapy technician student from engaging in clinical assistance under the supervision of a licensed respiratory therapist or a licensed or otherwise legally authorized physician as an integral part of a program of study by students enrolled in an approved respiratory therapy technician program or in a clinical facility or health care agency affiliated with the program for respiratory therapy technicians; or

2. the performance of any of the tasks or responsibilities included in the definition of respiratory therapy technician by any other duly licensed, certified or registered health care provider, provided that such tasks or responsibilities are within the scope of his or her practice; or

3. unlicensed assistants from being employed in a hospital, as defined in article twenty-eight of the public health law, for purposes other than the practice of respiratory therapy technician; or

4. the practice of respiratory therapy by any legally qualified respiratory therapy practitioner of any other state or territory who is serving in the armed forces or the public health service of the United

States or who is employed by the veterans administration, while engaged in the performance of his or her duties.

§ 8513. Special provisions. A person shall be licensed without examination provided that, within one year of the effective date of this article, the individual:

1. files an application and pays the appropriate fees to the department; and

2. (a) is certified by a national certifying or accrediting board for respiratory therapy technicians acceptable to the department, or

(b) has practiced as a respiratory therapy technician in a hospital, as defined in article twenty-eight of the public health law, in the state for not less than two years within the last five years, or

(c) has met the educational standards of a hospital, as defined in article twenty-eight of the public health law, or, in the case of a hospital operated by a public benefit corporation, has met the educational standards of such corporation, and has practiced as a respiratory therapy technician for at least one year in such hospital.

ARTICLE 165

CLINICAL LABORATORY TECHNOLOGY PRACTICE ACT

Section 8600. Introduction.

8601. Definition of the practice of clinical laboratory technology and clinical laboratory technology practitioner.

8602. Practice of clinical laboratory technology, cytotechnology and histotechnology and use of the titles "licensed clinical laboratory technologist", "licensed cytotechnologist" and "licensed histotechnologist".

8603. Practice as a clinical laboratory technician and histotechnician and the use of the titles "clinical laboratory technician" and "histotechnician".

8604. State board for clinical laboratory technology.
8605. Requirements for a license as a clinical laboratory technologist or cytotechnologist.
8606. Requirements for certification as a clinical laboratory technician.
8606-a. Requirements for certification as a histotechnician.
8606-b. Requirements for licensure as a histotechnologist.
8607. Special provisions.
8608. Limited and provisional permits.
8609. Exempt persons.
8610. Restricted clinical laboratory licenses.

§ 8600. Introduction. This article defines the practice of clinical laboratory technology and provides for the licensing of clinical laboratory technologists, cytotechnologists, and histotechnologists and for the certification of clinical laboratory technicians and histotechnicians. The general provisions for all professions contained in article one hundred thirty of this title shall apply to this article.

§ 8601. Definition of the practice of clinical laboratory technology and clinical laboratory technology practitioner. 1. "Clinical laboratory technology" means the performance of microbiological, virological, serological, chemical, immunohematological, hematological, biophysical, cytogenetical, cytological or histological procedures and examinations and any other test or procedure conducted by a laboratory as defined by title five of article five of the public health law, on material derived from the human body which provides information for the diagnosis, prevention or treatment of a disease or assessment of a human medical condition.

2. A "clinical laboratory practitioner" means clinical laboratory technologists, cytotechnologists, histotechnologists, clinical laboratory technicians, and histotechnicians as such terms are defined in this subdivision, who practice clinical laboratory technology in a licensed clinical laboratory. For the purposes of this article, a

licensed clinical laboratory does not include a laboratory operated by any licensed physician, dentist, podiatrist, midwife or certified nurse practitioner who performs laboratory tests or procedures, personally or through his or her employees, solely as an adjunct to the treatment of his or her own patients.

(a) "Clinical laboratory technologist" means a clinical laboratory practitioner who, pursuant to established and approved protocols of the department of health, performs clinical laboratory procedures and examinations and any other tests or procedures conducted by a clinical laboratory, including maintaining equipment and records, and performing quality assurance activities related to examination performance, and which require the exercise of independent judgment and responsibility, as determined by the department.

(b) "Cytotechnologist" means a clinical laboratory practitioner who, pursuant to established and approved protocols of the department of health, performs cytological procedures and examinations and any other such tests including maintaining equipment and records and performing quality assurance activities related to examination performance, and which require the exercise of independent judgment and responsibility, as determined by the department.

(c) "Histotechnologist" means a clinical laboratory practitioner who pursuant to established and approved protocols of the department of health performs slide based histological assays, tests, and procedures and any other such tests conducted by a clinical histology laboratory, including maintaining equipment and records and performing quality assurance activities relating to procedure performance on histological testing of human tissues, and which requires the exercise of independent judgment and responsibility as determined by the department.

(d) "Clinical laboratory technician" means a clinical laboratory practitioner who performs clinical laboratory procedures and examinations pursuant to established and approved protocols of the department of health, which require limited exercise of independent judgment and which are performed under the supervision of a clinical laboratory technologist, laboratory supervisor, or director of a clinical laboratory.

(e) "Histotechnician" means a clinical laboratory practitioner who pursuant to established and approved protocols of the department of

health performs slide based histological assays, tests, and procedures and any other such tests conducted by a clinical histology laboratory, including maintaining equipment and records and performing quality assurance activities relating to procedure performance on histological testing of human tissues and which requires limited exercise of independent judgment and is performed under the supervision of a laboratory supervisor, designated by the director of a clinical laboratory or under the supervision of the director of the clinical laboratory.

(f) "Director of a clinical laboratory" means a director as that term is defined in section five hundred seventy-one of the public health law.

(g) "Laboratory supervisor" means an individual who, under the general direction of the laboratory director, supervises technical personnel and reporting of findings, performs tests requiring special scientific skills, and, in the absence of the director, is responsible for the proper performance of all laboratory procedures.

§ 8602. Practice of clinical laboratory technology, cytotechnology and histotechnology and use of the titles "licensed clinical laboratory technologist", "licensed cytotechnologist" and "licensed histotechnologist". No person shall practice as a clinical laboratory technologist, cytotechnologist or histotechnologist, or hold himself or herself out as a clinical laboratory technologist, or a cytotechnologist, or a histotechnologist in this state unless he or she is licensed or exempt pursuant to this article.

