

34 Section 1. The education law is amended by adding a new section 211-f
35 to read as follows:

36 § 211-f. Takeover and restructuring failing schools. 1. Eligibility
37 for appointment of an external receiver. (a) Failing schools. The
38 commissioner shall designate as failing each of the schools that has
39 been identified under the state's accountability system to be among the
40 lowest achieving five percent of public schools in the state (priority
41 schools) for at least three consecutive school years, or identified as a
42 "priority school" in each applicable year of such period except one
43 school year in which the school was not identified because of an
44 approved closure plan that was not implemented, based upon measures of
45 student achievement and outcomes and a methodology prescribed in the
46 regulations of the commissioner, provided that this list shall not
47 include schools within a special act school district as defined in
48 subdivision eight of section four thousand one of this chapter or
49 schools chartered pursuant to article fifty-six of this chapter. Except
50 as otherwise provided in paragraph (c) of this subdivision, and pursuant
51 to regulations promulgated by the commissioner, a school designated as
52 failing under this paragraph shall be eligible for receivership under
53 this section upon a determination by the commissioner.

S. 2006--B

149

A. 3006--B

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

20 (c) Specific provisions. (i) For schools designated as persistently
21 failing pursuant to paragraph (b) of this subdivision, the local
22 district shall continue to operate the school for an additional school
23 year provided that there is a department-approved intervention model or
24 comprehensive education plan in place that includes rigorous performance
25 metrics and goals, including but not limited to measures of student
26 academic achievement and outcomes including those set forth in subdivi-
27 sion six of this section. Notwithstanding any other provision of law,
28 rule or regulation to the contrary, the superintendent shall be vested
29 with all powers granted to a receiver appointed pursuant to this section
30 for such time period; provided, however that such superintendent shall
31 not be allowed to override any decision of the board of education with
32 respect to his or her employment status. At the end of such year, the
33 department shall conduct a performance review in consultation and coop-
34 eration with the district and school staff to determine, based on the
35 performance metrics in the school's model or plan, whether (1) the
36 designation of persistently failing should be removed; (2) the school
37 should remain under continued school district operation with the super-
38 intendent vested with the powers of a receiver; or (3) the school should
39 be placed into receivership; provided, however, that a school that makes

40 demonstrable improvement based on the performance metrics and goals
41 herein shall remain under district operation for an additional school
42 year and if such school remains under district operation, it shall
43 continue to be subject to annual review by the department, in consulta-
44 tion and cooperation with the district, under the same terms and condi-
45 tions.

46 (ii) For schools designated as failing, but not persistently failing,
47 the local district shall continue to operate the school for two addi-
48 tional school years provided that there is a department-approved inter-
49 vention model or comprehensive education plan in place that includes
50 rigorous performance metrics and goals, including but not limited to
51 measures of student academic achievement and outcomes including those
52 set forth in subdivision six of this section. Notwithstanding any other
53 provision of law, rule or regulation to the contrary, the superintendent
54 shall be vested with all powers granted to a receiver appointed pursuant
55 to this section; provided, however that such superintendent shall not be
56 allowed to override any decision of the board of education with respect

S. 2006--B

150

A. 3006--B

1 to his or her employment status. At the end of such two years, the
2 department shall conduct a school performance review in consultation and
3 cooperation with the district and school staff to determine, based on
4 the performance metrics in the school's model or plan, whether (1) the
5 designation of failing should be removed; (2) the school should remain
6 under continued school district operation with the superintendent vested
7 with the powers of a receiver; or (3) the school should be placed into
8 receivership; provided, however, that a school that makes demonstrable
9 improvement based on the performance metrics and goals herein shall
10 remain under district operation for an additional school year and if
11 such school remains under district operation, it shall continue to be
12 subject to such annual review by the department under the same terms and
13 conditions. For schools newly designated as failing after the two thou-
14 sand sixteen--two thousand seventeen school year, the school shall be
15 immediately eligible for receivership upon such designation.

