

ARTICLE 61

TEACHERS AND SUPERVISORY AND ADMINISTRATIVE STAFF

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Sec. 3001. Qualifications of teachers. No person shall be employed or authorized to teach in the public schools of the state who is:

1. Under the age of eighteen years.
2. Not in possession of a teacher's certificate issued under the authority of this chapter or a diploma issued on the completion of a course in state college for teachers or state teachers college of this state.

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class without the presence of the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher. The number of certified teachers shall not be diminished by reason of the presence of cadet teachers.

3. Not a citizen. The provisions of this subdivision shall not apply, however, to an alien teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen. The provisions of this subdivision shall not apply, after July first, nineteen hundred sixty-seven, to an alien teacher employed pursuant to regulations adopted by the commissioner of education permitting such employment.

Sec. 3001-a. Temporary teaching permit, person not a citizen. A person, not a citizen, who files with the department satisfactory proof that he has filed with the attorney general of the United States a first preference petition pursuant to section two hundred three (a) (1) of the immigration and nationality act and that said petition has been approved by such attorney general upon certification by the department of justice, immigration and naturalization service, that he is unable to adjust his status to that of a lawful permanent resident of the United States solely because of an over-subscribed quota to which he is chargeable may receive from the commissioner of education, notwithstanding the provisions of subdivision three of section three thousand one of this chapter, a temporary permit validating his employment in a teaching capacity in the public schools of the state. Such temporary permit shall be valid for one year from the date of issue and may, upon proper application to the commissioner, be once renewed for a further period of one year. Such application shall be in the form required by the commissioner. Such applicant shall not be employed until he shall have taken and subscribed the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the position

of.....(title of position and name or designation of school, college, university or institution to be here inserted), to which I am now assigned." The affidavit and oath required by this section shall be administered by the superintendent of schools having jurisdiction over the school district in which such person is to be employed or his duly authorized representative and shall be filed with the commissioner of education. Copies thereof shall be filed with the superintendent of schools.

S 3001-b. First aid instruction mandatory for coaches of extra-class public school athletic activities. 1. On and after the effective date of this section, in addition to any provision of law or rule or regulation of the department related to the requirements necessary for teachers within the public school systems, whether certified in physical education or not, to coach any extra-class athletic activity, it shall be required of such teachers, except as provided in subdivision two of this section, to hold a valid certificate of completion of a course of study in first aid knowledge and skills offered by the American National Red Cross and approved by the commissioner, or to meet equivalent requirements as certified by the commissioner. Any such course of study or equivalent requirements must include instruction in the administration of adult cardiopulmonary resuscitation. Prior to the start of each sports season, coaches must provide valid evidence to their chief school officer that their first aid and adult cardiopulmonary resuscitation knowledge and skills are current pursuant to the requirements established by the American National Red Cross or that they meet equivalent requirements as certified by the commissioner.

2. Persons who have been employed as coaches of extra-class athletic activities in a public school system on the effective date of this section who do not hold a valid certificate of completion of a course of study in first aid knowledge and skills pursuant to subdivision one of this section may continue to coach such sports, provided, however, that such coaches do receive such certification required in subdivision one of this section as soon as practicable after the effective date of this section but not later than twelve months thereafter, provided, however, that the commissioner shall have the authority to establish by rule or regulation an additional time schedule for compliance with this section.

S 3001-c. First aid instruction mandatory for coaches of high school extra-class nonpublic school athletic activities. 1. On and after the effective date of this section, it shall be required of coaches of high school extra-class athletic activities in a nonpublic school system, except as provided in subdivision two of this section, to hold a valid certificate of completion of a course of study in first aid knowledge and skills offered by the American National Red Cross and approved by

the commissioner, or to meet equivalent requirements as certified by the commissioner. Any such course of study or equivalent requirements must include instruction in the administration of adult cardiopulmonary resuscitation. Prior to the start of each sports season, coaches must provide valid evidence to their chief school officer that their first aid and adult cardiopulmonary resuscitation knowledge and skills are current pursuant to the requirements established by the American National Red Cross or that they meet equivalent requirements as certified by the commissioner.

2. Persons who have been employed as coaches of high school extra-class athletic activities in a nonpublic school system on the effective date of this section who do not hold a valid certificate of completion of a course of study in first aid knowledge and skills pursuant to subdivision one of this section may continue to coach such sports, provided, however, that such coaches do receive such certification required in subdivision one of this section as soon as practicable after the effective date of this section but not later than twelve months thereafter, provided, however, that the commissioner shall have the authority to establish by rule or regulation an additional time schedule for compliance with this section.

S 3002. Oath to support federal and state constitutions. It shall be unlawful for any citizen of the United States to serve as teacher, instructor or professor in any school or institution in the public school system of the state or in any school, college, university or other educational institution in this state, whose real property, in whole or in part, is exempt from taxation under section four of the tax law unless and until he or she shall have taken and subscribed the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the position of(title of position and name or designation of school, college, university or institution to be here inserted), to which I am now assigned."

The oath required by this section shall be administered by the president or other head of such school, college, university or institution, or by the officer or person, or in the case of a board or body by a member of the board or body, having authority to employ such person as a teacher, instructor or professor in such school, college, university or institution, and each is hereby authorized to administer it. The officer, person or member administering such oath shall cause a record or notation of the fact to be made in the books or records of the school, college, university or institution. In lieu of the oath administered by an officer, person or member, an employee may comply with the requirements of this section by subscribing and filing the following statement:

"I do hereby pledge and declare that I will support the constitution of the United States and the constitution of the State of New York, and that I will faithfully discharge the duties of the position ofaccording to the best of my ability." Such oath or statement shall be filed with the clerk of a school district or with such officer or employee of any such college, university or other educational institution that shall be designated for such purpose. Such oaths or statements shall be available for public inspection and for transmittal to the commissioner of education upon his request. It shall be unlawful for an officer, person or board having control of the employment, dismissal or suspension of teachers, instructors or professors in such a school, college, university or institution, to permit a person to serve in any such capacity therein in violation of the provisions of this section. This section shall not be construed to require a person to take such oath or to execute such statement more than once during the time he or she is employed in the same school, college, university or institution, though there be a change in the title or duties of the position.

The provisions of section sixty-two of the civil service law shall not apply to a person who is required to take the oath or execute the statement prescribed by this section.

An enrolled member of an Indian nation or an Indian individual having an affiliation with an Indian nation recognized by the United States or the state of New York may elect to comply with the requirements of this section by instead subscribing and filing the following statement:

"I do solemnly affirm that I will faithfully discharge the duties of the position of according to the best of my ability, and perform my duties in a manner consistent with the constitution of the United States and the constitution of the state of New York."

S 3003. Qualifications of superintendents. 1. No person except one in possession of a valid superintendent's certificate prior to July first, nineteen hundred seventy-one shall hereafter be eligible to the position of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools or member of a board of examiners in a city school district or as a superintendent of schools in a union free or central school district having a population of more than forty-five hundred, or eligible to appointment to the office of district superintendent of schools in this state, who is not eligible for a superintendent's certificate issued by the commissioner in accordance with the following requirements:

- a. He shall be a graduate of a college or university approved by the commissioner and in addition shall have completed sixty semester hours in graduate courses approved by the commissioner; and
- b. At the time of his appointment each shall have completed three

years of teaching experience satisfactory to the commissioner in public or non-public schools.

2. The commissioner of education shall issue a superintendent's permanent certificate to any person who on March twenty-fifth, nineteen hundred thirty-seven, held or was appointed to, a position of superintendent of schools, deputy superintendent of schools, associate superintendent of schools, assistant superintendent of schools or other superintendent of schools or member of a board of examiners in a city or as a superintendent of schools in a village having a population of more than forty-five hundred, or district superintendent of schools.

3. The commissioner, at the request of a board of education or board of cooperative educational services, may provide for the issuance of a certificate as superintendent of schools to exceptionally qualified persons who do not meet all of the graduate course or teaching requirements of subdivision one of this section, but whose exceptional training and experience are the substantial equivalent of such requirements and qualify such persons for the duties of a superintendent of schools.

4. Notwithstanding any other provision of law, the commissioner shall require that any person applying, on or after January first, nineteen hundred ninety-one, for a superintendent's certificate shall, in addition to all the other requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

5. The commissioner may provide for the issuance of a certificate as deputy, associate or assistant superintendent for business to any qualified person who meets all of the requirements of subdivision one of this section, except those contained in paragraph b of subdivision one of this section.

S 3004. Regulations governing certification of teachers. 1. The commissioner shall prescribe, subject to approval by the regents, regulations governing the examination and certification of teachers employed in all public schools of the state, except that no such regulation affecting the examination, certification, license, probationary periods,

appointment, and tenure of position of persons employed in the teaching, and supervising service in a city having a population of four hundred thousand or more shall be prescribed which may cause the discontinuance of the service of such persons who have satisfactorily completed their probationary periods, or the removal of such persons from their positions in a manner other than that provided by section twenty-five hundred twenty-three of this chapter, but no such regulations established by the commissioner or by any school district, or pursuant to the provisions of section twenty-five hundred fifty-four, twenty-five hundred sixty-six, twenty-five hundred sixty-nine, twenty-five hundred seventy-three or thirty hundred eight of this chapter or otherwise, shall hereafter prohibit, prevent or disqualify any person, who is otherwise qualified, from competing, participating and registering for such examination or from obtaining a teacher's certificate or from qualifying for a position as a teacher solely by reason of a disability provided such disability does not interfere with such person's ability to perform teaching duties, nor shall any person who is otherwise qualified be denied enrollment in any teacher training, which provides for certification as a teacher in a school or facility which conducts classes for children with handicapping conditions solely by reason of a disability.

2. Notwithstanding any other provision of law, the commissioner shall prescribe regulations requiring that all persons applying, on or after January first, nineteen hundred ninety-one, for a certificate or license to be a teacher shall, in addition to all the other certification or licensure requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

3. The commissioner shall prescribe regulations requiring that all persons applying on or after February second, two thousand one for a teaching certificate or license, including but not limited to a certificate or license valid for service as a classroom teacher, teaching assistant, pupil personnel service professional, school administrator or supervisor or superintendent of schools, shall, in addition to all the other certification or licensing requirements, have completed two hours

of course work or training in school violence prevention and intervention. The course work or training shall be obtained from an institution or provider which has been approved by the department to provide such course work or training. Such regulations shall also require that school districts and boards of cooperative educational services include training for teachers and other certified or licensed employees in school violence prevention and intervention in their required professional development plans.