§ 8603. Practice as a clinical laboratory technician and histotechnician and the use of the titles "clinical laboratory technician" and "histotechnician". No person shall practice as a clinical laboratory technician or as a histotechnician or hold himself or herself out as a clinical laboratory technician or a histotechnician in this state unless he or she is certified or exempt pursuant to this article, provided that an individual licensed as a clinical laboratory technologist, cytotechnologist, histotechnologist, or clinical laboratory technician may practice the profession of histotechnician.

§ 8604. State board for clinical laboratory technology. A state board for clinical laboratory technology shall be appointed by the board of regents upon the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of twelve members, four of whom shall be licensed clinical laboratory technologists, two of whom shall be licensed cytotechnologists, one of whom shall be a certified clinical laboratory technician, one of whom shall be a licensed histotechnologist or certified histotechnician, two members of the public, one representative of the diagnostic/manufacturing industry, and one director of a clinical laboratory who shall be a physician. An executive secretary to the board shall be appointed by the board of regents upon the recommendation of the commissioner. The clinical laboratory practitioner members of the initial board need not be licensed prior to their appointment but shall have met all other requirements of licensing except the filing of an application, the passing of a satisfactory exam and paying a fee.

§ 8605. Requirements for a license as a clinical laboratory technologist or cytotechnologist. To qualify for a license as a clinical laboratory technology practitioner under one of the titles defined in subdivision two of section eighty-six hundred one of this article, an applicant shall fulfill the particular requirements of a subdivision of this section applicable to the license and title sought by the applicant:

1. Licensure as a clinical laboratory technologist.

(a) Application: file an application with the department;

(b) Education: have received an education, including a bachelor's degree in clinical laboratory technology from a program registered by the department or determined by the department to be the substantial equivalent or a clinical laboratory technology program accredited by a national accrediting organization acceptable to the department, or have

received a bachelor's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in an accredited clinical laboratory technology program or a program to be determined by the department to be the substantial equivalent;

(b-1) Alternatives to education:

(i) In lieu of requirements specified in paragraph (b) of this subdivision the department may accept:

(1) current clinical laboratory technology certification by a national certification organization acceptable to the department; or

(2) clinical laboratory technology licensure in a jurisdiction acceptable to the department;

(ii) In lieu of requirements specified in paragraph (b) of this subdivision the department may accept, a bachelor's degree in a natural science or a clinical laboratory science and coursework acceptable to the department and:

(1) two years' experience in a clinical laboratory while licensed as a clinical laboratory technician in New York or another jurisdiction acceptable to the department; or

(2) two years' experience in a clinical laboratory while certified as a clinical laboratory technician by a national certification organization acceptable to the department.

(c) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

(d) Age: be at least eighteen years of age;

(e) Character: be of good moral character as determined by the department; and

(f) Fees: pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

2. Licensure as a cytotechnologist.

(a) Application: file an application with the department;

(b) Education: have received an education, including a bachelor's degree in cytotechnology from a program registered by the department or determined by the department to be the substantial equivalent, or have received a bachelor's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in an

accredited cytotechnology program or a program determined by the department to be the substantial equivalent;

(b-1) Alternatives to education: in lieu of requirements specified in paragraph (b) of this subdivision the department may accept:

(i) current cytotechnology certification by a national certification organization acceptable to the department; or

(ii) cytotechnology licensure in a jurisdiction acceptable to the department.

(c) Examination: pass an examination acceptable to the board and in accordance with the commissioner's regulations;

(d) Age: be at least eighteen years of age;

(e) Character: be of good moral character as determined by the department; and

(f) Fees: pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8606. Requirements for certification as a clinical laboratory technician. For certification as a clinical laboratory technician under this article, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including an associate's degree from an approved clinical laboratory technician program registered by the department or determined by the department to be the substantial equivalent, or an associate's degree clinical laboratory technician program accredited by a national accrediting organization acceptable to the department, or an associate's degree program in a natural science or a clinical laboratory science and coursework acceptable to the department and a clinical laboratory technician program accredited by a national accrediting organization acceptable to the department;

2-a. Alternatives to education: in lieu of requirements specified in subdivision two of this section the department may accept:

(a) current clinical laboratory technician certification by a national certification organization acceptable to the department; or

(b) clinical laboratory technician licensure in a jurisdiction acceptable to the department.

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fees: pay a fee of one hundred twenty-five dollars for an initial certification and a fee of one hundred twenty dollars for each triennial registration period.

§ 8606-a. Requirements for certification as a histotechnician. For certification as a histotechnician under this article, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including an associate's degree from an approved histotechnician program registered by the department or determined by the department to be the substantial equivalent, or have received an associate's degree that includes a minimum number of credit hours in the sciences and received appropriate clinical education in a histotechnician program approved by the department or a program to be determined by the department to be the substantial equivalent or a histotechnician program accredited by a national accrediting organization acceptable to the department;

2-a. Alternatives to education: in lieu of requirements specified in subdivision two of this section the department may accept:

(a) current histotechnician certification by a national certification

organization acceptable to the department; or

(b) histotechnician licensure in a jurisdiction acceptable to the department.

3. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

4. Age: be at least eighteen years of age;

5. Character: be of good moral character as determined by the department; and

6. Fees: pay a fee of one hundred twenty-five dollars for an initial certification and a fee of one hundred twenty dollars for each triennial registration period.

§ 8606-b. Requirements for licensure as a histotechnologist. For certification as a histotechnologist under this article, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have completed one of following requirements:

(a) a bachelor's degree program in histotechnology registered by the department or determined by the department to be the substantial equivalent, or a histotechnology program accredited by a national accrediting organization acceptable to the department; or

(b) a bachelor's degree program in a natural science or a laboratory science and a minimum number of credit hours acceptable to the department, and appropriate clinical education in a histotechnologist program accredited by a national accrediting organization acceptable to the department or a program registered by the department or determined by the department to be the substantial equivalent; or

(c) current histotechnologist certification by a national certification organization acceptable to the department; or

(d) histotechnologist licensure in a jurisdiction acceptable to the

department;

3. Alternatives to education: in lieu of requirements specified in subdivision two of this section the department may accept, a bachelor's degree in a natural science or a clinical laboratory science and coursework acceptable to the department and:

(a) two years' experience in a clinical laboratory while licensed as a histotechnician in New York or another jurisdiction acceptable to the department; or

(b) two years' experience in a clinical laboratory while certified as a histotechnician by a national certification organization acceptable to the department.

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Character: be of good moral character as determined by the department; and

7. Fees: pay a fee of one hundred seventy-five dollars for an initial license and a fee of one hundred seventy dollars for each triennial registration period.