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

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

28 1-a. Community engagement team. Upon designation as failing or persis-
29 tently failing pursuant to subdivision one of this section, the district
30 shall establish a community engagement team which shall include communi-
31 ty stakeholders, including but not limited to the school principal,
32 parents and guardians, teachers and other school staff and students.
33 Membership of such team may be modified at any time. Such team shall
34 develop recommendations for improvement of the school and shall solicit
35 input through public engagement. The team shall present its recommenda-
36 tions periodically to the school leadership and, as applicable, the
37 receiver.

38 2. Appointment of a receiver. (a) Upon a determination by the commis-
39 sioner that a school shall be placed into receivership, the applicable
40 school district shall appoint an independent receiver, subject to the
41 approval of the commissioner, to manage and operate all aspects of the
42 school and to develop and implement a school intervention plan for the
43 school that shall consider the recommendations developed by the communi-
44 ty engagement team when creating such plan. The independent receiver may

45 be a non-profit entity, another school district, or an individual. If
46 the school district fails to appoint an independent receiver that meets
47 with the commissioner's approval within sixty days of such determi-
48 nation, the commissioner shall appoint the receiver.

49 (b) The receiver shall be authorized to manage and operate the failing
50 or persistently failing school and shall have the power to supersede any
51 decision, policy or regulation of the superintendent of schools or chief
52 school officer, or of the board of education or another school officer
53 or the building principal that in the sole judgment of the receiver
54 conflicts with the school intervention plan; provided however that the
55 receiver may not supersede decisions that are not directly linked to the
56 school intervention plan, including but not limited to building usage

S. 2006--B

151

A. 3006--B

1 plans, co-location decisions and transportation of students. The receiv-
2 er shall have authority to review proposed school district budgets prior
3 to presentation to the district voters, or in the case of a city school
4 district in a city having a population of one hundred twenty-five thou-
5 sand or more, of the adoption of a contingency budget, prior to approval
6 by the board of education, and to modify the proposed budget to conform
7 to the school intervention plan provided that such modifications shall
8 be limited in scope and effect to the failing or persistently failing
9 school and may not unduly impact other schools in the district. A school
10 under receivership shall operate in accordance with laws regulating
11 other public schools, except as such provisions may conflict with this
12 section.

13 (c) The commissioner shall contract with the receiver, and the compen-
14 sation and other costs of the receiver appointed by the commissioner
15 shall be paid from a state appropriation for such purpose, or by the
16 school district, as determined by the commissioner, provided that costs
17 shall be paid by the school district only if there is an open adminis-
18 trative staffing line available for the receiver, and the receiver will
19 be taking on the responsibilities of such open line. Notwithstanding any
20 other provision of law to the contrary, the receiver and any of its
21 employees providing services in the receivership shall be entitled to
22 defense and indemnification by the school district to the same extent as
23 a school district employee. The receiver's contract may be terminated by
24 the commissioner for a violation of law or the commissioner's regu-
25 lations or for neglect of duty. A receiver appointed to operate a
26 district under this section shall have full managerial and operational
27 control over such school; provided, however, that the board of education
28 shall remain the employer of record, and provided further that any
29 employment decisions of the board of education may be superseded by the
30 receiver. It shall be the duty of the board of education and the super-
31 intendent of schools to fully cooperate with the receiver and willful
32 failure to cooperate or interference with the functions of the receiver
33 shall constitute willful neglect of duty for purposes of section three
34 hundred six of this title. The receiver or the receiver's designee shall
35 be an ex officio non-voting member of the board of education entitled to
36 attend all meetings of the board of education.