S 3004-a. National board for professional teaching standards certification grant program. 1. Notwithstanding any inconsistent provision of law, the commissioner shall establish the Albert Shanker national board for professional teaching standards certification grant program, to be used by the department to defray any costs incurred by an eligible teacher, as that term is described in subdivision two of this section and his or her sponsoring school district, where such eligible teacher seeks national board certification from the national board for professional teacher standards.

2. As used in this section, "eligible teacher" shall mean a New York state tenured public school teacher who:

- (a) is currently teaching in New York state;
- (b) has graduated from an accredited college or university; and
- (c) holds a valid New York state teaching certificate.

3. Under the provisions of this section and subject to the filing requirement described in subdivision four of this section, a grant in an amount of up to two thousand five hundred dollars (\$2,500) shall be made available from the Albert Shanker national board for professional teaching standards certification grant program to each eligible teacher to defray the expenses of certification by the national board for professional teaching standards. Such sum may include the direct reimbursement by the department to the eligible teacher's sponsoring school district from the total grant award to cover the cost of hiring a substitute teacher for up to three days or the duration of such eligible teacher's approved leave, whichever is less.

4. The commissioner shall be responsible for promulgating any regulations necessary to effectuate the provisions of this section, including:

- (a) establishing within the department an application form and filing deadline requirements to be utilized by eligible teachers applying for the Albert Shanker national board for professional teaching standards grant program;
- (b) establishing a mechanism for processing and approving applications within the department;
- (c) establishing a mechanism to allocate grant awards to approved eligible teachers; and
- (d) establishing a mechanism to reimburse sponsoring school districts

for up to three days of approved leave as described in subdivision three of this section.

5. An eligible teacher for whom the state pays a participation fee shall be liable for repayment of the grant to the department if such eligible teacher:

(a) does not complete the process; or

(b) completes the process, but does not teach in a New York state public school for at least one full year after achieving national board for professional teaching standards certification.

6. Repayment of the grant is not required:

(a) if the certification process is not completed or if the eligible teacher fails to teach for one full year after completion due to his or her death or disability or some other extenuating circumstances as may be recognized by the board of regents; or

(b) if the eligible teacher completes the process but does not achieve certification.

S 3004-b. Special procedures for certification. * 1. Criminal history records search. Upon receipt of an application for certification as a superintendent of schools, teacher, administrator or supervisor, teaching assistant or school personnel required to hold a teaching or administrative license or certificate, the commissioner shall, subject to the rules and regulations of the division of criminal justice services, initiate a criminal history records search of the person making application, except that nothing in this section shall be construed to require a criminal history record check of an individual who holds a valid provisional certificate on the effective date of this section and applies for permanent certification in the same certificate title, or of an individual who applies for a temporary license to serve in the city school district of the city of New York and has been cleared for licensure and/or employment by such city school district pursuant to subdivision twenty of section twenty-five hundred ninety-h of this chapter. Prior to initiating the fingerprinting process, the commissioner shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. The commissioner shall obtain from each applicant two sets of fingerprints and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The commissioner shall promptly transmit such fingerprints and fees to the division of criminal justice services for its full search and retain processing. The division of criminal justice services is authorized to submit the fingerprints and the appropriate fee to the federal bureau of investigation for a national criminal history record check. The division of criminal justice services and the

federal bureau of investigation shall forward such criminal history record to the commissioner in a timely manner. For the purposes of this section the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. In addition, upon request from an applicant who has applied for employment with the city school district of the city of New York, the commissioner shall have the authority to forward a copy of such criminal history record to the city school district of the city of New York by the most expeditious means available. Furthermore, upon notification that such applicant is employed by the city school district of the city of New York, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the city school district of the city of New York. Upon request from an applicant who has already been cleared for licensure and/or employment by the city school district of the city of New York, such school district shall have the authority to forward a copy of the applicant's criminal history record to the commissioner, by the most expeditious means available, for the purposes of this section. Furthermore, upon notification that such applicant has been certified, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the commissioner. All such criminal history records processed and sent pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the commissioner, unless otherwise authorized by law. No cause of action against the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this subdivision shall exist when the department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such criminal history record by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The commissioner shall consider such criminal history record pursuant to article twenty-three-A of the correction law.

* NB Effective until July 1, 2003

* 1. Criminal history records search. Upon receipt of an application for certification as a superintendent of schools, teacher, administrator or supervisor, teaching assistant or school personnel required to hold a teaching or administrative license or certificate, the commissioner shall, subject to the rules and regulations of the division of criminal justice services, initiate a criminal history records search of the person making application. Prior to initiating the fingerprinting process, the commissioner shall furnish the applicant with the form

described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. The commissioner shall obtain from each applicant two sets of fingerprints and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The commissioner shall promptly transmit such fingerprints and fees to the division of criminal justice services for its full search and retain processing. The division of criminal justice services is authorized to submit the fingerprints and the appropriate fee to the federal bureau of investigation for a national criminal history record check. The division of criminal justice services and the federal bureau of investigation shall forward such criminal history record to the commissioner in a timely manner. For the purposes of this section the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. In addition, upon request from an applicant who has applied for employment with the city school district of the city of New York, the commissioner shall have the authority to forward a copy of such criminal history record to the city school district of the city of New York by the most expeditious means available. Furthermore, upon notification that such applicant is employed by the city school district of the city of New York, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the city school district of the city of New York. Upon request from an applicant who has already been cleared for licensure and/or employment by the city school district of the city of New York, such school district shall have the authority to forward a copy of the applicant's criminal history record to the commissioner, by the most expeditious means available, for the purposes of this section. Furthermore, upon notification that such applicant has been certified, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the commissioner. All such criminal history records processed and sent pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the commissioner, unless otherwise authorized by law. No cause of action against the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this subdivision shall exist when the department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such criminal history record by the division of criminal justice

services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The commissioner shall consider such criminal history record pursuant to article twenty-three-A of the correction law.

* NB Effective July 1, 2003

2. Fees. Notwithstanding any other provision of law to the contrary, the commissioner is authorized to charge additional fees to applicants for teaching or administrative licenses or certificates in an amount equal to the fees established pursuant to law by the division of criminal justice services and the federal bureau of investigation for the searches mandated by this section.

S 3004-c. Denial of application for certification. When the commissioner determines that a certification should be denied, the applicant shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commissioner.

Sec. 3005. Leave of absence to teachers for teaching in foreign countries, other states and territories and other school districts. The trustee, trustees or board of education of any school district may permit any teacher having had at least five years service in the school or schools of said district to apply for and receive a leave of absence for a period not to exceed two years for teaching in the schools of a foreign country, other states of the United States or any of its territories or in any other school district within this state provided such foreign country, other state or territory or other school district shall have agreed to furnish a teacher of corresponding rank or school level to fulfill the duties of the said teacher on leave of absence. During the period of said leave of absence the said teacher shall receive from the school district the same compensation that he would have received had he been present and teaching in a school of the district. Such leave of absence shall not in any way affect the retirement rights of said teacher as a member of a retirement system and the period of the aforesaid leave of absence shall be credited to the total years of service of said member in the same manner and for all purposes as if he had not been granted said leave of absence and had been present within the district engaged in actual teaching service. Notwithstanding any of the provisions of this chapter, when the qualifications of the teacher from the foreign country, other state or territory or other school district have been approved by the commissioner of education, he shall be legally entitled to render instructional service in any public school in this state and a permit for a period not to exceed two years for such

service shall be issued by the commissioner of education without the payment of fee. Any school district employing a teacher under this section may supplement the salary received from the foreign country, other state or territory or other school district by said teacher.

S 3005-a. Leave of absence for teaching purposes. In a city of one million or more, a board of education may permit any teacher to apply for and receive a leave of absence for a period not to exceed two years for teaching in a college or university, certificated and accredited by the commissioner of education, provided such college or university shall have agreed to furnish an educator of professorial rank to fulfill the duties of the said teacher on leave of absence or any other duties assigned by the superintendent of schools. During the period of said leave of absence for teaching in a college or university, the said teacher shall receive from the school district in said city the same compensation that he would have received had he been present and teaching in a school of the district and the college educator if he is a member of a publicly operated college or system shall likewise receive the same compensation as he would have received had he remained in the college or university. Such leave of absence shall not in any way affect the retirement rights of the said teacher or college educator as a member of a retirement system and the period of the aforesaid leave of absence shall be credited to the total years of service of the said member in the same manner and for all purposes as if he had continued in his position. Notwithstanding any of the provisions of this chapter, nor any other local law or provision, the chancellor of the city board shall have authority to issue to such college or university educator a special certificate of competency which shall be valid for a period not to exceed two years and not renewable and under which such college or university educator shall be permitted to fulfill the duties and assignments as herein provided.

Sec. 3005-b. Leave of absence for personal illness. The school authorities of each school district outside of a city having a population in excess of one million shall allow each teacher employed by the district sick leave without loss of salary for at least ten working days in any year on account of personal sickness or physical disability; and provided, further, that if any employee does not use the full amount of sick leave allowed in any school year, the amount not used shall be accumulated from year to year and used, if needed, up to a total of not less than one hundred fifty working days. Any accumulation of unused sick leave heretofore granted by such school authorities shall be counted toward the accumulated leave herein provided. Nothing contained in this section shall be construed to authorize a reduction in the amount of accumulated

leave granted to a teacher prior to July first, nineteen hundred sixty-five.

S 3006. Commissioner of education to issue certificates. Types of certificates. The commissioner of education may issue:

1. a. A life state certificate upon examinations only which shall entitle its holder to teach for life in the public schools of the state without further examination.

b. Such other certificates as regents general rules shall prescribe.

c. A temporary license limited to a school district, supervisory district or city for a period not to exceed one year.

d. A temporary certificate to a school district upon the request of the school authorities of the school district, and under such rules as the regents shall establish, which shall authorize such school authorities temporarily to employ persons having unusual qualifications in specific subjects, as visiting lecturers, provided they have been licensed pursuant to paragraph e of this subdivision, so as to supplement the regular programs of teaching of such specific subjects.

e. A temporary license to a person having unusual qualifications in specific subjects, authorizing him to teach as a visiting lecturer in accordance with the provisions of paragraph d of this subdivision.