§ 8607. Special provisions. 1. Notwithstanding the requirements of section eighty-six hundred five and eighty-six hundred six of this article, and until July first, two thousand nine, an individual may be licensed as a clinical laboratory technology practitioner, as defined in section eighty-six hundred one of this article, provided that an individual may be licensed pursuant to subparagraph (vi) of paragraph (a) or subparagraph (iii) of paragraph (b) of this subdivision until December thirty-first, two thousand thirteen provided such person:

(a) In the case of clinical laboratory technologist, has either:

(i) met the educational requirements for clinical laboratory technologist as defined in section eighty-six hundred five of this

article and has been performing the duties of a clinical laboratory technologist for two of the past five years prior to December thirty-first, two thousand seven; or completed an approved baccalaureate degree program in biological, chemical or physical sciences from an accredited college or university and has been performing the duties of a clinical laboratory technologist for two of the past five years prior to December thirty-first, two thousand seven;

(ii) been engaged full-time in the education of clinical laboratory practitioners for the equivalent of two of the past five years prior to December thirty-first, two thousand seven;

(iii) performed the duties of a clinical laboratory technologist for at least five years prior to December thirty-first, two thousand seven as verified by a director of a clinical laboratory;

(iv) become previously qualified under other regulatory requirements for that license or its equivalent;

(v) become a currently certified clinical laboratory technician with a bachelor's degree from an accredited college that includes a minimum number of credit hours in the sciences and four years of documented work experience as a clinical laboratory technician, acceptable to the department; or

(vi) become qualified to perform the duties of a clinical laboratory technologist in a clinical laboratory operated in accordance with title five of article five of the public health law and the regulations promulgated thereunder, and competently performed the duties of a clinical laboratory technologist in a clinical laboratory for a period of not less than six months in the three years immediately preceding December thirty-first, two thousand seven as verified by a director of the clinical laboratory.

(b) In the case of a clinical laboratory technician, has either:

(i) met the educational requirements of a clinical laboratory technician as defined in section eighty-six hundred six of this article and performed the duties of a clinical laboratory technician for two of the past five years prior to December thirty-first, two thousand seven;

(ii) performed the duties of a clinical laboratory technician for at least five years prior to December thirty-first, two thousand seven or has previously qualified under other regulatory requirements for such a certification or such certification's equivalent; or

(iii) become qualified to perform the duties of a clinical laboratory technician in a clinical laboratory operated in accordance with title five of article five of the public health law and the regulations promulgated thereunder, and competently performed the duties of a clinical laboratory technician in a clinical laboratory for a period of not less than six months in the three years immediately preceding December thirty-first, two thousand seven as verified by a director of the clinical laboratory.

(c) In the case of cytotechnologist, has either:

(i) met the educational requirements of a cytotechnologist as defined in section eighty-six hundred five of this article and performed the duties of a cytotechnologist for two of the previous five years prior to December thirty-first, two thousand seven;

(ii) performed the duties of a cytotechnologist for at least five years prior to December thirty-first, two thousand seven as verified by a director of a clinical laboratory; or

(iii) has previously qualified under other regulatory requirements for such a license or such license's equivalent.

(d) In the case of a histological technician, has either:

(i) met the educational requirements of a histological technician as defined in section eighty-six hundred six-a of this article and performed the duties of a histological technician for two of the past five years prior to December thirty-first, two thousand seven;

(ii) performed the duties of a histological technician for at least five years prior to December thirty-first, two thousand seven or has previously qualified under other regulatory requirements for such a certification or such certification's equivalent; or

(iii) become qualified to perform the duties of a histological technician in a clinical laboratory operated in accordance with title five of article five of the public health law and the regulations promulgated thereunder, and competently performed the duties of a histological technician in a clinical laboratory for a period of not less than six months in the three years immediately preceding December thirty-first, two thousand seven as verified by a director of the clinical laboratory.

2. For the purposes of subdivision one of this section, it shall be

determined that the filing of an application with the department on or before January first, two thousand nine shall qualify for purposes of such subdivision, regardless of the time period required for processing such application, provided that an application for licensure pursuant to subparagraph (vi) of paragraph (a), subparagraph (iii) of paragraph (b), or subparagraph (iii) or paragraph (d) of subdivision one of this section shall be submitted on or before September first, two thousand thirteen.

3. The commissioner may adopt such regulations as appropriate to license or certify individuals who hold valid licenses, certifications or their equivalent in another state or country, provided the standards for granting licenses or certifications to such individuals are not less than the standards required of persons otherwise licensed or certified pursuant to this article.

§ 8608. Limited and provisional permits. 1. Limited permit. On the recommendation of the board, the department may issue a limited permit to practice as a clinical laboratory practitioner to an applicant who has met all requirements for licensure as a clinical laboratory technologist or cytotechnologist, histotechnologist, or certification as a clinical laboratory technician or histotechnician, except those relating to the examination and provided that the individual is under the general supervision of the director of a clinical laboratory, as determined by the department. This limited permit shall be valid for a period of not more than two years and shall not be renewable.

2. Provisional permit. (a) On the recommendation of the board, the department may issue a provisional permit to practice as a clinical laboratory practitioner to an applicant who is employed in a clinical laboratory for the purpose of enabling the applicant to complete the education requirements and/or to pass the exam required for licensure as a clinical laboratory technologist or histotechnician and provided that the individual is under the general supervision of the director of a clinical laboratory, as determined by the department, and provided further that the applicant meets the requirements outlined in paragraph

(b) of this subdivision. This provisional permit shall be valid for a period of not more than two years and shall not be renewable.

(b) To qualify for a provisional permit, the applicant shall:

(i) file a provisional permit application with the department;

(ii) have at least one of the following enumerated qualifications:

(A) be licensed as a clinical laboratory technologist, or the equivalent as determined by the department, in another jurisdiction or possess a current certification in clinical laboratory technology from a national certification organization acceptable to the department; or

(B) have received both an education, including a bachelor's degree in the biological, chemical, or physical sciences, and training in a clinical laboratory, provided that such education and training are acceptable to the department; or

(C) have received a bachelor's degree in the biological, chemical, or physical sciences or in mathematics, and have served as a research assistant in a research laboratory, under the direction of the director or the principal researcher of such research laboratory, working on the research and development of any procedures and examinations to be conducted by a laboratory, as defined in title five of article five of the public health law, on material derived from the human body which provides information for the diagnosis, prevention or treatment of a disease or assessment of a human medical condition; or

(D) for those seeking a provisional permit as a histotechnician, have received an education, including an associate's degree that includes a minimum number of credit hours in the sciences, provided that such education is acceptable to the department;

(iii) be at least eighteen years of age;

(iv) be of good moral character as determined by the department;

(v) pay a fee of fifty dollars for a provisional permit;

(vi) file a licensure application with the department; and

(vii) pay the licensure fee as outlined in section eighty-six hundred six of this article.