37 3. Before developing the school intervention plan, the receiver shall
38 consult with local stakeholders such as: (a) the board of education; (b)
39 the superintendent of schools; (c) the building principal; (d) teachers
40 assigned to the school and their collective bargaining representative;
41 (e) school administrators assigned to the school and their collective
42 bargaining representative; (f) parents and guardians of students attend-
43 ing the school or their representatives; (g) representatives of applica-
44 ble state and local social service, health and mental health agencies;
45 (h) as appropriate, representatives of local career education providers,
46 state and local workforce development agencies and the local business
47 community; (i) for elementary schools, representatives of local prekin-
48 dergarten programs; (j) students attending the school as appropriate;
49 (k) as needed for middle schools, junior high schools, central schools

50 or high schools, representatives of local higher education institutions;
51 and (l) the school stakeholder team set forth in subdivision one-a of
52 this section.

53 4. In creating the school intervention plan, the receiver shall (i)
54 consider the recommendations developed by the community engagement team
55 set forth in subdivision one-a of this section; (ii) include provisions
56 intended to maximize the rapid academic achievement of students at the

S. 2006--B

152

A. 3006--B

1 school; and (iii) ensure that the plan addresses school leadership and
2 capacity, school leader practices and decisions, curriculum development
3 and support, teacher practices and decisions, student social and
4 emotional developmental health, and family and community engagement. The
5 receiver shall, to the extent practicable, base the plan on the findings
6 of any recent diagnostic review or assessment of the school that has
7 been conducted and, as applied to the school, student outcome data
8 including, but not limited to: (a) student achievement growth data based
9 on state measures; (b) other measures of student achievement; (c)
10 student promotion and graduation rates; (d) achievement and growth data
11 for the subgroups of students used in the state's accountability system;
12 (e) student attendance; and (f) long-term and short-term suspension
13 rates.

14 5. (a) The receiver shall include the following in the school inter-
15 vention plan: (i) measures to address social service, health and mental
16 health needs of students in the school and their families in order to
17 help students arrive and remain at school ready to learn; provided that
18 this may include mental health and substance abuse screening; (ii) meas-
19 ures to improve or expand access to child welfare services and, as
20 appropriate, services in the school community to promote a safe and
21 secure learning environment; (iii) as applicable, measures to provide
22 greater access to career and technical education and workforce develop-
23 ment services provided to students in the school and their families in
24 order to provide students and families with meaningful employment skills
25 and opportunities; (iv) measures to address achievement gaps for English
26 language learners, students with disabilities and economically disadvan-
27 taged students, as applicable; (v) measures to address school climate
28 and positive behavior support, including mentoring and other youth
29 development programs; and (vi) a budget for the school intervention
30 plan.

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

43 6. In order to assess the school across multiple measures of school
44 performance and student success, the school intervention plan shall
45 include measurable annual goals including, but not limited to, the
46 following: (a) student attendance; (b) student discipline including but
47 not limited to short-term and long-term suspension rates; (c) student
48 safety; (d) student promotion and graduation and drop-out rates; (e)
49 student achievement and growth on state measures; (f) progress in areas
50 of academic underperformance; (g) progress among the subgroups of
51 students used in the state's accountability system; (h) reduction of
52 achievement gaps among specific groups of students; (i) development of
53 college and career readiness, including at the elementary and middle
54 school levels; (j) parent and family engagement; (k) building a culture

1 appropriate child assessments from pre-kindergarten through third grade,
2 if applicable, that are tailored to the needs of the school; and (n)
3 measures of student learning.

4 7. (a) Notwithstanding any general or special law to the contrary, in
5 creating and implementing the school intervention plan, the receiver
6 shall, after consulting with stakeholders and the community engagement
7 team, convert schools to community schools to provide expanded health,
8 mental health and other services to the students and their families.

