

DRAFT LBDC

AN ACT to amend the education law, in relation to annual professional performance review plans

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

§ 7

1 ~~Section 1.~~ Subdivision 2 of section 3012-c of the education law is  
2 amended by adding a new paragraph 1 to read as follows:

3 1. (1) Notwithstanding any provision of law, rule or regulation to the  
4 contrary, if a school district in a city with a population of one  
5 million or more does not have an annual professional performance review  
6 plan approved by the commissioner or determined pursuant to this para-  
7 graph in place on or before the Wednesday following the first Friday in  
8 May, such school district and the collective bargaining representatives  
9 representing classroom teachers or building principals shall submit  
10 written explanations of their respective positions regarding such issues  
11 to the commissioner by such date.

12 (2) If such school district does not have an annual professional  
13 performance review plan approved by the commissioner or determined  
14 pursuant to this paragraph in place on or before the Wednesday preceding  
15 the last Friday in May, the commissioner shall arbitrate such dispute  
16 and shall hold no more than two days of hearings on the standards and  
17 procedures necessary to implement an annual professional performance  
18 review plan pursuant to this section. The parties may be heard either in  
19 person, by counsel, or by such representatives as they may designate.  
20 The parties may present, orally or in writing, statements of fact,  
21 supporting witnesses and other evidence, and arguments. The commissioner  
22 may require the production of such additional evidence from the parties  
23 and shall provide, at the request of either party, that a full and

1 complete record be kept of any such hearings, the cost of such record to  
2 be shared equally by the parties.

3 (3) Notwithstanding any other provision of law, rule or regulation to  
4 the contrary, after such hearing, the commissioner shall render a final  
5 and binding written determination on or before June first, prescribing  
6 such standards and procedures necessary to implement an annual profes-  
7 sional performance review plan pursuant to this section effective for  
8 the following school year for a term to be determined by the commission-  
9 er. Such determination shall be limited to the requirements of this  
10 section. The commissioner shall specify in his or her determination the  
11 basis for his or her findings, taking into consideration all relevant  
12 factors, including the best interest of students. Such determination  
13 shall be deemed to constitute the submission by such school district of  
14 documentation demonstrating that it has fully implemented the standards  
15 and procedures for conducting annual professional performance reviews of  
16 classroom teachers and building principals in accordance with the  
17 requirements of this section and final approval of such school  
18 district's annual professional performance review plan in accordance  
19 with paragraph k of this subdivision.

20 (4) No later than ten days after receipt of the commissioner's deter-  
21 mination, the parties may make an application to the New York state  
22 supreme court to vacate or modify the determination of the commissioner  
23 pursuant to section seventy-five hundred eleven of the civil practice  
24 law and rules. The court's review shall be limited to the grounds set  
25 forth in such section. The commissioner's determination shall be deemed  
26 to be final for the purpose of such proceeding. In no case shall the  
27 filing or the pendency of an appeal delay the implementation of the  
28 commissioner's determination.

1 ~~§ 2. This act shall take effect immediately.~~