(c) Each provisional permit shall be subject to the disciplinary provisions applicable to licensees pursuant to subarticle three of article one hundred thirty of this title.

3. The board of regents and the department are authorized to adopt

such rules and regulations as may be necessary to implement the provisions of this section.

§ 8609. Exempt persons. This article shall not be construed to apply to:

1. the practice, conduct, activities, or services by any person licensed or otherwise authorized to practice medicine within the state pursuant to article one hundred thirty-one-B of this title, or by any person registered to perform services as a physician assistant or specialist assistant within the state pursuant to article one hundred thirty-one-B of this title, or by any person licensed to practice dentistry within the state pursuant to article one hundred thirty-three of this title, or by any person licensed to practice podiatry within the state pursuant to article one hundred forty-one of this title, or by any person certified as a nurse practitioner within the state pursuant to article one hundred thirty-nine of this title, or by any person licensed to perform services as a respiratory therapist or respiratory therapy technician under article one hundred sixty-four of this title, or any person licensed to practice midwifery within the state pursuant to article one hundred forty of this title, or a person licensed to practice nursing pursuant to article one hundred thirty-nine of this title, or a person licensed to practice pursuant to article thirty-five of the public health law; provided, however, that no such person shall use the titles licensed clinical laboratory technologist, licensed cytotechnologist, licensed histotechnologist, certified clinical laboratory technician, or certified histotechnician, unless licensed or certified under this article; or

2. clinical laboratory technology practitioners employed by the United States government or any bureau, division, or agency thereof, while in the discharge of the employee's official duties; or

3. clinical laboratory technology practitioners employed by the New York State Department of Health Wadsworth Center Laboratory or the New York City Department of Health and Mental Hygiene Public Health

Laboratory, while in the discharge of the employee's official duties; or

4. clinical laboratory technology practitioners engaged in teaching or research, provided that the results of any examination performed are not used in health maintenance, diagnosis or treatment of disease and are not added to the patient's permanent record; or

5. students or trainees enrolled in approved clinical laboratory science or technology education programs or training programs described in subparagraph (iii) of paragraph (c) of subdivision one of section eighty-six hundred ten of this article provided that these activities constitute a part of a planned course in the program, that the persons are designated by a title such as intern, trainee, fellow or student, and the persons work directly under the supervision of an individual licensed or exempt pursuant to subdivision one, two, four or eight of this section; or

6. persons employed by a clinical laboratory to perform supportive functions not related to the direct performance of laboratory procedures or examinations; or

7. persons who are working in facilities registered pursuant to section five hundred seventy-nine of the public health law and only perform waived tests as defined in section five hundred seventy-one of the public health law pursuant to such registration; or

8. a director of a clinical laboratory holding a valid certificate of qualification pursuant to section five hundred seventy-three of the public health law.

§ 8610. Restricted clinical laboratory licenses. 1. Restricted clinical laboratory license.

(a) The department may issue a restricted license pursuant to which the restricted licensee may receive a certificate to perform certain examinations and procedures within the definition of clinical laboratory technology set forth in subdivision one of section eighty-six hundred

one of this article, provided that such a restricted licensee may perform examinations and procedures only in those of the following areas which are specifically listed in his or her certificate: histocompatibility, cytogenetics, stem cell process, flow cytometry/cellular immunology, molecular testing, and toxicology (under paragraph (b-1) of this subdivision).

(b) Notwithstanding paragraph (a) of this subdivision, restricted licensees employed at National Cancer Institute designated cancer centers or at teaching hospitals that are eligible for distributions pursuant to paragraph (c) of subdivision three of section twenty-eight hundred seven-m of the public health law may receive a certificate that also includes the practice of molecular testing including but not limited to genetic testing-molecular and molecular oncology, and restricted licensees employed at national cancer institute designated cancer centers may receive a certificate that includes the use of mass spectrometry or any tests and procedures acceptable to the commissioner of health, in consultation with the commissioner, in the field of proteomics, provided that such certificate holders may practice in such additional areas only at such centers, teaching hospitals or other sites as may be designated by the commissioner.

(b-1) Only individuals employed in a New York state department of health authorized toxicology laboratory, operating under the direction of a clinical laboratory director, may obtain a certificate in toxicology.

(c) To qualify for a restricted license, an applicant shall:

(i) file an application with the department;

(ii) have received an education, including a bachelor's degree in the biological, chemical, or physical sciences or in mathematics from a program registered by the department or determined by the department to be the substantial equivalent;

(iii) have completed a training program with a planned sequence of supervised employment or engagement in activities appropriate for the area of certification, which training program is satisfactory to the department in quality, breadth, scope and nature and is provided by an entity that shall be responsible for the services provided. The training program shall be described and attested to by the clinical director of the laboratory in which it is located prior to the beginning of the

program. The duration of the training program shall be one year of full-time training in the specific areas in which the applicant is seeking certification or the part-time equivalent thereof, as determined by the department, and the successful completion of such program shall be certified by a laboratory director who is responsible for overseeing such program;

(iv) be at least eighteen years of age;

(v) be of good moral character as determined by the department; and

(vi) pay a fee of one hundred seventy-five dollars for an initial restricted license and a fee of one hundred seventy dollars for each triennial registration period.

(d) Each restricted licensee shall register with the department as required of licensees pursuant to section sixty-five hundred two of this title and shall be subject to the disciplinary provisions applicable to licensees pursuant to subarticle three of article one hundred thirty of this title.

2. The board of regents and the department are authorized to adopt such rules and regulations as may be necessary to implement the provisions of this section.

3. Nothing in this section shall restrict a clinical laboratory practitioner, as defined in subdivision two of section eighty-six hundred one of this article, from performing any of the examinations or procedures which restricted clinical laboratory licensees are permitted to perform under this section and which such clinical laboratory practitioner is otherwise authorized to perform.

ARTICLE 166
MEDICAL PHYSICS PRACTICE

Section 8700. Introduction.
8701. Definitions.
8702. Definition of "practice of medical physics".
8703. Use of the title "professional medical physicist".
8704. State committee for medical physics.
8705. Requirements and procedures for professional licensure.