2. Fees. The commissioner shall charge the following fees for certificates issued pursuant to this section.

a. Effective September first, nineteen hundred ninety-two and thereafter, the fees charged for each application for the following types of certificates shall be:

(i) For a certificate issued under this section based upon completion of a teacher education program registered by the department, fifty dollars;

(ii) For a certificate issued under this section based upon education or experience completed in other than a teacher education program registered by the department, one hundred dollars;

(iii) For a temporary license or a temporary coaching license, fifty dollars;

(iv) For a continuing certificate for a teaching assistant, thirty-five dollars;

(v) For a duplicate certificate, twenty-five dollars.

b. Notwithstanding the provisions of paragraph a of this subdivision, in a case where an individual applies for a certificate of qualification, provisional and/or permanent certificate within twelve months of having been issued a temporary license in the same certification area, the fee for such additional certificate or certificates shall be fifty dollars.

S 3007. Endorsement of foreign certificates and diplomas. The commissioner of education may in his discretion endorse:

1. A diploma issued by a normal school or teachers college of another state.

2. A certificate issued by the chief educational officer or state board of another state.

Such endorsement confers on the holder of such diploma or certificate the privileges conferred by law on the holder of the diploma of a state teachers college or state college for teachers or state certificate issued in this state. Notwithstanding any other provision of law, the commissioner shall require that any person seeking endorsement of a foreign certificate or diploma, on or after January first, nineteen hundred ninety-one, shall have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

Sec. 3008. Certification of teachers by local authorities.

A district superintendent, a city superintendent of schools or such other authority of a city school district as may be designated by law may issue such certificate as may be authorized by law or by the regents general rules.

Sec. 3009. Unqualified teachers shall not be paid from school moneys. 1. No part of the school moneys apportioned to a district shall be applied to the payment of the salary of an unqualified teacher, nor shall his salary, or any part thereof, be collected by a district tax except as provided in this chapter.

2. a. Notwithstanding any other provision of law to the contrary, the school authorities of any school district shall have the power, in their discretion, to employ persons as teacher aides who shall assist the regular teacher or teachers of the district in the performance of their teaching functions by performing those nonteaching duties otherwise performed by such regular teacher or teachers.

b. Notwithstanding any other provision of law to the contrary, the school authorities of any school district shall

have the power, in their discretion, to employ persons as teaching assistants. Such persons, if so employed, shall be authorized to act only under the general supervision of a licensed or certified teacher.

Sec. 3010. Penalty for payment of unqualified teacher. Any trustee or member of a board of education who applies, or directs, or consents to the application of, any district money to the payment of an unqualified teacher's salary, thereby commits a misdemeanor; and any fine imposed upon him therefor shall be for the benefit of the common schools of the district.

S 3011. Contract with teacher. 1. Except as otherwise provided in sections twenty-five hundred twenty-three, three thousand twelve and three thousand thirteen, all trustees of school districts or boards of education who shall employ any teacher to teach shall, at the time of such employment, make and deliver to such teacher, or cause to be made and delivered, a contract in writing, signed by them, or by some person duly authorized to represent them in the premises, in which the details of the agreement between the parties, and particularly the length of the term of employment, the amount of compensation and the time when such compensation shall be due and payable shall be clearly and definitely set forth.

1-a. Notwithstanding any other provision of law, in a city with a population of one million or more, all teachers, as that term is defined in section 13-501 of the administrative code of the city of New York, and all board of education employees serving as regular substitutes or full term per diem substitutes shall be paid the amount of compensation due them pursuant to collective bargaining agreements or to other contracts on the precise date such compensation is due. If such payments are not made on the dates so required, interest shall be recovered beginning thirty days, following the later of the effective date of this act or the required payment date through the day that payment is in fact tendered. In the case of a salary differential, the date compensation is due shall be defined as thirty days following the date an employee's application is filed by the employee with the board of education of the city of New York. Interest shall be computed at the rate set forth in paragraph one of subdivision (e) of section one thousand ninety-six of the tax law and shall be added to any compensation amounts referred to above that have not been paid when owed.

2. No contract for the employment of a teacher in a district having three trustees or a board of education shall be made for more than one year in advance or for a shorter time than ten weeks unless for the purpose of filling an unexpired term of school; except that a contract may be made in such a district for not more than five years with any teacher who has been employed in such district for at least three

consecutive years immediately prior to the execution of the contract.

3. No contract for the employment of a teacher in a district having a sole trustee shall be made to extend beyond the date of the expiration of the term of office of such trustee. A sole trustee of a school district shall have full power and authority to contract with teachers for the term for which he has been elected any time after the date of the annual meeting at which such trustee was elected.

4. No trustee shall contract with any teacher whose certificate of qualifications shall not cover a period at least as long as that covered by the contract of service.

S 3012. Tenure: certain school districts. 1. (a) Teachers and all other members of the teaching staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, shall be appointed by the board of education, or the trustees of common school districts, upon the recommendation of the superintendent of schools, for a probationary period of three years, except that in the case of a teacher who has rendered satisfactory service as a regular substitute for a period of two years or as a seasonally licensed per session teacher of swimming in day schools who has served in that capacity for a period of two years and has been appointed to teach the same subject in day schools, on an annual salary, the probationary period shall be limited to one year; provided, however, that in the case of a teacher who has been appointed on tenure in another school district within the state, the school district where currently employed, or a board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall not exceed two years. The service of a person appointed to any of such positions may be discontinued at any time during such probationary period, on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

(b) Principals, administrators, supervisors and all other members of the supervising staff of school districts, including common school districts and/or school districts employing fewer than eight teachers, other than city school districts, shall be appointed by the board of education, or the trustees of a common school district, upon the recommendation of the superintendent of schools for a probationary period of three years. The service of a person appointed to any of such positions may be discontinued at any time during the probationary period on the recommendation of the superintendent of schools, by a majority vote of the board of education or the trustees of a common school district.

(c) Any person previously appointed to tenure or a probationary period pursuant to the provisions of former section three thousand thirteen of this chapter shall continue to hold such position and be governed by the

provisions of this section notwithstanding any contrary provision of law.

2. At the expiration of the probationary term of a person appointed for such term, subject to the conditions of this section, the superintendent of schools shall make a written report to the board of education or the trustees of a common school district recommending for appointment on tenure those persons who have been found competent, efficient and satisfactory. Such persons, and all others employed in the teaching service of the schools of such union free school district, common school district and/or school district employing fewer than eight teachers, who have served the probationary period as provided in this section, shall hold their respective positions during good behavior and efficient and competent service, and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of such law: (a) insubordination, immoral character or conduct unbecoming a teacher; (b) inefficiency, incompetency, physical or mental disability, or neglect of duty; (c) failure to maintain certification as required by this chapter and by the regulations of the commissioner of education. Each person who is not to be recommended for appointment on tenure, shall be so notified by the superintendent of schools in writing not later than sixty days immediately preceding the expiration of his probationary period.

3. Notwithstanding any other provision of this section no period in any school year for which there is no required service and/or for which no compensation is provided shall in any event constitute a break or suspension of probationary period or continuity of tenure rights of any of the persons hereinabove described.

Sec. 3012-a. Elementary tenure area. Notwithstanding any other provision of law to the contrary, and except in cities having a population of one million or more, elementary tenure area shall mean kindergarten through grade six for teachers employed in such grade levels after the effective date of this section. All teachers holding tenure as of the effective date of this section in the kindergarten tenure area or grades one through six tenure area shall be deemed to hold tenure in the elementary tenure area as defined by this section.

S 3013. Abolition of office or position. 1. If a trustee, board of trustees, board of education or board of cooperative educational services abolishes an office or position and creates another office or position for the performance of duties similar to those performed in the office or position abolished, the person filling such office or position at the time of its abolishment shall be appointed to the office or position thus created without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled.

2. Whenever a trustee, board of trustee, board of education or board

of cooperative educational services abolishes a position under this chapter, the services of the teacher having the least seniority in the system within the tenure of the position abolished shall be discontinued.

3. (a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions in the order of their length of service in the system at any time within seven years from the date of abolition or consolidation of such office or position.

(b) The persons on such preferred list shall be reinstated, in accordance with the terms of paragraph (a) of this subdivision, to such substitute positions of five months or more in duration, as may from time to time occur without losing their preferred status on such list. Declination of such reinstatement shall not adversely affect the persons' preferred eligibility status.

Sec. 3014. Tenure: boards of cooperative educational services. 1. Administrative assistants, supervisors, teachers and all other members of the teaching and supervising staff of the board of cooperative educational services shall be appointed by a majority vote of the board of cooperative educational services upon the recommendation of the district superintendent of schools for a probationary period of not to exceed three years; provided, however, that in the case of a teacher who has been appointed on tenure in a school district within the state, the board of cooperative educational services where currently employed, or another board of cooperative educational services, and who was not dismissed from such district or board as a result of charges brought pursuant to subdivision one of section three thousand twenty-a of this chapter, the probationary period shall not exceed two years. Services of a person so appointed to any such positions may be discontinued at any time during such probationary period, upon the recommendation of the district superintendent, by a majority vote of the board of cooperative educational services.

2. On or before the expiration of the probationary term of a person appointed for such term the district superintendent of schools shall make a written report to the board of cooperative

educational services recommending for appointment on tenure persons who have been found competent, efficient and satisfactory. Such persons shall hold their respective positions during good behavior and competent and efficient service and shall not be removed except for any of the following causes, after a hearing, as provided by section three thousand twenty-a of such law: (a) Insubordination, immoral character or conduct unbecoming a teacher; (b) Inefficiency, incompetency, physical or mental disability or neglect of duty; (c) Failure to maintain certification as required by this chapter and by the regulations of the commissioner of education. Each person who is not to be so recommended for appointment on tenure shall be so notified in writing by the district superintendent not later than sixty days immediately preceding the expiration of his probationary period.

S 3014-a. Teachers' rights as a result of a board or boards of cooperative educational services taking over a program formerly operated by a school district or districts or by a county vocational education and extension board. 1. In any case in which a board or boards of cooperative educational services duly take over the operation of a program formerly provided by a school district or school districts or by a county vocational education and extension board, each teacher, teaching assistant and teacher aide employed in such a program by such a school district or such a county vocational education and extension board at the time of such takeover by the board or boards of cooperative educational services, shall be considered an employee of such board or boards of cooperative educational services with the same tenure or civil service status he maintained in such school district or in such county vocational education and extension board.