9 In addition, the receiver may: (i) review and if necessary expand, alter
10 or replace the curriculum and program offerings of the school, including
11 the implementation of research-based early literacy programs, early
12 interventions for struggling readers and the teaching of advanced place-
13 ment courses or other rigorous nationally or internationally recognized
14 courses, if the school does not already have such programs or courses;
15 (ii) replace teachers and administrators, including school leadership
16 who are not appropriately certified or licensed; (iii) increase salaries
17 of current or prospective teachers and administrators to attract and
18 retain high-performing teachers and administrators; (iv) establish steps
19 to improve hiring, induction, teacher evaluation, professional develop-
20 ment, teacher advancement, school culture and organizational structure;
21 (v) reallocate the uses of the existing budget of the school; (vi)
22 expand the school day or school year or both of the school; (vii) for a
23 school that offers the first grade, add pre-kindergarten and full-day
24 kindergarten classes, if the school does not already have such classes;
25 (viii) in accordance with paragraphs (b) and (c) of this subdivision, to
26 abolish the positions of all members of the teaching and administrative
27 and supervisory staff assigned to the failing or persistently failing
28 school and terminate the employment of any building principal assigned
29 to such a school, and require such staff members to reapply for their
30 positions in the school if they so choose; (ix) include a provision of a
31 job-embedded professional development for teachers at the school, with
32 an emphasis on strategies that involve teacher input and feedback; (x)
33 establish a plan for professional development for administrators at the
34 school, with an emphasis on strategies that develop leadership skills
35 and use the principles of distributive leadership; and/or (xi) order the
36 conversion of a school in receivership that has been designated as fail-
37 ing or persistently failing pursuant to this section into a charter
38 school, provided that such conversion shall be subject to article
39 fifty-six of this chapter and provided further that such charter conver-
40 sion school shall operate pursuant to such article and provided further
41 that such charter conversion school shall operate consistent with a
42 community schools model and provided further that such conversion char-
43 ter school shall be subject to the provisions in subdivisions three,
44 four, five, six, nine, ten, eleven, twelve and thirteen of this section.

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

1 hundred eighty-five, twenty-five hundred eighty-eight or three thousand

2 thirteen of this chapter. When a position of a classroom teacher or
3 building principal is abolished, the services of the teacher or adminis-
4 trator or supervisor within the tenure area of the position with the
5 lowest rating on the most recent annual professional performance review
6 shall be discontinued, provided that seniority within the tenure area of
7 the position shall be used solely to determine which position should be
8 discontinued in the event of a tie.

9 (c) The receiver may abolish the positions of all teachers and peda-
10 gogical support staff, administrators and pupil personnel service
11 providers assigned to a school designated as failing or persistently
12 failing pursuant to this section and require such staff members to reap-
13 ply for new positions if they so choose. The receiver shall define new
14 positions for the school aligned with the school intervention plan,
15 including selection criteria and expected duties and responsibilities
16 for each position. For administrators and pupil personnel service
17 providers, the receiver shall have full discretion over all such rehir-
18 ing decisions. For teachers and pedagogical support staff, the receiver
19 shall convene a staffing committee including the receiver, two appoint-
20 ees of the receiver and two appointees selected by the school staff or
21 their collective bargaining unit. The staffing committee will determine
22 whether former school staff reapplying for positions are qualified for
23 the new positions. The receiver shall have full discretion regarding
24 hiring decisions but must fill at least fifty percent of the newly
25 defined positions with the most senior former school staff who are
26 determined by the staffing committee to be qualified. Any remaining
27 vacancies shall be filled by the receiver in consultation with the
28 staffing committee. Notwithstanding any other provision of law to the
29 contrary, a member of the teaching and pedagogical support, administra-
30 tive, or pupil personnel service staff who is not rehired pursuant to
31 this paragraph shall not have any right to bump or displace any other
32 person employed by the district, but shall be placed on a preferred
33 eligibility list in accordance with the applicable provisions of section
34 twenty-five hundred ten, twenty-five hundred eighty-five, twenty-five
35 hundred eighty-eight or three thousand thirteen of this chapter. Teach-
36 ers rehired pursuant to this paragraph shall maintain their prior status
37 as tenured or probationary, and a probationary teacher's probation peri-
38 od shall not be changed.