8706. Limited permits.
8707. Exemptions.
8708. Licensure without examination.
8709. Separability.

§ 8700. Introduction. This article applies to the profession of medical physics. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8701. Definitions. As used in this article:

1. "Clinical" shall mean activities directly relating to the treatment or diagnosis of human ailments.

2. "Specialty" or "specialty area" shall mean the following branch or branches of special competence within medical physics:

(a) "Diagnostic radiological physics" shall mean the branch of medical physics relating to the diagnostic application of radiation, the analysis and interpretation of image quality, performance measurements and the calibration of equipment associated with the production and use of such radiation, the analysis and interpretation of measurements associated with patient doses and exposures, and the radiation safety aspects associated with the production and use of such radiation;

(b) "Medical health physics" shall mean the branch of medical physics pertaining to the radiation safety aspects of the use of radiation for both diagnostic and therapeutic purposes, and the use of equipment to perform appropriate radiation measurements;

(c) "Medical nuclear physics" shall mean the branch of medical physics pertaining to the therapeutic and diagnostic application of radionuclides, excluding those used in sealed sources for therapeutic purposes, the analysis and interpretation of performance measurements associated with radiation imaging equipment and performance oversight of radionuclide calibration equipment associated with the use and production of radionuclides, the analysis and interpretation of measurements and calculations associated with patient organ doses, and

the radiation safety aspects associated with the production and use of such radionuclides; and

(d) "Therapeutic radiological physics" or "radiation oncology physics" shall mean the branch of medical physics relating to the therapeutic application of radiation, the analysis and interpretation of radiation equipment performance measurements and the calibration of equipment associated with the production and use of such radiation, the analysis and interpretation of measurements associated with patient doses, and the radiation safety aspects associated with the production and use of such radiation.

3. "Medical physics" shall mean the branch of physics limited to the field of radiological physics.

4. "Radiation" shall mean all ionizing radiation above background levels or any non-ionizing radiation used in diagnostic imaging or in radiation oncology.

5. "Radiological physics" shall mean diagnostic radiological physics, therapeutic radiological physics or radiation oncology physics, medical nuclear physics and medical health physics.

6. "Radiological procedure" shall mean any test, measurement, calculation or radiation exposure for the purpose of diagnosis or treatment of any medical condition of a human, including therapeutic radiation, diagnostic imaging and measurements, and nuclear medicine procedures.

§ 8702. Definition of "practice of medical physics". 1. The "practice of the profession of medical physics" shall mean the use and application of accepted principles and protocols of physics in a clinical setting to assure the correct quality, quantity and placement of radiation during the performance of a radiological procedure, so as to protect the patient and other persons from harmful, excessive or misapplied radiation. Such practice shall include, but not necessarily be limited to: radiation beam calibration and characterization; oversight and

responsibility for patient radiation dose measurement, calculation and reporting; oversight and responsibility for quality control; instrument specification; optimization of image quality; acceptance testing; shielding design; protection analysis on radiation emitting equipment and radio-pharmaceuticals; and consultation with a physician to assure accurate radiation dosage and application to a specific patient.

2. A license to practice medical physics shall be issued with special competency in one or more specialty areas in which the licensee has satisfied the requirements of section eighty-seven hundred five of this article.

3. The practice in any specialty by a person whose license is not issued with special competency for such specialty shall be deemed the unauthorized practice of the profession of medical physics.

4. Only a person licensed under this article shall practice the profession of medical physics.

§ 8703. Use of the title "professional medical physicist". Only a person licensed under this article shall use the title "professional medical physicist".

§ 8704. State committee for medical physics. 1. A state committee for medical physics shall be appointed by the board of regents upon the recommendation of the commissioner and shall assist on matters of licensure and professional conduct in accordance with section sixty-five hundred eight of this title. Notwithstanding the provisions of section sixty-five hundred eight of this title, the committee shall assist the board for medicine solely in medical physics matters, which board shall also function as the state board for medical physics. The licensure requirements for professional medical physicists shall be waived for the initial committee appointees, provided that such appointees shall have received national certification in their specialty.

2. The committee shall consist of eight individuals, to be composed of the following:

(a) Four licensed medical physicists represented by each of the following specialties:

(i) diagnostic radiological physics,

(ii) therapeutic radiological or radiation oncology physics,

(iii) medical nuclear physics, and

(iv) medical health physics;

(b) Three licensed physicians represented by each of the following specialties:

(i) diagnostic radiology,

(ii) radiation therapy or radiation oncology, and

(iii) nuclear medicine; and

(c) A representative of the public at large.

§ 8705. Requirements and procedures for professional licensure. To qualify for a license as a professional medical physicist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education including a master's or doctoral degree from an accredited college or university in accordance with the commissioner's regulations. Such person shall have completed such courses of instruction as are deemed necessary by the commissioner to practice in the medical physics specialty in which the applicant has applied for a license;

3. Experience: have experience in his or her medical physics specialty satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination in his or her medical specialty satisfactory to the board and in accordance with the commissioner's regulations. The examination requirement may be waived by the board on recommendation of the commissioner for certain applicants with extensive

experience as a medical physicist;

5. Age: be at least twenty-one years of age;

6. Fee: pay a fee of three hundred dollars to the department for admission to a department conducted examination for licensure, a fee of one hundred fifty dollars for licensure with special competency in the first specialty and twenty-five dollars for each additional specialty, and a fee of three hundred dollars for each biennial registration period.

§ 8706. Limited permits. Permits limited as to eligibility, practice and duration shall be issued by the department to eligible applicants, as follows:

1. Eligibility. The following persons shall be eligible for a limited permit:

(a) a person who fulfills all requirements for a license as a professional medical physicist except those relating to examination or experience; or

(b) a medical physics student enrolled in a graduate or post-graduate curriculum approved by the department;

2. Limit of practice. A permittee shall be authorized to practice medical physics only under the direct and immediate supervision of a professional medical physicist and only in the specialty of such professional medical physicist;

3. Duration. A limited permit shall be valid for two years. It may be renewed biennially at the discretion of the department;

4. Fee. The fee for each limited permit and for each renewal shall be sixty dollars.

§ 8707. Exemptions. Nothing in this article shall be construed to

affect, prevent or in any manner expand or limit the authority of any person otherwise authorized by law or regulation to practice any function of a medical physicist, or any department or agency authorized by law or regulation to regulate the use of radiation, nor prohibit the repair or calibration of any test equipment used by professional medical physicists by any person otherwise allowed to do so under state or federal law, nor serve to limit radiologic and/or imaging technicians or any individual otherwise authorized by law or regulation from performing quality control measurements or obtaining quality control data, nor serve to limit a service engineer in the repair of radiation producing equipment nor an installation engineer in the installation of radiation producing equipment.