2. If the number of teaching positions needed to provide the services required by such program by the board or boards of cooperative educational services is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such board or boards of cooperative educational services as provided by subdivision one of this section, the services of the teachers, teaching assistants and teacher aides having the least seniority in the school district or school districts or county vocational education and extension board whose programs are taken over by the board or boards of cooperative educational services within the tenure area or civil service title of the position shall be discontinued. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the board or boards of cooperative educational services similar to the one such teacher, teaching assistant and teacher aide filled in such school district or school districts or such county vocational education and extension board. The

teachers, teaching assistants and teacher aides on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the board or boards of cooperative educational services in the order of their length of service in such school district or school districts or in such county vocational education and extension board, within seven years from the date of the abolition of such office or position.

3. For any such teacher, teaching assistant and teacher aide as set forth in subdivision one of this section for salary, sick leave and any other purposes, the length of service credited in such school district or in such county vocational education and extension board shall be credited as employment time with such board or boards of cooperative educational services.

4. This section shall in no way be construed to limit the rights of any of such employees set forth in this section granted by any other provision of law.

5. Program takeovers pursuant to this section shall be considered a transfer pursuant to section seventy of the civil service law.

S 3014-b. Teachers' rights as a result of a school district taking over a program formerly operated by a board of cooperative educational services. 1. In any case in which a school district duly takes over the operation of a program formerly provided by a board of cooperative educational services, each teacher, teaching assistant and teacher aide employed in such a program by such a board of cooperative educational services at the time of such takeover by the school district shall be considered an employee of such school district, with the same tenure or civil service status he maintained in such board of cooperative educational services.

2. If the number of teaching positions needed to provide the services required by such program by the school district is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such school district as provided by subdivision one of this section, the services of the teachers, teaching assistants and teacher aides having the least seniority in the board of cooperative educational services whose programs are taken over by the school district within the tenure area or civil service title of the position shall be discontinued. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the school district similar to the one such teacher, teaching assistant and teacher aide filled in such board of cooperative educational services. The teachers, teaching assistants and teacher aides on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the school district in the order of their

length of service in such board of cooperative educational services, within seven years from the date of the abolition of such office or position.

3. For any such teacher, teaching assistant and teacher aide as set forth in subdivision one of this section for salary, sick leave and any other purposes, the length of service credited in such board of cooperative educational services shall be credited as employment time with such school district.

4. In the event that more than one school district duly takes over the operation of a program formerly provided by a board of cooperative educational services, then each teacher, teaching assistant and teacher aide employed in such program by such board of cooperative educational services at the time of such takeover by more than one school district, shall select the particular school district in which he shall be considered an employee, with all of the rights and privileges provided by the other provisions of this section. Such selection of the particular school district by such teacher, teaching assistant and teacher aide is to be based upon the seniority of each teacher, teaching assistant and teacher aide in such board of cooperative educational services, with the right of selection passing from such teachers, teaching assistants and teacher aides with the most seniority to such teachers, teaching assistants and teacher aides with least seniority. Any such teacher, teaching assistant and teacher aide who is unable to obtain a teaching position in any such school districts because the number of positions needed to provide the services required in such programs with such school districts are less than the number of teachers, teaching assistants and teachers aides eligible to be considered employees of such school districts, shall be placed on a preferred eligible list in all such school districts in the method and with all of the rights provided by the other provisions of this section.

5. This section shall in no way be construed to limit the rights of any of such employees set forth in this section granted by any other provision of law.

S 3014-c. Teachers' rights as a result of a school district taking back tuition students. 1. As used in this section, a "sending district" shall mean a school district which previously sent students to another school district on a tuition basis pursuant to section two thousand forty of this chapter, and a "receiving district" shall mean a school district which provided the educational program for students from another district on a tuition basis pursuant to section two thousand forty of this chapter.

2. In any case in which a sending district assumes the education of students formerly provided by a receiving district, each teacher employed in the education of such students by such receiving district at the time of such take back by the sending district shall be considered

an employee of such sending district, with the same tenure status he maintained in such receiving district.

3. If the number of teaching positions needed to provide the educational services required by such sending district is less than the number of teachers eligible to be considered employees of such sending district as provided by subdivision two of this section, the services of the teachers having the least seniority in the receiving district whose students are taken back by the sending district within the tenure area of the position shall be discontinued. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such receiving district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district in the order of their length of service in such receiving district, within seven years from the date of the abolition of such office or position.

4. For any such teacher as described in subdivision two of this section for salary, sick leave and any other purposes, the length of service credited in such receiving district shall be credited as employment time with such sending district.

5. In the event that more than one sending district assumes the education of students formerly provided by a receiving district, then each teacher employed in the education of such students in such receiving district at the time of such take back by more than one sending district, shall select the particular sending district in which he shall be considered an employee, with all of the rights and privileges provided by the other provisions of this section. Such selection of the particular sending district by such teacher is to be based upon each teacher's seniority in such receiving district, with the right of selection passing from such teachers with the most seniority to such teachers with least seniority. Any such teacher who is unable to obtain a teaching position in any such sending district because the number of positions needed to provide the services required with such sending district are less than the number of teachers eligible to be considered employees of such sending districts, shall be placed on a preferred eligible list in all such sending districts in the method and with all of the rights provided by the other provisions of this section.

6. This section shall in no way be construed to limit the rights of any of such teachers described in this section granted by any other provision of law.

S 3014-d. Teachers' rights as a result of a school district sending students to another district on a tuition basis pursuant to section two thousand forty of this chapter. 1. As used in this section, a "sending

district" shall mean a school district which sends students to another school district on a tuition basis pursuant to section two thousand forty of this chapter, and a "receiving district" shall mean a school district which receives and provides the educational program for students from another district on a tuition basis pursuant to section two thousand forty of this chapter.

2. In any case in which a sending district sends such students to a receiving district, each teacher previously employed in the education of students by such sending district prior to the time that such sending district sends its students to a receiving district shall be considered an employee of such receiving district, with the same tenure status he maintained in such sending district.

3. If the number of teaching positions needed to provide the educational services required by such receiving district is less than the number of teachers eligible to be considered employees of such receiving district as provided by subdivision two of this section, the services of the teachers having the least seniority in the sending district within the tenure area of the position shall be discontinued. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such sending district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district in the order of their length of service in such sending district, within seven years from the date of the abolition of such office or position.

4. For any such teacher as described in subdivision two of this section for salary, sick leave and any other purposes, the length of service credited in such sending district shall be credited as employment time with such receiving district.

5. This section shall in no way be construed to limit the rights of any of such teachers described in this section granted by any other provision of law.

Sec. 3015. Teacher's salary when payable. 1. In school districts employing fewer than eight teachers, the salary of any teacher so employed shall be due and payable at least as often as once each calendar month of the term of employment.

2. In school districts employing eight or more teachers, the salary of a teacher employed for a full school year shall be due and payable within such school year in not less than ten installments. If a teacher is employed in any such district after July first in any school year, the amount of the salary that the school authorities agree at the time of employment to

pay such teacher for the balance of that school year shall be due and payable within the school year at least as often as once each calendar month that he is so employed. Nothing contained in this subdivision shall be construed to alter the provisions of sections twenty-five hundred nine, twenty-five hundred seventy-three, three thousand twelve, and three thousand thirteen of this chapter.

3. Nothing contained in this section shall be construed to authorize payment in advance of rendering service to the school district.

Sec. 3016. Contract when teacher is related to trustee or member of board of education. 1. No person who is related to any trustee of a common school district by blood or marriage shall be employed in such district as a teacher, except with the approval of two-thirds of the voters of such district present and voting upon the question at an annual or special meeting of the district.

2. No person who is related by blood or marriage to any member of a board of education shall be employed as a teacher by such board, except upon the consent of two-thirds of the members thereof to be determined at a board meeting and to be entered upon the proceedings of the board.

Sec. 3017. Individual liability of trustees. Any person employed in disregard of section three thousand eleven or of section three thousand sixteen shall have no claim for wages against the district, but may enforce the specific contract made against the trustees or board of education consenting to such employment as individuals.

Sec. 3018. Revocation of certificate by district superintendent. A district superintendent shall examine any charge affecting the moral character of any teacher within his district, first giving such teacher reasonable notice of the charge, and an opportunity to defend himself therefrom; and if he find the charge sustained, he shall annul the teacher's certificate, by whomsoever granted, and declare him unfit to teach; and if the teacher holds a certificate of the commissioner of education or of a former superintendent of public instruction or a diploma of a state college for teachers or state teachers college, he shall notify the commissioner of education forthwith of such annulment and declaration.

Sec. 3019. Penalty for teacher's failure to complete contract. Any failure on the part of a teacher to complete an

agreement to teach a term of school without good reason therefor shall be deemed sufficient ground for the revocation of the teacher's certificate.

Sec. 3019-a. Notice of termination of service by teachers. A teacher who desires to terminate his services to a school district at any time, shall file a written notice thereof with the school authorities of such school district or with the board of cooperative educational services or county vocational education and extension board at least thirty days prior to the date of such termination of services. School authorities or such boards which desire to terminate the services of a teacher during the probationary period shall give a written notice thereof to such teacher at least thirty days prior to the effective date of such termination of services.

S 3020. Discipline of teachers. 1. No person enjoying the benefits of tenure shall be disciplined or removed during a term of employment except for just cause and in accordance with the procedures specified in section three thousand twenty-a of this article or in accordance with alternate disciplinary procedures contained in a collective bargaining agreement covering his or her terms and conditions of employment that was effective on or before September first, nineteen hundred ninety-four and has been unaltered by renegotiation, or in accordance with alternative disciplinary procedures contained in a collective bargaining agreement covering his or her terms and conditions of employment that becomes effective on or after September first, nineteen hundred ninety-four; provided, however, that any such alternate disciplinary procedures contained in a collective bargaining agreement that becomes effective on or after September first, nineteen hundred ninety-four, must provide for the written election by the employee of either the procedures specified in such section three thousand twenty-a or the alternative disciplinary procedures contained in the collective bargaining agreement and must result in a disposition of the disciplinary charge within the amount of time allowed therefor under such section three thousand twenty-a.

2. No person enjoying the benefits of tenure shall be suspended for a fixed time without pay or dismissed due to a violation of article thirteen-E of the public health law.