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

45 8. (a) In order to maximize the rapid achievement of students at the
46 applicable school, the receiver may request that the collective bargain-
47 ing unit or units representing teachers and administrators and the
48 receiver, on behalf of the board of education, negotiate a receivership
49 agreement that modifies the applicable collective bargaining agreement
50 or agreements with respect to any failing schools in receivership appli-
51 cable during the period of receivership. The receivership agreement may
52 address the following subjects: the length of the school day; the length
53 of the school year; professional development for teachers and adminis-
54 trators; class size; and changes to the programs, assignments, and
55 teaching conditions in the school in receivership. The receivership
56 agreement shall not provide for any reduction in compensation unless

1 there shall also be a proportionate reduction in hours and shall provide
2 for a proportionate increase in compensation where the length of the
3 school day or school year is extended. The receivership agreement shall
4 not alter the remaining terms of the existing/underlying collective
5 bargaining agreement which shall remain in effect.

6 (b) The bargaining shall be conducted between the receiver and the

7 collective bargaining unit in good faith and completed not later than
8 thirty days from the point at which the receiver requested that the
9 bargaining commence. The agreement shall be subject to ratification
10 within ten business days by the bargaining unit members in the school.
11 If the parties are unable to reach an agreement within thirty days or if
12 the agreement is not ratified within ten business days by the bargaining
13 unit members of the school, the parties shall submit any remaining unre-
14 solved issues to the commissioner who shall resolve any unresolved
15 issues within five days, in accordance with standard collective bargain-
16 ing principles.

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

39 9. A final school intervention plan shall be submitted to the commis-
40 sioner for approval and, upon approval, shall be issued by the receiver
41 within six months of the receiver's appointment. A copy of such plan
42 shall be provided to the board of education, the superintendent of
43 schools and the collective bargaining representatives of teachers and
44 administrators of the school district. The plan shall be publicly avail-
45 able and shall be posted on the department's website and the school
46 district's website, and the school district shall provide notice to
47 parents of such school intervention plan and its availability.

48 10. Each school intervention plan shall be authorized for a period of
49 not more than three years. The receiver may develop additional compo-
50 nents of the plan and shall develop annual goals for each component of
51 the plan in a manner consistent with this section, all of which must be
52 approved by the commissioner. The receiver shall be responsible for
53 meeting the goals of the school intervention plan.

54 11. The receiver shall provide a written report to the board of educa-
55 tion, the commissioner, and the board of regents on a quarterly basis to
56 provide specific information about the progress being made on the imple-
S. 2006--B 156 A. 3006--B

1 mentation of the school intervention plan. One of the quarterly reports
2 shall be the annual evaluation of the intervention plan under subdivi-
3 sion twelve of this section.

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

12 in a format determined by the commissioner.

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

19 13. Upon the expiration of a school intervention plan for a school
20 with an appointed receiver, the commissioner, in consultation and coop-
21 eration with the district, shall conduct an evaluation of the school to
22 determine whether the school has improved sufficiently, requires further
23 improvement or has failed to improve. On the basis of such review, the
24 commissioner, in consultation and cooperation with the district, may:
25 (a) renew the plan with the receiver for an additional period of not
26 more than three years; (b) if the failing or persistently failing school
27 remains failing and the terms of the plan have not been substantially
28 met, terminate the contract with the receiver and appoint a new receiv-
29 er; or (c) determine that the school has improved sufficiently for the
30 designation of failing or persistently failing to be removed.

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

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

36 16. The commissioner shall report annually to the governor and the
37 legislature on the implementation and fiscal impact of this section. The
38 report shall include, but not be limited to, a list of all schools
39 currently designated as failing or persistently failing and the strate-
40 gies used in each of the schools to maximize the rapid academic achieve-
41 ment of students.

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