§ 8708. Licensure without examination. 1. Within eighteen months of the effective date of regulations implementing the provisions of this article, the department may issue a license to practice medical physics with special competency in one or more specialties in this state, without an examination, to a person who meets the requirements of subdivisions one, five and six of section eighty-seven hundred five of this article and who in addition has an earned bachelor's, master's or doctoral degree from an accredited college or university that signifies the completion of a course of study acceptable to the department, and has demonstrated to the department's satisfaction, in the case of an earned bachelor's degree, the completion of at least fifteen years of full-time work experience in the medical physics specialty for which application is made, or, in the case of an earned master's or doctoral degree, the completion of at least two years of full-time work experience in the five years preceding the date of application in the medical physics specialty for which application is made and the equivalent of one year or more of full-time work experience in the ten years preceding the date of application for each additional specialty for which application is made.

2. On receipt of an application and fee pursuant to section eighty-seven hundred five of this article, the department may issue a license to practice medical physics with special competency in one or

more specialties in this state to a person who holds a license to practice medical physics in another state, territory or jurisdiction that has requirements for licensing of medical physicists which the department determines to be substantially the same as the requirements of this article.

§ 8709. Separability. If any section of this article, or part thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of any other section or part thereof.

ARTICLE 167

APPLIED BEHAVIOR ANALYSIS

Section 8800. Introduction.
8801. Definitions.
8802. Definition of the practice of "applied behavior analysis".
8803. The practice of and use of the title "licensed behavior analyst" or "certified behavior analyst assistant".
8804. Requirements and procedures for professional licensure.
8805. Special provisions.
8806. Limited permits.
8807. Exemptions.
8808. State board for applied behavior analysis.

§ 8800. Introduction. This article applies to the profession and practice of applied behavior analysis and to the use of the titles "licensed behavior analyst" and "certified behavior analyst assistant". The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 8801. Definitions. As used in this article, the following term shall have the following meaning:

"Applied behavior analysis" or "ABA" means the design, implementation,

and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

§ 8802. Definition of the practice of "applied behavior analysis". 1. The practice of applied behavior analysis by a "licensed behavior analyst" shall mean the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior, pursuant to a diagnosis and prescription or order from a person who is licensed or otherwise authorized to provide such diagnosis and prescription or ordering services pursuant to a profession enumerated in this title, for the purpose of providing behavioral health treatment. For purposes of this section, prescriptions or orders for behavioral health treatment provided by a licensed behavior analyst shall be limited to providing treatment to individuals with behavioral health conditions that appear in the most recent edition of the diagnostic and statistical manual of mental disorders, published by the American Psychiatric Association, or an equivalent classification system as determined by the department. In addition, licensed behavior analysts providing services pursuant to a prescription or order, as authorized by this section, shall provide a report at least annually regarding the status of the individual served to the licensed person prescribing or ordering such service or more frequently, if needed, in order to report significant changes in the condition of the individual.

2. The practice of applied behavior analysis by a "certified behavior analyst assistant" means the services and activities provided by a person certified in accordance with this article who works under the supervision of a licensed behavior analyst to perform such patient related applied behavior analysis tasks as are assigned by the supervising licensed behavior analyst. Supervision of a certified

behavior analyst assistant by a licensed behavior analyst shall be in accordance with regulations of the commissioner. No licensed behavior analyst shall supervise more than six certified behavior analyst assistants.

3. The practice of applied behavior analysis shall not include diagnosis of a disorder or condition for which ABA may be appropriate, or prescribing or ordering ABA for a particular individual.

4. Any individual whose license or authority to practice derives from the provisions of this article shall be prohibited from:

(a) Prescribing or administering drugs as defined in this chapter or as a treatment, therapy, or professional service in the practice of his or her profession; or

(b) Using invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession. For purposes of this subdivision, "invasive procedure" means any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical or other means. Invasive procedure includes, but is not limited to, surgery, lasers, ionizing radiation, therapeutic ultrasound, or electroconvulsive therapy.

§ 8803. The practice of and use of the title "licensed behavior analyst" or "certified behavior analyst assistant". Only a person licensed, certified or exempt under this article shall practice applied behavior analysis. Only a person licensed or certified under this article shall use the titles "licensed behavior analyst" or "certified behavior analyst assistant."

§ 8804. Requirements and procedures for professional licensure. 1. To qualify for certification as a certified behavior analyst assistant, an applicant shall fulfill the following requirements:

(a) Application: file an application with the department;

(b) Education: have received an education, including a bachelor's or higher degree from a program registered by the department or determined

by the department to be the substantial equivalent thereof, in accordance with the commissioner's regulations.

(c) Experience: have experience in the practice of applied behavior analysis satisfactory to the board and the department in accordance with the commissioner's regulations.

(d) Examination: pass an examination acceptable to the board and the department in accordance with the commissioner's regulations.

(e) Age: be at least twenty-one years of age;

(f) Character: be of good moral character as determined by the department and submit an attestation of moral character; and

(g) Fee: pay a fee of one hundred fifty dollars for an initial license and a fee of seventy-five dollars for each triennial registration period.

2. To qualify for a license as a licensed behavior analyst, an applicant shall fulfill the following requirements:

(a) Application: file an application with the department;

(b) Education: have received an education, including a master's or higher degree from a program registered by the department or determined by the department to be the substantial equivalent, thereof, in accordance with the commissioner's regulations.

(c) Experience: have experience in the practice of applied behavior analysis satisfactory to the board and the department in accordance with the commissioner's regulations.

(d) Examination: pass an examination acceptable to the board and the department in accordance with the commissioner's regulations.

(e) Age: be at least twenty-one years of age;

(f) Character: be of good moral character as determined by the department and submit an attestation of moral character; and

(g) Fee: pay a fee of two hundred dollars for an initial license and a fee of one hundred dollars for each triennial registration period.

§ 8805. Special provisions. An individual who meets the requirements for a license as a licensed behavior analyst, pursuant to subdivision two of section eighty-eight hundred four of this article, or certification as a certified behavior analyst assistant, pursuant to

subdivision one of section eighty-eight hundred four of this article, except for examination, experience and education, and who is certified or registered by a national certifying body having certification or registration standards acceptable to the commissioner, may be licensed or certified, without meeting additional requirements as to examination, experience and education, provided that such individual submits an application to the department.