3. Notwithstanding any inconsistent provision of law, the procedures set forth in section three thousand twenty-a of this article and subdivision seven of section twenty-five hundred ninety-j of this chapter may be modified or replaced by agreements negotiated between the city school district of the city of New York and any employee organization representing employees or titles that are or were covered by any memorandum of agreement executed by such city school district and the council of supervisors and administrators of the city of New York on or after

December first, nineteen hundred ninety-nine. Where such procedures are so modified or replaced: (i) compliance with such modification or replacement procedures shall satisfy any provision in this chapter that requires compliance with section three thousand twenty-a, (ii) any employee against whom charges have been preferred prior to the effective date of such modification or replacement shall continue to be subject to the provisions of such section as in effect on the date such charges were preferred, (iii) the provisions of subdivisions one and two of this section shall not apply to agreements negotiated pursuant to this subdivision, and (iv) in accordance with paragraph (e) of subdivision one of section two hundred nine-a of the civil service law, such modification or replacement procedures contained in an agreement negotiated pursuant to this subdivision shall continue as terms of such agreement after its expiration until a new agreement is negotiated. Notwithstanding any inconsistent provision of law, the commissioner of education shall review any appeals authorized by such modification or replacement procedures within fifteen days from receipt by such commissioner of the record of prior proceedings in the matter subject to appeal. Such review shall have preference over all other appeals or proceedings pending before such commissioner.

S 3020-a. Disciplinary procedures and penalties. 1. Filing of charges. All charges against a person enjoying the benefits of tenure as provided in subdivision three of section one thousand one hundred two, and sections two thousand five hundred nine, two thousand five hundred seventy-three, twenty-five hundred ninety-j, three thousand twelve and three thousand fourteen of this chapter shall be in writing and filed with the clerk or secretary of the school district or employing board during the period between the actual opening and closing of the school year for which the employed is normally required to serve. Except as provided in subdivision eight of section two thousand five hundred seventy-three and subdivision seven of section twenty-five hundred ninety-j of this chapter, no charges under this section shall be brought more than three years after the occurrence of the alleged incompetency or misconduct, except when the charge is of misconduct constituting a crime when committed.

2. (a) Disposition of charges. Upon receipt of the charges, the clerk or secretary of the school district or employing board shall immediately notify said board thereof. Within five days after receipt of charges, the employing board, in executive session, shall determine, by a vote of a majority of all the members of such board, whether probable cause exists to bring a disciplinary proceeding against an employee pursuant to this section. If such determination is affirmative, a written statement specifying the charges in detail, the maximum penalty which will be imposed by the board if the employee does not request a hearing or that will be sought by the board if the

employee is found guilty of the charges after a hearing and outlining the employee's rights under this section, shall be immediately forwarded to the accused employee by certified or registered mail, return receipt requested or by personal delivery to the employee.

(b) The employee may be suspended pending a hearing on the charges and the final determination thereof. The suspension shall be with pay, except the employee may be suspended without pay if the employee has entered a guilty plea to or has been convicted of a felony crime concerning the criminal sale or possession of a controlled substance, a precursor of a controlled substance, or drug paraphernalia as defined in article two hundred twenty or two hundred twenty-one of the penal law; or a felony crime involving the physical or sexual abuse of a minor or student.

(c) Within ten days of receipt of the statement of charges, the employee shall notify the clerk or secretary of the employing board in writing whether he or she desires a hearing on the charges and when the charges concern pedagogical incompetence or issues involving pedagogical judgment, his or her choice of either a single hearing officer or a three member panel. All other charges shall be heard by a single hearing officer.

(d) The unexcused failure of the employee to notify the clerk or secretary of his or her desire for a hearing within ten days of the receipt of charges shall be deemed a waiver of the right to a hearing. Where an employee requests a hearing in the manner provided for by this section, the clerk or secretary of the board shall, within three working days of receipt of the employee's notice or request for a hearing, notify the commissioner of education of the need for a hearing. If the employee waives his or her right to a hearing the employing board shall proceed, within fifteen days, by a vote of a majority of all members of such board, to determine the case and fix the penalty, if any, to be imposed in accordance with subdivision four of this section.

3. Hearings. a. Notice of hearing. Upon receipt of a request for a hearing in accordance with subdivision two of this section, the commissioner of education shall forthwith notify the American Arbitration Association (hereinafter "association") of the need for a hearing and shall request the association to provide to the commissioner forthwith a list of names of persons chosen by the association from the association's panel of labor arbitrators to potentially serve as hearing officers together with relevant biographical information on each arbitrator. Upon receipt of said list and biographical information, the commissioner of education shall forthwith send a copy of both simultaneously to the employing board and the employee.

b. (i) Hearing officers. All hearings pursuant to this section shall be conducted before and by a single hearing officer selected as

provided for in this section. A hearing officer shall not be eligible to serve as such if he or she is a resident of the school district, other than the city of New York, under the jurisdiction of the employing board, an employee, agent or representative of the employing board or of any labor organization representing employees of such employing board, has served as such agent or representative within two years of the date of the scheduled hearing, or if he or she is then serving as a mediator or fact finder in the same school district. Notwithstanding any other provision of law, the hearing officer shall be compensated by the department with the customary fee paid for service as an arbitrator under the auspices of the association for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties. All other expenses of the disciplinary proceedings shall be paid in accordance with rules promulgated by the commissioner of education.

(ii) Not later than ten days after the date the commissioner mails to the employing board and the employee the list of potential hearing officers and biographies provided to the commissioner by the association, the employing board and the employee, individually or through their agents or representatives, shall by mutual agreement select a hearing officer from said list to conduct the hearing and shall notify the commissioner of their selection.

(iii) If the employing board and the employee fail to agree on an arbitrator to serve as a hearing officer from said list and so notify the commissioner within ten days after receiving the list from the commissioner, the commissioner shall request the association to appoint a hearing officer from said list.

(iv) In those cases in which the employee elects to have the charges heard by a hearing panel, the hearing panel shall consist of the hearing officer, selected in accordance with this subdivision, and two additional persons, one selected by the employee and one selected by the employing board, from a list maintained for such purpose by the commissioner of education. The list shall be composed of professional personnel with administrative or supervisory responsibility, professional personnel without administrative or supervisory responsibility, chief school administrators, members of employing boards and others selected from lists of nominees submitted to the commissioner by statewide organizations representing teachers, school administrators and supervisors and the employing boards. Hearing panel members other than the hearing officer shall be compensated by the department of education at the rate of one hundred dollars for each day of actual service plus necessary travel and subsistence expenses. The hearing officer shall be compensated as set forth in this subdivision. The hearing officer shall be the chairman of the hearing panel.

c. Hearing procedures. (i) The commissioner of education shall have

the power to establish necessary rules and procedures for the conduct of hearings under this section. Such rules shall not require compliance with technical rules of evidence. Hearings shall be conducted by the hearing officer selected pursuant to paragraph b of this subdivision with full and fair disclosure of the nature of the case and evidence against the employee by the employing board and shall be public or private at the discretion of the employee. The employee shall have a reasonable opportunity to defend himself or herself and an opportunity to testify in his or her own behalf. The employee shall not be required to testify. Each party shall have the right to be represented by counsel, to subpoena witnesses, and to cross-examine witnesses. All testimony taken shall be under oath which the hearing officer is hereby authorized to administer. A competent stenographer, designated by the commissioner of education and compensated by the state education department, shall keep and transcribe a record of the proceedings at each such hearing. A copy of the transcript of the hearings shall, upon request, be furnished without charge to the employee and the board of education involved.

(ii) The hearing officer selected to conduct a hearing under this section shall, within ten to fifteen days of agreeing to serve as such, hold a pre-hearing conference which shall be held in the school district or county seat of the county, or any county, wherein the employing school board is located. The pre-hearing conference shall be limited in length to one day except that the hearing officer, in his or her discretion, may allow one additional day for good cause shown.

(iii) At the pre-hearing conference the hearing officer shall have the power to:

(A) issue subpoenas;

(B) hear and decide all motions, including but not limited to motions to dismiss the charges;

(C) hear and decide all applications for bills of particular or requests for production of materials or information, including, but not limited to, any witness statement (or statements), investigatory statement (or statements) or note (notes), exculpatory evidence or any other evidence, including district or student records, relevant and material to the employee's defense.

(iv) Any pre-hearing motion or application relative to the sufficiency of the charges, application or amendment thereof, or any preliminary matters shall be made upon written notice to the hearing officer and the adverse party no less than five days prior to the date of the pre-hearing conference. Any pre-hearing motions or applications not made as provided for herein shall be deemed waived except for good cause as determined by the hearing officer.

(v) In the event that at the pre-hearing conference the employing board presents evidence that the professional license of the employee has been revoked and all judicial and administrative remedies have

been exhausted or foreclosed, the hearing officer shall schedule the date, time and place for an expedited hearing, which hearing shall commence not more than seven days after the pre-hearing conference and which shall be limited to one day. The expedited hearing shall be held in the local school district or county seat of the county or any county, wherein the said employing board is located. The expedited hearing shall not be postponed except upon the request of a party and then only for good cause as determined by the hearing officer. At such hearing, each party shall have equal time in which to present its case.

(vi) During the pre-hearing conference, the hearing officer shall determine the reasonable amount of time necessary for a final hearing on the charge or charges and shall schedule the location, time(s) and date(s) for the final hearing. The final hearing shall be held in the local school district or county seat of the county, or any county, wherein the said employing school board is located. In the event that the hearing officer determines that the nature of the case requires the final hearing to last more than one day, the days that are scheduled for the final hearing shall be consecutive. The day or days scheduled for the final hearing shall not be postponed except upon the request of a party and then only for good cause shown as determined by the hearing officer. In all cases, the final hearing shall be completed no later than sixty days after the pre-hearing conference unless the hearing officer determines that extraordinary circumstances warrant a limited extension.

4. Post hearing procedures. (a) The hearing officer shall render a written decision within thirty days of the last day of the final hearing, or in the case of an expedited hearing within ten days of such expedited hearing, and shall forthwith forward a copy thereof to the commissioner of education who shall immediately forward copies of the decision to the employee and to the clerk or secretary of the employing board. The written decision shall include the hearing officer's findings of fact on each charge, his or her conclusions with regard to each charge based on said findings and shall state what penalty or other action, if any, shall be taken by the employing board. At the request of the employee, in determining what, if any, penalty or other action shall be imposed, the hearing officer shall consider the extent to which the employing board made efforts towards correcting the behavior of the employee which resulted in charges being brought under this section through means including but not limited to: remediation, peer intervention or an employee assistance plan. In those cases where a penalty is imposed, such penalty may be a written reprimand, a fine, suspension for a fixed time without pay, or dismissal. In addition to or in lieu of the aforementioned penalties, the hearing officer, where he or she deems appropriate, may impose upon the employee remedial action including but not limited to leaves

of absence with or without pay, continuing education and/or study, a requirement that the employee seek counseling or medical treatment or that the employee engage in any other remedial or combination of remedial actions.

(b) Within fifteen days of receipt of the hearing officer's decision the employing board shall implement the decision. If the employee is acquitted he or she shall be restored to his or her position with full pay for any period of suspension without pay and the charges expunged from the employment record. If an employee who was convicted of a felony crime specified in paragraph (b) of subdivision two of this section, has said conviction reversed, the employee, upon application, shall be entitled to have his pay and other emoluments restored, for the period from the date of his suspension to the date of the decision.

(c) The hearing officer shall indicate in the decision whether any of the charges brought by the employing board were frivolous as defined in section eight thousand three hundred three-a of the civil practice law and rules. If the hearing officers finds that all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the state education department the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges. If the hearing officer finds that some but not all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the state education department a portion, in the discretion of the hearing officer, of the reasonable costs said department incurred as a result of the proceeding and to reimburse the employee a portion, in the discretion of the hearing officer, of the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges.

5. Appeal. Not later than ten days after receipt of the hearing officer's decision, the employee or the employing board may make an application to the New York state supreme court to vacate or modify the decision of the hearing officer pursuant to section seven thousand five hundred eleven of the civil practice law and rules. The court's review shall be limited to the grounds set forth in such section. The hearing panel's determination shall be deemed to be final for the purpose of such proceeding. In no case shall the filing or the pendency of an appeal delay the implementation of the decision of the hearing officer.

Sec. 3021. Removal of superintendents, teachers and employees for treasonable or seditious acts or utterances. A person employed as superintendent of schools, teacher or employee

in the public schools, in any city or school district of the state, shall be removed from such position for the utterance of any treasonable or seditious word or words or the doing of any treasonable or seditious act or acts while holding such position.

Sec. 3022. Elimination of subversive persons from the public school system. 1. The board of regents shall adopt, promulgate, and enforce rules and regulations for the disqualification or removal of superintendents of schools, teachers or employees in the public schools in any city or school district of the state and the faculty members and all other personnel and employees of any college or other institution of higher education owned and operated by the state or any subdivision thereof who violate the provisions of section three thousand twenty-one of this article or who are ineligible for appointment to or retention in any office or position in such public schools or such institutions of higher education on any of the grounds set forth in section twelve-a of the civil service law and shall provide therein appropriate methods and procedure for the enforcement of such sections of this article and the civil service law.

2. The board of regents shall, after inquiry, and after such notice and hearing as may be appropriate, make a listing of organizations which it finds to be subversive in that they advocate, advise, teach or embrace the doctrine that the government of the United States or of any state or of any political subdivision thereof shall be overthrown or overturned by force, violence or any unlawful means, or that they advocate, advise, teach or embrace the duty, necessity or propriety of adopting any such doctrine, as set forth in section twelve-a of the civil service law. Such listings may be amended and revised from time to time. The board, in making such inquiry, may utilize any similar listings or designations promulgated by any federal agency or authority authorized by federal law, regulation or executive order, and for the purposes of such inquiry, the board may request and receive from such federal agencies or authorities any supporting material or evidence that may be made available to it. The board of regents shall provide in the rules and regulations required by subdivision one hereof that membership in any such organization included in such listing made by it shall constitute prima facie evidence of disqualification for appointment to or retention in any office or position in the public schools of the state.

3. The board of regents shall annually, on or before the fifteenth day of February, by separate report, render to the legislature, a full statement of measures taken by it for the enforcement of such provisions of law and to require compliance

therewith. Such reports shall contain a description of surveys made by the board of regents, from time to time, as may be appropriate, to ascertain the extent to which such provisions of law have been enforced in the city and school districts of the state.

Sec. 3023. Liability of a board of education, trustee, trustees or board of cooperative educational services. Notwithstanding any inconsistent provision of law, general, special or local, or the limitation contained in the provisions of any city charter, it shall be the duty of each board of education, trustee or trustees, in any school district having a population of less than one million, and each board of cooperative educational services established pursuant to section nineteen hundred fifty of this chapter, to save harmless and protect all teachers, practice or cadet teachers, authorized participants in a school volunteer program, and members of supervisory and administrative staff or employees from financial loss arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental bodily injury to any person, or accidental damage to the property of any person within or without the school building, provided such teacher, practice or cadet teacher, authorized participant in a school volunteer program, or member of the supervisory or administrative staff or employee at the time of the accident or injury was acting in the discharge of his duties within the scope of his employment or authorized volunteer duties and/or under the direction of said board of education, trustee, trustees or board of cooperative educational services; and said board of education, trustee, trustees or board of cooperative educational services may arrange for and maintain appropriate insurance with any insurance company created by or under the laws of this state, or in any insurance company authorized by law to transact business in this state, or such board, trustee, trustees or board of cooperative educational services may elect to act as self-insurers to maintain the aforesaid protection. A board of education, trustee, board of trustees, or board of cooperative educational services, however, shall not be subject to the duty imposed by this section, unless such teacher, practice or cadet teacher, authorized participant in a school volunteer program, or member of the supervisory and administrative staff or employee shall, within ten days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy of the same to such board of education, trustee, board of trustees, or board of cooperative educational services.

Sec. 3024. Teachers responsible for record books. School lists and accounts of attendance shall be kept and prepared and entries shall be made in regards thereto, in such manner, as shall be prescribed by the commissioner of education by regulation or otherwise.

Sec. 3025. Verification of school register. 1. Each teacher, or other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall, by his oath or affirmation verify any information submitted by such person to the school district for the purposes of use as or in the preparation of school registers in such manner as may be prescribed by the commissioner of education under section three thousand twenty-four of this chapter, and such school records shall constitute the source from which the average daily attendance shall be determined. Such oath or affirmation may be taken by the district clerk or trustee, but without charge.

2. A teacher or other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter shall not be entitled to his salary for the last month of a term until he shall have made such verification and submitted such information as is required by subdivision one of this section, and the trustees shall not draw on the county treasurer, or collector or treasurer of the district, for any portion of his salary for such month until such verification shall have been made.

Sec. 3026. Discriminations based on sex prohibited. There shall be no discrimination in the determination of the amount to be paid or the payments to be made to persons employed as teachers in the public schools in any city, union free or common school district in this state, based on sex. All contracts hereafter made for the employment of public school teachers and all schedules of salaries and salary increments adopted by boards of education, as provided in this chapter, shall not discriminate between the salaries and salary increments of public school teachers to be paid under such contracts and schedules because of the sex of said public school teachers, notwithstanding the provisions of any general or special law inconsistent herewith.

Sec. 3027. Discrimination based on age prohibited. Notwithstanding any provision of law to the contrary, no board of education in any city, union free, common or central school district in this state shall hereafter prohibit, prevent,

disqualify or discriminate against any person who is physically and mentally qualified from competing, participating, or registering for an examination for or from qualifying for, a position as teacher, or be penalized in a final rating by reason of his or her age. Any such rule, requirement, resolution, regulation or penalization of such board shall be void.

Nothing herein contained, however, shall prevent such board from adopting reasonable minimum or maximum age requirements for positions which require extraordinary physical effort, except where age limits for such positions are already prescribed by law.

S 3028. Liability of school district for cost and attorney's fees of action against, or prosecutions of, teachers, members of supervisory and administrative staff or employees, and school volunteers. Notwithstanding any inconsistent provision of any general, special or local law, or the limitations contained in the provisions of any city charter, each board of education, trustee or trustees in the state shall provide an attorney or attorneys for, and pay such attorney's fees and expenses necessarily incurred in the defense of a teacher, member of a supervisory or administrative staff or employee, or authorized participant in a school volunteer program in any civil or criminal action or proceeding arising out of disciplinary action taken against any pupil of the district while in the discharge of his duties within the scope of his employment or authorized volunteer duties. For such purposes the board of education, trustee or trustees may arrange for and maintain appropriate insurance with any insurance company created by or under the laws of this state, or in any insurance company authorized by law to transact business in this state, or such board, trustee or trustees may elect to act as self-insurers to maintain the aforesaid protection. A board of education, trustee or board of trustees, however, shall not be subject to the duty imposed by this section, unless such teacher, or member of the supervisory and administrative staff or employee or authorized participant in a school volunteer program shall, within ten days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy of the same to such board of education, trustee or board of trustees.

S 3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction. Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the

school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

S 3028-b. Notification of teachers' duty to provide information and immunity from liability. Each school shall annually provide to each teacher and all other school officials a written explanation concerning the reporting of pupil drug abuse, child abuse, and child abuse in an educational setting including the immunity provisions of section three thousand twenty-eight-a of this article and section eleven hundred twenty-six of this chapter and sections four hundred thirteen and four hundred nineteen of the social services law. The commissioner, with the assistance and cooperation of the commissioner of children and family services and the commissioner of criminal justice services, shall furnish each school district with the required information. Such information shall be updated by the commissioner at least once each school year.

S 3028-c. Protection of school employees who report acts of violence and weapons possession. Any school employee having reasonable cause to suspect that a person has committed an act of violence while in or on school property, or having reasonable cause to suspect that a person has committed an act of violence upon a student, school employee or volunteer either upon school grounds or elsewhere, or having reasonable cause to suspect that a person has brought a gun, knife, bomb or other instrument capable of or that appears capable of causing death or physical injury upon school grounds who in good faith reports such information to school officials, to the commissioner, or to law enforcement authorities, shall have immunity from any civil liability that may arise from the making of such report, and no school district or school district employee shall take, request or cause a retaliatory action against any such employee who makes such report.

Sec. 3029. Hours of continuous duty for full time teachers. Except in a city having a population of one million or more persons the school authorities of any school district employing two or more teachers shall fix the hours of duty for full time teachers so that no teacher shall be assigned continuous duty for a length of time in excess of five hours. When the daily total hours of duty exceed five, duties must be assigned so as to provide a period of at least thirty minutes in length which shall be free from assigned duties and which shall be scheduled so far as practical during the hours normally allotted for pupils' lunch periods.

Sec. 3029-a. Silent meditation in public schools. 1. In each public school classroom, the teacher in charge may, or if so authorized or directed by the board of education by which he is employed, shall, at the opening of school upon every school day, conduct a brief period of silent meditation with the participation of all the pupils therein assembled.