§ 8806. Limited permits. The following requirements for a limited permit shall apply to all professions licensed or certified pursuant to this article:

1. The department may issue a limited permit to an applicant who meets all qualifications for licensure, except the examination and/or experience requirements, in accordance with regulations promulgated therefor.

2. Limited permits shall be for one year; such limited permits may be renewed, at the discretion of the department, for one additional year.

3. The fee for each limited permit and for each renewal shall be seventy dollars.

4. A limited permit holder shall practice only under supervision as determined in accordance with the commissioner's regulations.

§ 8807. Exemptions. 1. Nothing contained in this article shall be construed to limit the scopes of practice of any other profession licensed under this title.

2. Nothing in this article shall be construed as prohibiting a person from performing the duties of a licensed behavior analyst or a certified behavior analyst assistant, in the course of such employment, if such person is employed:

a. by a federal, state, county or municipal agency, or other political subdivision;

b. by a chartered elementary or secondary school or degree-granting institution;

c. as a certified teacher or teaching assistant, other than a pupil personnel services professional, in an approved program as defined in paragraph b of subdivision one of section forty-four hundred ten of this chapter; or

d. in a setting to the extent that the exemption in paragraph d of subdivision six of section forty-four hundred ten of this chapter applies.

3. Nothing in this article shall be construed as prohibiting a certified teacher or teaching assistant, other than a pupil personnel services professional, from performing the duties of a licensed behavior analyst or certified behavior analyst assistant, in the course of such employment or contractual agreement, if such person is employed or contracted with an agency approved by the department of health to provide early intervention services or has an agreement with the department of health to provide early intervention services pursuant to title two-A of article twenty-five of the public health law.

4. Nothing in this article shall be construed as prohibiting the activities and services required of a student, intern, or resident in an educational program acceptable to the department pursuant to the commissioner's regulations, pursuing a course of study leading to a bachelor's or higher degree in an educational program acceptable to the department pursuant to the commissioner's regulations in an institution approved by the department, provided that such activities and services constitute a part of his or her supervised course of study in an educational program acceptable to the department pursuant to the commissioner's regulations. Such person shall be designated by title which clearly indicates his or her training status.

5. Nothing in this article shall be construed to affect or prevent a person without a license or other authorization pursuant to this title from performing assessments, including collecting basic information, gathering demographic data, and making informal observations, for the purpose of determining need for services unrelated to an ABA plan. Further, licensure or authorization pursuant to this article shall not be required to create, develop or implement a service plan unrelated to an ABA plan. This article shall not apply to behavioral health treatments other than ABA that may be provided to persons with autism spectrum disorder. A license under this article shall not be required for persons to participate as a member of a multi-disciplinary team to implement an ABA plan; provided, however, that such team shall include one or more professionals licensed under this article or articles one hundred thirty-one, one hundred fifty-three, one hundred fifty-four or one hundred sixty-three of this chapter; and provided further that the activities performed by members of the team shall be consistent with the scope of practice for each team member licensed or authorized under this title, and those who are not so authorized may not engage in the following restricted practices: creation, modification or termination of an ABA plan; diagnosis of mental, emotional, behavioral, addictive and developmental disorders and disabilities; patient assessment and evaluating; provision of psychotherapeutic treatment; provision of treatment other than psychotherapeutic treatment; and development and implementation of assessment-based treatment plans, as defined in section seventy-seven hundred one of this title. Provided further, however, that nothing in this subdivision shall be construed as requiring a license or authorization for any particular activity or function based solely on the fact that the activity or function is not listed in this subdivision. Provided further, however, that nothing in this subdivision shall authorize the delegation of restricted activities to an individual who is not appropriately licensed or authorized under this title.

6. Nothing in this article shall be construed as prohibiting an early intervention ABA aide, pursuant to regulations promulgated by the commissioner of health, and acting under the supervision and direction of a qualified supervisor who is licensed or otherwise authorized

pursuant to title eight of this chapter from:

(a) assisting the supervisor and qualified personnel with the implementation of individual ABA plans;

(b) assisting in the recording and collection of data needed to monitor progress;

(c) participating in required team meetings; and

(d) completing any other activities as directed by his or her supervisor and as necessary to assist in the implementation of individual ABA plans.

Provided however, that nothing in this subdivision shall authorize the delegation of restricted activities to an individual who is not appropriately licensed or otherwise authorized under this title; provided further however, that in regard to the early intervention program established pursuant to title two-A of article twenty-five of the public health law, an early intervention ABA aide under the supervision and direction of a qualified supervisor may complete activities necessary to assist in the implementation of an individual ABA plan, provided that such activities do not require professional skill or judgment.

7. This article shall not be construed to prohibit care delivered by any family member, household member or friend, or person employed primarily in a domestic capacity who does not hold himself or herself out, or accept employment, as a person licensed to practice applied behavior analysis under the provisions of this article; provided that, if such person is remunerated, the person does not hold himself or herself out as one who accepts employment for performing such care.

8. Nothing in this article shall be construed as prohibiting programs certified by the office of alcoholism and substance abuse services from providing substance use disorder services for persons with autism and autism spectrum disorders and related disorders.

9. Nothing in this article shall be construed as prohibiting the activities and services required of a graduate of an educational program acceptable to the department, seeking to complete supervised experience

and/or examination requirements for certification or registration by a national certifying body having certification or registration standards acceptable to the commissioner; provided, however, that the graduate shall be under the supervision of a licensed behavior analyst who is licensed and registered in New York and employed by a setting authorized to provide applied behavior analysis services in New York, acceptable to the department. The supervising licensed behavior analyst shall submit, upon commencing the supervision of any graduate or no later than ninety days after the effective date of this subdivision, on a form prescribed by the department, a sworn statement attesting to compliance with the requirements of this subdivision. Such use of a graduate shall subject the supervising licensed behavior analyst to the full disciplinary and regulatory authority of the board of regents and the department pursuant to this title. The supervising licensed behavior analyst shall notify the patient or the person legally responsible for the patient if the patient is a minor, or other individual incapable of consenting, when services will be provided by a graduate under supervision. The supervising licensed behavior analyst shall remain responsible for services provided to the patient by the graduate and shall provide the patient or person legally responsible for the patient an opportunity to object to the use of a graduate to provide applied behavior analysis services under supervision.