2. The silent meditation authorized by subsection one of this act is not intended to be, and shall not be conducted as, a religious service or exercise, but may be considered as an opportunity for silent meditation on a religious theme by those who are so disposed, or a moment of silent reflection on the anticipated activities of the day. As used in subdivision one of this section the term "participation" shall be construed to permit seated participation and not to require any pupil to stand.

S 3030. Interstate agreement on qualifications of educational personnel. 1. The interstate agreement on qualifications of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE AGREEMENT ON QUALIFICATIONS OF EDUCATIONAL PERSONNEL

Article I Purpose, Findings, and Policy

1. The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II Definitions

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.
2. "Designated state official" means the educational official of a state selected by that state to negotiate and enter into, on behalf of this state, contracts pursuant to this agreement.
3. "Accept", or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.
4. "State" means a state, territory, or possession of the United States; the district of Columbia; or the commonwealth of Puerto Rico.
5. "Originating state" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to article III.
6. "Receiving state" means a state (and the subdivisions thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to article III.

Article III Interstate Educational Personnel Contracts

1. The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.
2. Any such contract shall provide for:
 - (a) Its duration.
 - (b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.
 - (c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.
 - (d) Any other necessary matters.
3. No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or

lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January first, nineteen hundred fifty-four.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV Approved and Accepted Programs

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party State relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that State.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V Interstate Cooperation

The party States agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI Agreement Evaluation

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

Article VII Other Arrangements

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facili-

tate the interchange of educational personnel.

Article VIII Effect and Withdrawal

1. This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

2. Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX Construction and Severability

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

2. For the purposes of the agreement set forth in subdivision one of this section, the "designated state official" for this state shall be the commissioner of education.

3. Two copies of all contracts made on behalf of this state pursuant to the agreement set forth in subdivision one of this section shall be kept on file in the office of the commissioner of education. The department shall publish all such contracts in convenient form.

S 3031. Procedure when tenure not to be granted at conclusion of probationary period or when services to be discontinued. Notwithstanding any other provision of this chapter: (a) boards of education, trustees of common school districts and boards of cooperative educational services shall review all recommendations not to appoint a person on tenure, and, teachers, administrators and supervisors employed on probation by any school district or by any board of cooperative educational services, as to whom a recommendation is to be made that appointment on tenure not be granted or that their services be discontinued shall, at least thirty days prior to the board meeting at which such recommendation is to be considered, be notified of such intended recommendation and the date of the board meeting at which it is to be consid-

ered. Such teacher, administrator and supervisor may, not later than twenty-one days prior to such meeting, request in writing that he be furnished with a written statement giving the reasons for such recommendation and within seven days thereafter such written statement shall be furnished. Such teacher, administrator and supervisor may file a written response to such statement with the district clerk not later than seven days prior to the date of the board meeting.

(b) Where a board of education, trustees of a common school district, or board of cooperative educational services votes to reject the recommendation of a superintendent of schools, district superintendent or district principal to grant tenure to any teacher, administrator and supervisor employed on probation, such vote shall be considered advisory and at least thirty days prior to the board meeting at which such recommendation is to be finally considered, the board shall notify said teacher, administrator and supervisor of its intention to deny tenure and the date of the board meeting at which it will take final action. Such teacher, administrator and supervisor may, not later than twenty-one days prior to such meeting, request in writing that he be furnished with a written statement giving the board's reasons for such intended action and within seven days thereafter such written statement should be furnished. Such teacher, administrator and supervisor may file a written response to such statement with the district clerk not later than seven days prior to the date of the board meeting.

(c) This section shall not be construed as modifying existing law with respect to the rights of probationary teachers or the powers and duties of boards of education, trustees of common school districts or boards of cooperative educational services, with respect to the discontinuance of services of teachers, administrators and supervisors or appointments on tenure of teachers, administrators and supervisors.

S 3032. Teacher summer business training and employment program; and employer specific skill training grant program. 1. Definitions. (a) "Regions" for the purposes of this section means regions as established by the commissioner pursuant to the provisions of the vocational education act.

(b) "Local education agencies" for the purposes of this section means school districts, boards of cooperative educational services, community colleges, agricultural and technical colleges, state university of New York college of technology and centers for advanced technology designated pursuant to section three thousand one hundred two-a of the public authorities law, and other postsecondary providers of career education as set forth annually by the commissioner as eligible recipients under the federal vocational education act of nineteen hundred eighty-four.

(c) "Total employment cost" means salary or wages paid directly to each teacher participating and associated fringe benefits which accrue to each teacher in the teacher summer business training and employment

program.

2. Allocations. The commissioner shall allocate the lesser of forty thousand dollars or one percent of the total appropriation for the purposes of this section to each region for administering and conducting employer specific skill training and employment programs and the remainder of such appropriation shall be allocated to each region for the administration and support of teacher summer business training and employment programs based on the proportion of the base year full time teachers in the public schools of all school districts and boards of cooperative educational services within the region to the total of such teachers in the state, provided however, that each region shall receive at least five percent of the allocation for such purposes and provided further that the cost due to such five percent allowance shall be proportionally borne by the regions not so affected. Use of funds for administration of the summer business training and employment programs shall not exceed six percent of the allocation to a region.

3. Teacher summer business training and employment program. (a) In any case in which a business or industry within the state shall employ during the months of July and August a teacher of mathematics, chemistry, biology, earth science, physics, computer science, career education or an elementary specialist in the area of mathematics or science or commencing July first, nineteen hundred eighty-five, a teacher of other subject areas as the commissioner may deem appropriate, the state will assist employers with costs associated with approved work experience for such teachers. Such business or industry shall request that the chief administrative officer of the school district or board of cooperative educational services employing such teacher during the same school year as such business or industry employment occurs, certify to the commissioner that the summer work experience involved will directly benefit the individual's effectiveness as a teacher of mathematics, chemistry, biology, earth science, physics, computer science, career education, or other subject areas as the commissioner may deem appropriate. If such chief administrative officer so certifies, then such officer shall also file the request with the local education agency designated by the commissioner for pre-approval for funding under this program in the applicable region. The commissioner shall not approve any requests for approval that would result in the maximum allocation for the applicable region being exceeded. No approval shall be given except for the lesser of thirty per centum of the total employment cost or one thousand dollars per employed teacher. The remainder of such costs shall be borne by the business employer involved. Participation in this program shall be at the option of each school district or board of cooperative educational services.

(b) Such requests for pre-approval and certifications shall be on a form prescribed by the commissioner. Such form shall include but not be limited to certification of the employer regarding work to be performed

by the teacher, wages, hours, and the certification of the chief administrative officer of the school district or board of cooperative educational services as the case may be, as prescribed in this subdivision.

(c) The local education agency designated by the commissioner shall be authorized to submit a claim to the commissioner for an amount of money equal to eighty percent of the anticipated expenditure, based upon the requests for pre-approval and certification received. If the commissioner approves, he shall pay that amount to such local education agency within thirty days of the receipt of such claim.

(d) Upon completion of such employment, the participating business or industry shall certify to the local education agency designated by the commissioner the identity of the employee, the wages actually paid, the hours worked and the period in which such hours were worked and shall assess such local education agency for thirty per centum of such salary and wage not to exceed one thousand dollars per employed teacher. If the commissioner approves, he shall reimburse such local education agency upon receipt of a claim pursuant to this section as provided by law the amount of money equal to the difference between the monies paid to the local education agency pursuant to paragraph (c) of this subdivision and the actual approved expenditure. If the monies paid to the local education agency pursuant to paragraph (c) of this subdivision exceeds the actual approved expenditure, the local education agency shall reimburse that difference to the commissioner.

(e) The commissioner shall monitor implementation of programs, evaluate progress, and require reports. Any funds allocated to a region but not committed for the purposes of this subdivision by September fifteenth of the current year shall be reallocated by the commissioner for the purposes of subdivision four of this section.

4. Employer specific skill training grant programs. (a) Employer specific skill training grant programs shall be designed to support, supplement and contribute to the expansion and maintenance of the economy of the state. Local education agencies shall apply to the commissioner for grants for conducting employer specific skill training programs. Application for funds by local education agencies for training programs shall be in a manner consistent with the application process for business and industry specific training programs under the vocational education act of 1963 and the job training partnership act; the sum of such grants per region shall not exceed the total funds allocated or reallocated to the region for such purposes. Such programs shall provide retraining and upgrading to existing or potential personnel in order to improve technology, quality control, production efficiency, or to adapt to other changes in the labor market, or to provide unique training programs to meet the emerging needs and occupations of the state's business and industry or providing training to individuals to promote the successful management and/or operation of a business purchased by such individuals to provide for their continued employment through the forma-

tion of a worker owned cooperative or an employee stock ownership plan. No grant shall exceed fifty per centum of the total program cost. Eligible program cost may include employer wages paid to the employee for time spent in the training program. Applications for a grant by local education agencies shall be in a form prescribed by the commissioner.

(b) By October first, nineteen hundred eighty-six the department of education, the department of commerce, and the urban development corporation shall enter into cooperative agreements to promote more effective coordination of employer specific training programs with regional economic development strategies and other activities conducted by the department of commerce, the urban development corporation and other state, regional, and local agencies intended to promote economic development. In preparing these agreements the parties to the cooperative agreements shall solicit comments from the regional economic development councils, regional education center for economic development coordinating committees, technology development councils, private industry councils and other appropriate entities within the regions as identified by the commissioner, the commissioner of commerce, or the chairman of the urban development corporation. Such cooperative agreements shall be reviewed and revised annually.

(c) The commissioner shall monitor implementation of programs, evaluate progress, and require reports as needed.

(d) If any funds allocated to a region are not committed for the purposes of this subdivision by November fifteenth, the commissioner may reallocate some or all of such funds to another region.

5. Additional employer specific skills training grants. The additional appropriation for the purposes of this subdivision for administering and conducting employer specific skills training programs shall be allocated as follows: (a) thirty percent shall be allocated equally among the regions; and (b) seventy percent shall be allocated among the regions based upon the proportion of unemployed persons within the region to the total number of unemployed persons in the state for the most recent calendar year as determined by the state department of labor using the civilian non-instructional population sixteen years of age or older labor series. Not less than twenty percent of the additional allocation to each region pursuant to this paragraph shall be available for training programs which will provide placements for persons who are economically disadvantaged or dislocated workers as defined pursuant to the federal job training partnership act. If any money allocated to a region pursuant to this paragraph is not committed by March first of each year or is committed prior to March first and is subsequently found to be unnecessary for expenditure to meet existing contractual obligations, the commissioner shall reallocate such funds to approved programs including but not limited to those programs which serve economically disadvantaged or dislocated workers in regions eligible pursuant to this paragraph.

6. Annual report. Annually, on or before January first of each year, the commissioner shall report to the governor, the temporary president of the senate and speaker of the assembly and chairpersons of the appropriate committees on the impact of this program. Such report shall include but not be limited to:

(a) The allocation of funding among the regions pursuant to this section.

(b) The amount of funding that was made available by each region for reallocation pursuant to this section. Such amount shall include separately the amount made available due to the region's inability to encumber available funds and the amount made available due to the overestimation of projected program costs.

(c) The amount of funding that was expended by each region for administrative activities.

(d) The allocation of funding among the regions providing for employer specific skills training grant programs which are administered by the department and funded through other sources including, but not limited to, the federal vocational education act and the federal job training partnership act and the extent to which such funds are combined with the funds appropriated pursuant to this section to provide funding for individual projects.

(e) The participation, completion, and placement rate of individuals enrolled in employer specific skills training grant programs administered by the department and funded pursuant to this section and through other available sources of funding, with particular emphasis on the rates for individuals who are economically disadvantaged or dislocated workers.

(f) A description and evaluation of programs undertaken pursuant to the cooperative agreements required under this section.

7. The commissioner shall adopt rules and regulations to implement the provisions of this section. Rules and regulations governing the employer specific skills training program established pursuant to this section shall be promulgated by the commissioner, assisted by the commissioner of economic development and in consultation with the department of economic development. Such rules and regulations shall be consistent with the program plan required by subdivision nineteen of section one hundred of the economic development law.

S 3033. New York state mentor teacher-internship program. 1. Boards of education and boards of cooperative educational services are hereby authorized to participate in the New York state mentor teacher-internship program in accordance with the provisions of this section.

2. Each board of education or board of cooperative educational services which applies for funds under this section shall prepare a plan for implementation of a mentor teacher-internship program consistent with article fourteen of the civil service law. The plan shall be devel-

oped in accordance with this section and regulations of the commissioner. The board of education or board of cooperative educational services shall submit an application and plan by May first of the current year for approval by the commissioner; provided however for the nineteen hundred ninety-seven--ninety-eight school year, such plan may be submitted by November first, nineteen hundred ninety-seven.

3. Each board of education and board of cooperative educational services which determines to participate in the program shall select persons eligible to serve as mentor teachers from a list of persons who have demonstrated their mastery of pedagogical and subject matter skills, given evidence of superior teaching abilities and interpersonal relationship qualities, and who have indicated their willingness to participate in such program. Such list of persons eligible to serve as mentor teachers shall be developed by a selection committee composed of certified or licensed personnel employed by the school district or the board of cooperative educational services, a majority of whom shall be classroom teachers chosen by the certified or recognized teachers employee organization. The assignment of particular mentor teachers and teacher interns to work together shall be made by the superintendent of the participating district or district superintendent of the participating board of cooperative educational services. Each person designated as a mentor teacher shall continue to provide classroom instruction for at least sixty percent of the time spent in performance of such individual's duties during the school year or such person may so serve on a full-time basis for not more than two school years out of five consecutive school years, provided that such service as a mentor teacher shall not diminish or impair the tenure and seniority rights of the mentor teacher.

4. Each board of education and board of cooperative educational services which determines to participate in the mentor teacher-internship program shall require those first or second year eligible teachers which it chooses to include in the program to perform their duties under the guidance of a mentor teacher, and shall ensure that such teacher intern and mentor carry no more than a ninety percent classroom instruction assignment in order to allow such teacher intern time to receive special assistance from a mentor teacher. In order to participate as a teacher intern in a mentor teacher-internship program, a first or second year teacher shall hold a provisional or permanent teaching certificate, temporary emergency license, regular license, or temporary per diem certificate for a field in which no licensed person is available to teach and shall not have participated in such program in the previous year.

5. A school district or board of cooperative educational services participating in an approved mentor teacher-internship program in the current year shall be eligible for aid including but not limited to costs related to release time of the intern and mentor teacher up to ten

percent of the mentor teacher's salary and up to ten percent of the teacher intern's salary respectively in accordance with the provisions of this subdivision. To receive such assistance, a school district or board of cooperative educational services must file a claim with the commissioner by October first of the current school year in a form prescribed by the commissioner which shall include the actual salary of each program participant as of September fifteenth of such year. The commissioner shall pay one-half of the amount of such assistance by January fifteenth of each year and shall pay the remaining amount based upon a final report filed by the school district by August fifteenth of each year.

6. Each board of education and board of cooperative educational services which participates in the program shall file a report with the commissioner on or before August first of each school year concerning compliance with the requirements of the program during the preceding school year. Such report shall be in such form and in such manner as the commissioner may require. The commissioner shall evaluate such programs and file a report with the legislature on or before December first, nineteen hundred eighty-seven.

S 3034. Teacher career recruitment clearinghouse. 1. The department, in consultation with representatives of teacher organizations, boards of education, school administrators, institutions of higher education and the armed forces of the United States, shall establish a teacher career recruitment clearinghouse to recruit qualified teachers and personnel who provide pedagogical services, as defined in regulations by the commissioner.

2. The teacher career recruitment clearinghouse shall:

(a) Collect and disseminate information to individuals, public and nonpublic schools, institutions of higher education, and state and federal military facilities on career opportunities in teaching and related education professions. Such information shall include, but not be limited to, information regarding financial assistance for students interested in careers in education, employment opportunities in education, and information about certification or licensure requirements.

(b) Promote clearinghouse activities, to the extent possible, in newspapers, state and national professional publications including state and federal military publications and at institutions of higher education which confer degrees in education.

(c) Establish to the extent possible, an applicant data base and provide access to such data base by public and nonpublic schools.

(d) Establish to the extent possible a data base of available public and nonpublic school employment opportunities for access by individuals.

S 3035. Duties of commissioner; submission of fingerprints. 1. The

commissioner shall submit to the division of criminal justice services two sets of fingerprints of prospective employees as defined in subdivision three of section eleven hundred twenty-five of this chapter received from a school district, charter school or board of cooperative educational services pursuant to title two of this chapter, and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The division of criminal justice services and the federal bureau of investigation shall forward such criminal history record to the commissioner in a timely manner. For the purposes of this section, the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. All such criminal history records sent to the commissioner pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the commissioner, unless otherwise authorized by law.

2. No cause of action against the commissioner, the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this section shall exist when the commissioner, department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such information by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The consideration of such criminal history record by the commissioner shall be subject to article twenty-three-A of the correction law.

* 3. (a) Clearance. After receipt of a criminal history record from the division of criminal justice services and the federal bureau of investigation the commissioner shall promptly notify the appropriate school district, charter school or board of cooperative educational services whether the prospective employee to which such report relates is cleared for employment based upon his or her criminal history. All determinations to grant or deny clearance for employment pursuant to this paragraph shall be performed in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the commissioner denies a prospective employee clearance for employment, such prospective employee shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commissioner.

(b) Conditional clearance. When the commissioner receives a request for a determination on the conditional clearance of a prospective

employee, the commissioner, after receipt of a criminal history record from the division of criminal justice services, shall promptly notify the prospective employee and the appropriate school district, charter school, or board of cooperative educational services that the prospective employee to which such report relates is conditionally cleared for employment based upon his or her criminal history or that more time is needed to make the determination. If the commissioner determines that more time is needed, the notification shall include a good faith estimate of the amount of additional time needed. Such notification shall be made within fifteen business days after the commissioner receives the prospective employee's fingerprints. All determinations to grant or deny conditional clearance for employment pursuant to this paragraph shall be performed in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law.

* NB Effective until July 1, 2003

* 3. After receipt of a criminal history record from the division of criminal justice services and the federal bureau of investigation the commissioner shall promptly notify the appropriate school district, charter school or board of cooperative educational services whether the prospective employee to which such report relates is cleared for employment based upon his or her criminal history. All determinations to grant or deny clearance for employment pursuant to this subdivision shall be performed in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the commissioner denies a prospective employee clearance for employment, such prospective employee shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commissioner.

* NB Effective July 1, 2003

3-a. Upon request from a prospective employee who has been cleared by the commissioner for employment and/or certification, the commissioner shall have the authority to forward a copy of such criminal history record to the city school district of the city of New York by the most expeditious means available. Furthermore, upon notification that such prospective employee is employed by the city school district of the city of New York, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the city school district of the city of New York. Upon request from a prospective employee who has been cleared for licensure and/or employment by the city school district of the city of New York, such school district shall have the authority to forward a copy of the prospective employee's criminal history record to the commissioner, by the most expeditious means available, for the purposes of this section. Furthermore, upon notification that such prospective employee is employed by a school district outside the city of New York, the division of criminal

justice services shall have the authority to provide subsequent criminal history notifications directly to the commissioner.

4. The fee provisions of subdivision two of section three thousand four-b of this chapter shall apply to criminal history records searches conducted pursuant to this section; provided however that, notwithstanding the provisions of any other law: (a) the fees associated with an employee participating in a public assistance employment program, pursuant to title nine-B of article five of the social services law, or receiving employment services through the federal temporary assistance for needy families block grant pursuant to appropriations to the office of temporary disability assistance, shall be paid by the social services district making such employment placement or assignment and the cost of such fees, if not subject to full reimbursement under such federal block grant, shall be deemed to be an employment services administrative expense. In no event shall such a participant described herein be required to personally pay any fee imposed by the division of criminal justice services or the federal bureau of investigation or any other fee for the purpose of conducting a criminal history records search; and (b) any prospective employee, including, notwithstanding any provision of law to the contrary, a prospective employee applying for a position in a school district within a city with a population of one million or more, may submit a request to a governing body of a school district, on a form prescribed by the commissioner, that the fees imposed for conducting a criminal history records check be waived. Such governing body may grant such a request if such governing body determines that payment of such a fee would impose an unreasonable financial hardship on the applicant or his or her family and, upon such determination, the governing body shall pay such fee on behalf of the prospective employee to the appropriate authority.

5. The commissioner and the division of criminal justice services shall enter into an agreement for the purposes of implementing the provisions of this section.

6. Nothing in this section shall be construed or interpreted to alter or in any way diminish the integrity of collective bargaining agreements negotiated between an employer and any certified or authorized collective bargaining agent, with respect to payment of fees for criminal history records searches, nor to diminish any rights pursuant to such agreements.