§ 8808. State board for applied behavior analysis. 1. A state board for applied behavior analysis shall be appointed by the board of regents upon the recommendation of the commissioner and shall assist on matters of licensing and professional conduct in accordance with section sixty-five hundred eight of this title. An executive secretary of the board shall be appointed by the board of regents upon the recommendation of the commissioner.

2. The board shall consist of seven individuals, to be composed of the following:

(a) Three licensed behavior analysts;

(b) One certified behavior analyst assistant;

(c) One licensed psychologist, who may currently prescribe treatment

involving applied behavior analysis in his or her professional practice; and

(d) Two public representatives, as defined in paragraph b of subdivision one of section sixty-five hundred eight of this title.

ARTICLE 168
LICENSED PATHOLOGISTS' ASSISTANTS

Section 8850. Definitions.
8851. Practice as pathologists' assistant and use of the title "pathologists' assistant".
8852. Requirements for licensure as a pathologists' assistant.
8853. Special provisions; eligibility.
8854. State committee for pathologists' assistants.
8855. Limited permits.
8856. Exemptions and exempt persons.

§ 8850. Definitions. As used in this article: 1. The term "pathologists' assistant" means a person licensed to assist physicians who practice pathology by providing services within the permitted scope of practice for pathologists' assistants as defined in subdivision four of this section. All such services shall be performed under the direction and supervision of a licensed physician who practices anatomic pathology.

2. The term "direction and supervision" means continuous direction and supervision, but shall not be construed as necessarily requiring the physical presence of the supervising physician at the time and place where such services are performed.

3. The term "physician" means a practitioner of medicine licensed to practice medicine pursuant to article one hundred thirty-one of this title.

4. The term "scope of practice for pathologists' assistants" means the provision of the following services under the direction and supervision

of a licensed physician who practices anatomic pathology: (a) preparing gross tissue sections for pathology analysis, including but not limited to, cutting, staining as required, describing gross anatomic features, dissecting surgical specimens, and submitting tissues for bio-banking, histologic processing, or other analyses; (b) performing human postmortem examinations, including but not limited to, selection of tissues and fluids for further examination, external examination, dissection, and gathering and recording information for autopsy reports; and (c) other functions and responsibilities in furtherance of and consistent with the foregoing as determined by the department. The term does not include the authority to diagnose or provide a medical opinion. Services of a pathologists' assistant must be performed in a laboratory or other site authorized under law to perform such services.

5. The term "committee" means the state committee for pathologists' assistants created by this article.

§ 8851. Practice as pathologists' assistant and use of the title "pathologists' assistant". Only persons licensed or otherwise authorized to practice as a pathologists' assistant under this article shall practice pathologist assisting or use the title "pathologists' assistant" or the term "pathologists' assistant" alone or in combination with other terms and phrases in describing their services and activities or the designation "Path A".

§ 8852. Requirements for licensure as a pathologists' assistant. To qualify for licensure as a "licensed pathologists' assistant", an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: receive an education, including a bachelor's or higher degree in pathologists' assistant, granted on the basis of completion of a program of pathologists' assistant registered with the department or the substantial equivalent thereof, in accordance with the

commissioner's regulations;

3. Examination: obtain a passing score on an examination acceptable to the department;

4. Age: at the time of application be at least twenty-one years of age;

5. Character: be of good moral character as determined by the department; and

6. Fee: pay a fee determined by the department for an initial license and for each triennial registration period.

§ 8853. Special provisions; eligibility. An individual who meets the requirements for a license as a licensed pathologists' assistant except for examination and education and who has been performing the duties of a pathologists' assistant for two of the five years prior to the effective date of this article may be licensed without meeting additional requirements, provided that such individual submits an application to the department within two years of the effective date of this article. For this purpose, the applicant's supervising physicians must attest to the applicant's experience and competence.

§ 8854. State committee for pathologists' assistants. 1. A state committee for pathologists' assistants shall be appointed by the board of regents upon the recommendation of the commissioner as a committee of the board of medicine to advise solely on matters relating to pathologists' assistants and shall assist on matters of licensure and professional conduct. The pathologists' assistant members of the initial committee need not be licensed prior to their appointment but shall have met all other requirements of licensing pursuant to section eighty-eight hundred fifty-three of this article except the filing of an application and paying a fee.

2. The committee shall consist of no fewer than five individuals, to be composed of a minimum of the following:

(a) one licensed physician who practices pathology;

(b) three licensed pathologists' assistants; and

(c) one public representative.

§ 8855. Limited permits. 1. Eligibility. A person who fulfills all requirements for licensure as a pathologists' assistant except that relating to the examination shall be eligible for a limited permit.

2. Limit of practice. A permittee shall be authorized to practice as a pathologists' assistant only under the direction and supervision of a licensed physician who practices anatomic pathology and pursuant to the order and direction of that licensed physician.

3. Duration. A limited permit shall expire one year from the date of issuance. A limited permit may be extended for one additional year for good cause as determined by the department.

4. Fees. The fee for each limited permit shall be determined by the department.

§ 8856. Exemptions and exempt persons. This article shall not prohibit:

1. The performance of any tasks or responsibilities by any student engaged in clinical training in a general hospital licensed pursuant to article twenty-eight of the public health law, provided such practice is limited to clinical training that shall be carried out under the direct supervision of a licensed physician who practices anatomic pathology; or

2. The performance of any tasks or responsibilities by any person licensed under this title, provided such tasks or responsibilities are permitted by the article governing the profession pursuant to which such person is licensed; or

3. The performance of any tasks or responsibilities by any legally qualified pathologists' assistants of any other state or territory who is serving in the armed forces or the public health service of the United States or who is employed by the veterans administration, while engaged in the performance of his or her duties; or

4. The performance of any tasks and responsibilities by any individual legally carrying out the examinations and tests enumerated in subdivision two of section five hundred seventy-nine of the public health law.

TITLE IX

LAWS REPEALED; SAVING CLAUSE; WHEN TO TAKE EFFECT

Article 170. Laws repealed; saving clause; when to take effect. (§§ 9001-9003).

ARTICLE 170

LAWS REPEALED; SAVING CLAUSE; WHEN TO TAKE EFFECT

Section 9001. Laws repealed.
9002. Saving clause.
9003. When to take effect.

§ 9001. Laws repealed. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 9002. Saving clause. Nothing herein contained shall be construed to impair or in any manner affect or change any special law touching the schools or school system of any city or incorporated village unless the same is so stated.

§ 9003. When to take effect. This chapter shall take effect

immediately.